

23.6 RETROACTIVITY

In principle, rules may be made retroactive if it is reasonable to do so.¹ The Minnesota Legislature has provided, however, that no law or rule is to be construed as retroactive unless clearly and manifestly so intended by the legislature.² The definition of a rule in the APA, furthermore, provides that the rule is to have “future effect.”³ But similar language in the federal APA has been construed as not precluding retroactive regulation.⁴ In addition, the Minnesota APA also provides that a properly adopted rule, regardless of whether it is substantive, procedural, or interpretative, “has the force and effect of law retroactive to the date on which the rule became effective.”⁵

¹ *Mason v. Farmers Ins. Cos.*, 281 N.W.2d 344, 348 (Minn. 1979).

² MINN. STAT. § 645.21 (2014); *Minn. League of Credit Unions v. Minn. Dep’t of Commerce*, 486 N.W.2d 399, 405 (Minn. 1992) (stating law can ordinarily be applied only prospectively unless the legislature expressly declares or clearly and manifestly intends it to be applied retroactively).

³ MINN. STAT. § 14.02, subd. 4 (2014).

⁴ *Summit Nursing Home v. United States*, 572 F.2d 737, 742 (Ct. Cl. 1978).

⁵ MINN. STAT. § 14.38, subd. 2 (2014).