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(c) Consistent with the repeal and reenactment of article 3 of the Uniform Commercial Code by this act, the revisor shall change all section references to the former article 3 in Minnesota Statutes to the appropriate section references in the reenacted article. The revisor shall also prepare legislation to change references for which there is not a simple substitution.

Sec. 114. REPEALER.

(a) Minnesota Statutes 1990, sections 336.3-101; 336.3-102; 336.3-103; 336.3-104; 336.3-105; 336.3-106; 336.3-107; 336.3-108; 336.3-109; 336.3-110; 336.3-111; 336.3-112; 336.3-113; 336.3-114; 336.3-115; 336.3-116; 336.3-117; 336.3-118; 336.3-119; 336.3-120; 336.3-121; 336.3-122; 336.3-201; 336.3-202; 336.3-203; 336.3-204; 336.3-205; 336.3-206; 336.3-207; 336.3-208; 336.3-301; 336.3-302; 336.3-303; 336.3-304; 336.3-305; 336.3-306; 336.3-307; 336.3-401; 336.3-402; 336.3-403; 336.3-404; 336.3-405; 336.3-406; 336.3-407; 336.3-408; 336.3-409; 336.3-410; 336.3-411; 336.3-412; 336.3-413; 336.3-414; 336.3-415; 336.3-416; 336.3-417; 336.3-418; 336.3-419; 336.3-501; 336.3-502; 336.3-503; 336.3-504; 336.3-505; 336.3-506; 336.3-507; 336.3-508; 336.3-509; 336.3-510; 336.3-511; 336.3-601; 336.3-602; 336.3-603; 336.3-604; 336.3-605; 336.3-606; 336.3-701; 336.3-801; 336.3-802; 336.3-803; 336.3-804; 336.3-805, are repealed.

(b) Minnesota Statutes 1990, section 336.4-109, is repealed.

Presented to the governor April 17, 1992

Signed by the governor April 24, 1992, 4:17 p.m.

CHAPTER 566—S.F.No. 2432

An act relating to agriculture; regulating aquatic farming; protecting certain wildlife populations; amending Minnesota Statutes 1990, sections 86A.05, by adding a subdivision; 86A.09, subdivision 1; 97C.203; 97C.301, by adding a subdivision; 97C.345, subdivision 4; 97C.391; and 97C.505, subdivision 6; proposing coding for new law in Minnesota Statutes, chapter 17; repealing Minnesota Statutes 1990, sections 97A.475, subdivision 29a; and 97C.209.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. [17.4981] GENERAL CONDITIONS FOR REGULATION OF AQUATIC FARMS.

Aquatic farms are licensed to culture private aquatic life. Cultured aquatic life is not wildlife. Aquatic farms must be licensed and given classifications to

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prevent or minimize impacts on natural resources. The purpose of sections 1 to 15 is to:

- (1) prevent public aquatic life from entering an aquatic farm;
- (2) prevent release of nonindigenous or exotic species into public waters without approval of the commissioner;
- (3) protect against release of disease pathogens to public waters;
- (4) protect existing natural aquatic habitats and the wildlife dependent on them; and
- (5) protect private aquatic life from unauthorized taking or harvest.

Private aquatic life that is legally acquired and possessed is an article of interstate commerce and may be restricted only as necessary to protect state fish and water resources.

Sec. 2. [17.4982] DEFINITIONS.

Subdivision 1. SCOPE. The definitions in this section apply to sections 1 to 15.

Subd. 2. APPROVED LABORATORY METHODS. "Approved laboratory methods" means methods described in the latest edition of the "Procedures for the Detection and Identification of Certain Fish Pathogens" published by the American Fisheries Society Fish Health Section known as the Fish Health Blue Book.

Subd. 3. AQUARIUM FACILITIES. "Aquarium facilities" means facilities that rear or hold private aquatic life for sale for aquarium or display purposes.

Subd. 4. AQUATIC FARM. "Aquatic farm" means a licensed facility used for hatching, raising, rearing, and culturing private aquatic life in waters and preparing aquatic life for sale, including, but not limited to, ponds, vats, tanks, raceways, and other indoor or outdoor facilities that an aquatic farmer owns or waters of which an aquatic farmer has the use.

Subd. 5. AQUATIC LIFE. "Aquatic life" has the meaning given to "private aquatic life" in section 17.47, subdivision 7, and for purposes of commercial transactions, aquatic life is livestock.

Subd. 6. CERTIFIABLE DISEASES. "Certifiable diseases" include channel catfish virus, bacterial kidney disease, bacterial furunculosis, enteric red-mouth disease, enteric septicemia of catfish, infectious hematopoietic necrosis virus, infectious pancreatic necrosis virus, whirling disease, proliferative kidney disease, viral hemorrhagic septicemia virus, epizootic epitheliotropic virus, ceratomyxosis, and any emergency disease.

Subd. 7. COMMISSIONER. "Commissioner" means the commissioner of natural resources.

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Subd. 8. CONTAINMENT FACILITY. "Containment facility" means a licensed facility for salmonids or catfish that complies with clauses (1), (3), and (4), or clauses (2), (3), and (4):

(1) disinfects its effluent to the standards in section 9 before the effluent is discharged to public waters, if the facility contains catfish and discharges into or upstream of waters containing catfish or if the facility contains salmonids and discharges into or upstream of waters containing salmonids;

(2) does not discharge to public waters or to waters of the state directly connected to public waters;

(3) raises aquatic life for food consumption only;

(4) contains aquatic life requiring a fish health inspection prior to transportation.

Subd. 9. EMERGENCY FISH DISEASE. "Emergency fish disease" means designated fish diseases not already present in this state that could impact populations of aquatic life if inadvertently released by infected aquatic life, including channel catfish virus, viral hemorrhagic septicemia virus, infectious hematopoietic necrosis virus, infectious pancreatic necrosis virus, whirling disease, ceratomyxosis, proliferative kidney disease, and epizootic epitheliotropic virus disease.

Subd. 10. ENZOOTIC. "Enzootic" means a disease that is known to occur within well-defined geographic boundaries.

Subd. 11. FISH HEALTH BLUE BOOK. "Fish Health Blue Book" means the standardized set of procedures and guidelines established and published by the American Fisheries Society Fish Health Section for the detection and isolation of fish pathogens.

Subd. 12. FISH HEALTH INSPECTION. "Fish health inspection" means an on-site, statistically based sampling in accordance with processes in the Fish Health Blue Book for all lots of fish in a facility. The inspection must include at least viral testing of ovarian fluids at the 95 percent confidence level of detecting two percent incidence of disease (ovarian fluids must be sampled for certification of viral hemorrhagic septicemia and infectious hematopoietic necrosis). Bacterial diseases must be sampled at the 95 percent confidence level with a five percent incidence of disease. The inspection must be performed by a fish health inspector in cooperation with the producer with subsequent examination of the collected tissues and fluids for the detection of certifiable diseases.

Subd. 13. FISH HEALTH INSPECTOR. "Fish health inspector" means an individual certified as a fish health inspector by the American Fisheries Society or state, federal, or provincial resource management agency, except that a certification may not be made by an inspector who has a conflict of interest in connection with the outcome of the certification.

Subd. 14. GAME FISH. "Game fish" has the meaning given in section 97A.015, subdivision 25, except that green or orange spotted sunfish are not game fish for purposes of determining fish of significant public value.

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Subd. 15. INTENSIVE CULTURE. "Intensive culture" means the rearing of fish at densities greater than can be supported in the natural environment.

Subd. 16. LICENSED FACILITY. "Licensed facility" means a licensed aquatic farm, including all licensed waters.

Subd. 17. LOT. "Lot" means a group of fish of the same species and age that originated from the same discrete spawning population and that always have shared a common water supply. Various age groups of adult brood stock of the same species may comprise the same lot if they have shared the same containers for one brood cycle.

Subd. 18. MINNOWS. "Minnows" has the meaning given in section 97A.015, subdivision 29, except the 12-inch restriction on sucker minnows does not apply.

Subd. 19. PUBLIC WATERS. "Public waters" has the meaning given in section 103G.005, subdivision 15.

Subd. 20. QUARANTINE FACILITY. "Quarantine facility" means a culture system that is enclosed in a building and is separated from other fish culture facilities where fish can be isolated and maintained while preventing their introduction and pathogen introduction into the environment.

Subd. 21. STANDARD FACILITY. "Standard facility" means a licensed facility with a continual or intermittent discharge of effluent to public waters.

Subd. 22. WATERS OF THE STATE. "Waters of the state" has the meaning given in section 103G.005, subdivision 17.

Sec. 3. [17.4983] AQUATIC FARM OPERATIONS.

Subdivision 1. ACQUISITION AND SALE OF PRIVATE AQUATIC LIFE. Aquatic life legally possessed may be bought, acquired, and sold by licensed facilities as provided in sections 1 to 15.

Subd. 2. ACQUISITION FROM STATE. (a) The commissioner may sell aquatic life to licensed facilities at fair market value. Fair market value must be determined by the average market price charged in this state and contiguous states and provinces for similar quantities.

(b) The commissioner shall establish procedures to make aquatic life available to licensed facilities if state aquatic life would otherwise die or go to waste, such as in cases of winterkill lakes, waters where piscicides will be applied, and waters subject to extreme draw-down. The public must be given angling opportunities if public access is available.

(c) The commissioner shall attempt to provide opportunities to make brood stock available to licensed facilities to reduce reliance on out-of-state sources without causing adverse impacts to game fish populations.

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(d) If the commissioner denies approval to obtain aquatic life outside the state, a written notice must be submitted to the applicant stating the reasons for denial, and the commissioner shall:

(1) designate approved sources if available to obtain the desired aquatic life;
or

(2) sell the aquatic life from state hatcheries at fair market value if there is a surplus from state operations.

Subd. 3. METHODS TO HARVEST AQUATIC LIFE. Licensed facilities may use all reasonable methods to operate and harvest aquatic life from licensed facilities, including available nets.

Subd. 4. DISCHARGE MAY REQUIRE PERMIT. The discharge from an aquatic farm must comply with discharge permits required by the Minnesota pollution control agency.

Subd. 5. OWNERSHIP OF AQUATIC LIFE. (a) Notwithstanding other provisions of law, aquatic life lawfully acquired and possessed by a licensed facility is private aquatic life and property of the owner of the licensed facility.

(b) The state may not seize or otherwise confiscate private aquatic life without due process of law, except that private aquatic life in public waters may become property of the state if the waters are not part of a licensed facility. The commissioner shall notify the licensee that the aquatic life in a facility that is no longer licensed will become property of the state if the aquatic life is not removed. If the licensee does not respond in writing within 30 days after receiving the notice and make alternative arrangements, or does not remove the aquatic life by 60 ice-free days after receiving the notice, the private aquatic life becomes property of the state.

(c) Private aquatic life that is transferred to the state or released into public waters that are not part of a licensed facility is owned by the state and may be considered wildlife.

Subd. 6. CONTROL OF LICENSED WATERS. (a) If the public cannot legally access waters of the state that are part of a licensed aquatic farm except by permission of the licensee, the use of the waters by the public is subject to restriction by the licensee.

(b) Waters of the state may not be licensed for aquaculture use to more than one licensee.

Subd. 7. ANGLING IN LICENSED WATERS. A person may not take fish by angling from waters subject to subdivision 6 unless the person has written permission from the licensee and:

(1) has an invoice when in possession of fish; or

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(2) takes fish under an angling license, subject to the limits and conditions in the game and fish laws.

Sec. 4. [17.4984] AQUATIC FARM LICENSE.

Subdivision 1. LICENSE REQUIRED. (a) A person or entity may not operate an aquatic farm without first obtaining an aquatic farm license from the commissioner.

(b) Applications for an aquatic farm license must be made on forms provided by the commissioner.

(c) Licenses are valid for five years and are transferable upon notification to the commissioner.

(d) The commissioner shall issue an aquatic farm license on payment of the required license fee under section 8.

(e) A license issued by the commissioner is not a determination of private property rights, but is only based on a determination that the licensee does not have a significant detrimental impact on the public resource.

Subd. 2. LISTED WATERS. (a) An aquatic farm license must list:

(1) the specific waters of the state that may be used in connection with the licensed aquatic farm and the species approved for each licensed water;

(2) whether aeration requiring a permit is approved; and

(3) whether piscicide use is approved.

Additional waters may not be used until they are approved by the commissioner.

(b) The right to use waters licensed for private fish hatchery or aquatic farm purposes may be transferred between licensees with prior approval by the commissioner if requirements for species to be raised are met. Waters that are continually connected by a permanent watercourse to other waters must not be approved for aquatic farm use, except that connected waters that are isolated from other waters may be licensed as a single water body. Waters that are intermittently connected or may become connected with other waters may be denied, or screening or other measures may be required to prevent passage of aquatic life. Listed waters may be changed on approval by the area fisheries supervisor or the commissioner.

(c) The commissioner shall conduct an inspection of waters to be licensed prior to approving or denying initial licensing of the waters.

(d) Waters containing game fish of significant public value may be denied licensing unless the applicant can demonstrate exclusive riparian control.

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(e) Waters containing game fish of significant public value may be denied licensing unless the game fish of significant public value are sold to the licensee, removed for other state use by the department of natural resources, or disposed of as provided in writing by the commissioner.

(f) Waters licensed under an aquatic farm license may be aerated during open water periods without a separate aeration permit.

Subd. 3. LISTED SPECIES. (a) An aquatic farm license must list the species of aquatic life appropriate for the classification of the waters. Listed species of aquatic life may be changed on written request to and approval by the area fisheries supervisor. Species of aquatic life regulated under chapter 97A, 97B, or 97C may not be cultured unless listed on the license.

(b) All waters licensed before July 1, 1992, under a private fish farm or fish hatchery license must be approved for species listed under current licenses if other conditions for licensing are met.

(c) If licensed waters are located within a 25-year floodplain and are not enclosed within a building, species of aquatic life may be licensed at the discretion of the commissioner.

(d) Licensed waters located outside of a 25-year floodplain or enclosed within a building may be licensed for any species, except that the commissioner may deny licensing for species not present in the state.

Subd. 4. SINGLE LICENSE FOR AQUATIC FARMING OPERATION. The commissioner shall issue a single license for aquatic farming, with the following information and endorsements:

(1) waters covered by the license;

(2) classification of each of the licensed waters;

(3) aeration endorsement for each licensed water where the licensee has exclusive control of riparian access or where the conditions for an aeration permit have been met; and

(4) endorsements requested by the licensee.

Subd. 5. STATE LIST OF WATERS. If the state uses waters of the state for aquatic farming, the state shall acquire legal access to the waters and make documentation of the access available to the public.

Subd. 6. INSPECTIONS AND ENFORCEMENT. (a) The premises, property, vehicles, private aquatic life, and equipment where private aquatic farm operations are being conducted are subject to an annual operations inspection and other reasonable and necessary inspections at reasonable times by conservation officers. The reason for the inspection must be provided in writing upon request. The owner, operator, or designee may be present when inspections are conducted.

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(b) Conservation officers may enforce sections 1 to 15 under section 97A.205.

Subd. 7. NONPUBLIC RECORDS. (a) Licensees must keep complete, up-to-date, nonpublic records of the operation of the aquatic farm. The records must be kept for at least three years.

(b) The records must be in English and include the following information:

(1) for each species acquired, the number and pounds of fish or eggs acquired, names and addresses of the sources from which acquired, and the dates of receipt;

(2) for each species sold or disposed of, the number and pounds of fish sold or disposed of, the names and addresses of the purchasers or persons to whom the conveyances are made, and the dates of sale; and

(3) for fish sperm or viable eggs, the amount acquired or sold, the names and addresses of the sources from which acquired, the purchasers to whom conveyed, and the dates of purchase or sale;

(c) On or before March 1 of each year, the licensee shall submit a complete annual report on a form furnished by the commissioner, covering the quantity of all species sold or purchased in the preceding licensed year.

(d) An aquatic farmer shall maintain records for reasonable inspection by the commissioner. Information on aquatic life production, harvest, and sales is nonpublic information.

Sec. 5. [17.4985] TRANSPORTATION OF AQUATIC LIFE.

Subdivision 1. REQUIREMENTS FOR IMPORTATION, TRANSPORTATION WITHIN THE STATE, OR STOCKING OF FISH. Except as provided in subdivision 3, a licensee may not import aquatic life into the state, transport aquatic life within the state, or stock waters of the state with aquatic life without first obtaining a bill of lading or transportation permit from the commissioner, with disease certification, if applicable.

Subd. 2. BILL OF LADING. (a) A person may transport aquatic life except salmonids or catfish with a completed bill of lading for:

(1) intrastate transportation of aquatic life between licensed private fish hatcheries, aquatic farms, or aquarium facilities licensed for the same species and of the proper classification for the aquatic life; and

(2) stocking of waters other than public waters.

(b) When aquatic life is transported between licensed private fish hatcheries, aquatic farms, or aquarium facilities, a copy of the bill of lading must be submitted to the regional fisheries manager:

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(1) at least 72 hours before the transportation if species transported into a watershed are not found in it, or have their original source outside Minnesota and contiguous states; or

(2) within 30 days in cases not covered by clause (1).

(c) A bill of lading is also required at least 72 hours before any transportation between licensed waters of the same licensee if species transported into a watershed are not found in it, or have their original source outside Minnesota and contiguous states.

(d) For transportation and stocking of waters that are not public waters:

(1) a bill of lading must be submitted to the regional fisheries manager 72 hours before transporting fish for stocking;

(2) a bill of lading must be submitted to the regional fisheries manager within five days after stocking if the waters to be stocked are confirmed by telecopy or telephone prior to stocking by the regional fisheries office not to be public waters; or

(3) a completed bill of lading may be submitted to the regional fisheries office by telecopy prior to transporting fish for stocking. Confirmation that the waters to be stocked are not public waters may be made by returning the bill of lading by telecopy or in writing, in which cases additional copies need not be submitted to the department of natural resources.

(e) Bill of lading forms may only be issued by the department of natural resources in St. Paul, and new bill of lading forms may not be issued until all previously issued forms have been returned.

Subd. 3. EXEMPTIONS FOR TRANSPORTATION PERMITS AND BILLS OF LADING. (a) A bill of lading or transportation permit is not required by an aquatic farm licensee for importation, transportation, or export for the following:

(1) minnows taken under an aquatic farm license in this state and transported intrastate;

(2) aquarium or ornamental fish including tropical, subtropical, and saltwater species that cannot survive in the waters of the state, which may be imported or transported if accompanied by shipping documents;

(3) fish or fish eggs that have been processed for use as food, bait, or other purposes unrelated to fish propagation;

(4) live fish, except salmonids and catfish, from a licensed aquatic farm, which may be transported directly to an outlet for processing or for other food purposes if accompanied by shipping documents;

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(5) fish being exported if accompanied by shipping documents;

(6) sucker eggs, sucker fry, or fathead minnows transported intrastate for bait propagation or feeding of cultural aquatic life;

(7) species of fish that are found within the state used in connection with public shows, exhibits, demonstrations, or fishing pools for periods not exceeding 14 days; or

(8) transfer of aquatic life between licensed waters of the same licensee, except where required in subdivision 2.

(b) Shipping documents required under paragraph (a) must show the place of origin, owner or consignee, destination, number, and species.

Subd. 4. TRANSPORTATION PERMIT REQUIREMENTS. A transportation permit is required for all importation, transportation, or stocking of private aquatic life not covered by subdivision 2 or exempted in subdivision 3. A transportation permit may be used for multiple shipments within the 30-day term for the permit if the source and the destination remains the same. Transportation permits, which may authorize importation or stocking of public waters, may be issued through department of natural resources regional offices or the St. Paul office, and must be obtained prior to shipment.

Subd. 5. PERMIT APPLICATION. An application for a transportation permit must be made on forms provided by the commissioner. An incomplete application must be rejected. An application for a transportation permit for salmonids and catfish, their eggs, or sperm must be accompanied by certification that the source of the eggs or sperm are free of certifiable diseases, except that eggs with enteric redmouth, whirling disease, or furunculosis may be imported, transported, or stocked following treatment approved by the commissioner, and fish with bacterial kidney disease may be imported, transported, or stocked into areas where the disease has been previously introduced. A copy of the transportation permit showing the date of certification inspection must accompany the shipment of fish while in transit and must be available for inspection by the commissioner. By 14 days after a completed application is received, the commissioner must approve or deny the importation permits as provided in this section.

Subd. 6. VEHICLE IDENTIFICATION. (a) A vehicle used by a licensee for transporting aquatic life must be identified with the licensee's name and town of residence as it appears on the license and the license number.

(b) A vehicle used by a licensee must have identification displayed so that it is readily visible from either side of the vehicle in letters and numbers not less than 2-1/2 inches high and with a three-eighths inch wide stroke. Identification may be permanently affixed to vehicles or displayed on removable plates or placards placed on opposite doors of the vehicle or on the tanks carried on the vehicle.

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(c) An application to license a vehicle for minnow transport or export or for use as a fish vendor that is received by the commissioner is a temporary license until it is approved or denied.

Sec. 6. [17.4986] IMPORTATION OF AQUATIC LIFE.

Subdivision 1. IMPORTATION AND STOCKING RESTRICTIONS. A person may not import fish into or stock fish in the state without first obtaining a transportation permit with a disease certification when required or a bill of lading from the commissioner, unless the person is exempted.

Subd. 2. LICENSED FACILITIES. (a) The commissioner shall issue transportation permits to import:

(1) indigenous and naturalized species except trout, salmon, and catfish from any source to a standard facility;

(2) trout, salmon, and catfish from a nonemergency disease area to a containment facility if the fish are certified within the previous year to be free of certifiable diseases, except that eggs with enteric redmouth, whirling disease, or furunculosis may be imported following treatment approved by the commissioner, and fish with bacterial kidney disease may be imported into areas where the disease has been previously introduced; and

(3) trout, salmon, and catfish from a facility in a nonemergency disease area with a disease-free history of three years or more to a standard facility, except that eggs with enteric redmouth, whirling disease, or furunculosis may be imported following treatment approved by the commissioner, and fish with bacterial kidney disease may be imported into areas where the disease has been previously introduced.

(b) If a source facility in an emergency disease area cannot demonstrate a history free from disease, aquatic life may only be imported into a quarantine facility.

Subd. 3. ENZOOTIC DISEASE AREA. (a) Except as otherwise provided and except that eggs with enteric redmouth, whirling disease, or furunculosis may be imported following treatment approved by the commissioner, and fish with bacterial kidney disease may be imported into areas where the disease has been previously introduced, fish may be imported from emergency disease enzootic areas only as fertilized eggs under the following conditions:

(1) to be imported into a standard facility, fertilized eggs must have a disease-free history for at least five years;

(2) to be imported into a containment facility, fertilized eggs must have a disease-free history for at least three years; or

(3) to be imported into a quarantine facility, fertilized eggs may have a disease-free history of less than three years.

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(b) A hatchery inspection must occur at least once a year and fish must have been tested for all certifiable diseases. Fish health inspections under this subdivision must comply with section 2, subdivision 12.

Sec. 7. [17.4987] STOCKING PRIVATE AQUATIC LIFE.

(a) A person may not release private aquatic life into public waters that are not licensed as part of an aquatic farm without first obtaining a transportation permit from the commissioner. The commissioner may deny issuance of a permit if releasing the private aquatic life is not consistent with the management plan for the public waters. The commissioner shall make management plans available to the public.

(b) If a permit is denied, the commissioner must provide reasons for the denial in writing.

Sec. 8. [17.4988] LICENSE AND INSPECTION FEES.

Subdivision 1. REQUIREMENTS FOR ISSUANCE. A permit or license must be issued by the commissioner if the requirements of law are met and the license and permit fees specified in this section are paid.

Subd. 2. AQUATIC FARMING LICENSE. (a) The annual fee for an aquatic farming license is \$275.

(b) The aquatic farming license must contain endorsements for the rights and privileges of the following licenses under the game and fish laws. The endorsement must be made upon payment of the license fee prescribed in section 97A.475 for the following licenses:

(1) minnow dealer license;

(2) minnow retailer license for sale of minnows as bait;

(3) minnow exporting license;

(4) minnow dealer helper license;

(5) aquatic farm vehicle endorsement, which includes a minnow dealer vehicle license, a minnow retailer vehicle license, an exporting minnow hauler vehicle license, and a fish vendor vehicle license;

(6) sucker egg taking license; and

(7) game fish packers license.

Subd. 3. INSPECTION FEES. The fees for the following inspections are:

(1) initial inspection of each water to be licensed, \$50;

(2) fish health inspection and certification, \$20 plus \$80 per lot thereafter;
and

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(3) initial inspection for containment and quarantine facility inspections, \$50.

Subd. 4. AQUARIUM FACILITY. (a) A person may not operate an aquarium facility without an aquarium facility license issued by the commissioner. The fee for an aquarium facility license is \$15.

(b) Game fish transferred by an aquarium facility must be accompanied by a receipt containing the information required on a shipping document by section 5, subdivision 3, paragraph (b).

Sec. 9. [17.4991] DISEASE TRANSMISSION.

Subdivision 1. FACILITY DESIGNATION. (a) The licensee may apply to the commissioner for designation of all or a portion of a facility as a standard, containment, or quarantine facility on forms prescribed by the commissioner as part of the license application or separately.

(b) By 15 business days after an application is submitted, the commissioner must notify the applicant if there are any deficiencies in the application. By 30 business days after a complete application is submitted, the commissioner shall approve or deny the designation requested. A denial must include an assessment of the actual risk to wildlife populations at the particular site. A containment designation must be approved if the facility meets the disinfection requirements of subdivision 2 and complies with section 2, subdivision 8.

Subd. 2. DISINFECTION. (a) Containment facilities must disinfect effluent prior to discharge to public waters. The effluent required to be disinfected includes water used by a containment facility in the production of the aquatic life of concern, waste or mortalities from the aquatic life of concern, and live forage or commercial feed discarded from the containment facility. Runoff from precipitation and excess water from natural springs, wells, or other sources that is not used in the production of aquatic life is not effluent to be disinfected.

(b) The disinfection must minimize the potential release of disease pathogens to wildlife susceptible to the pathogens based on a reasonable risk assessment. Disinfection treatment processes may include chlorination or other processes. If chlorine disinfection is utilized, a measurable residual level of 1.0 parts per million of active chlorine in the effluent must be maintained for one hour of retention time. The effluent must be sufficiently dechlorinated to prevent toxic adverse impacts to wildlife after discharge to public waters.

(c) A disinfection treatment process must ensure uninterrupted effluent treatment in the event of electrical power failure, a primary system failure, or other similar events that would cause treatment interruptions.

(d) The effluent disinfection process must be sited, designed, and operated in a manner that allows inspection by the commissioner at all times to determine whether adequate effluent disinfection is maintained.

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(e) The commissioner may prescribe reasonable documentation of daily monitoring of treatment system performance to be included in the licensee's annual report. The records must be available for daily inspection by the commissioner during normal business hours and maintained for three years.

Subd. 3. FISH HEALTH INSPECTION. (a) An aquatic farm propagating trout, salmon, or catfish and having an effluent discharge from the aquatic farm into public waters must have an annual fish health inspection conducted by a certified fish health inspector. Testing must be conducted according to approved laboratory methods.

(b) A health inspection fee must be charged based on each lot of fish sampled. The fee by check or money order payable to the department of natural resources must be prepaid or paid at the time a bill or notice is received from the commissioner that the inspection and processing of samples is completed.

(c) Upon receipt of payment and completion of inspection, the commissioner shall notify the operator and issue a fish health certificate. The certification must be made according to the Fish Health Blue Book by a person certified as a fish health inspector.

(d) All aquatic life in transit or held at transfer stations within the state may be inspected by the commissioner. This inspection may include the collection of stock for purposes of pathological analysis. Sample size necessary for analysis will follow guidelines listed in the Fish Health Blue Book.

Subd. 4. EMERGENCY DISEASE DETERMINATION. If emergency diseases exist, the commissioner may order the fish in the facility to be impounded, confiscated, sold, or destroyed and the facility disinfected. The commissioner shall make every effort to allow disposed fish to be sold for market if there is no imminent danger of a significant adverse impact on natural fish populations or human health or of escape of the pathogen to public waters.

Sec. 10. [17.4992] GAME FISH.

Subdivision 1. ACQUISITION AND PURCHASE. Game fish sperm, viable game fish eggs, or live game fish may not be taken from public waters for aquaculture purposes, but may be purchased from the state or acquired from aquatic farms.

Subd. 2. RESTRICTION ON THE SALE OF GAME FISH. Species of the family salmonidae or ictaluridae, except bullheads, must be free of certifiable diseases if sold for stocking or transfer to another aquatic farm, except that eggs with enteric redmouth, whirling disease, or furunculosis may be transferred or stocked following treatment approved by the commissioner, and fish with bacterial kidney disease may be transferred or stocked to areas where the disease has been previously introduced.

Subd. 3. ACQUISITION OF FISH FOR BROOD STOCK. Game fish

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brood stock may be sold to private fish hatcheries or aquatic farms by the state at fair market value. As a one-time purchase for brood stock development, up to 20 pair of adults may be provided, if available, by the state through normal operations.

Subd. 4. SALE OF EGGS BY THE STATE. The commissioner may offer for sale as eggs or fry up to two percent of the department's annual game fish egg harvest. Additional eggs or fry may be sold if they are surplus to this state's program needs.

Subd. 5. PURCHASE OF EGGS DEPENDENT UPON FACILITY. Licensees may purchase game fish eggs or fry from the state at a rate based on the capacity of their facility to hatch and rear fish. Licensees may purchase walleye at a rate of no more than one-half quart of eggs or 5,000 fry for each acre or fraction of licensed surface water. This limitation may be waived if an aquatic farm is an intensive culture facility. The allowable purchase of trout or salmon eggs must be based on the capacity of rearing tanks and flow of water through the aquatic farm facility.

Subd. 6. STOCKING WALLEYES NORTH OF MARKED STATE HIGHWAY NO. 210. Walleyes from outside of the area of the state north of marked state highway No. 210 may not be stocked in waters of the state north of marked state highway No. 210 without approval by the commissioner.

Sec. 11. [17.4993] MINNOWS.

Subdivision 1. TAKING FROM PUBLIC WATERS. A licensee may take minnow sperm, minnow eggs, and live minnows from public waters for aquatic farm purposes under an aquatic farm license.

Subd. 2. IMPORTATION OF LIVE MINNOWS. Minnows from outside the state may not be imported live by a licensee for purposes other than processing or feeding aquatic farm fish.

Sec. 12. [17.4994] SUCKER EGGS.

Sucker eggs may be taken from public waters with a sucker egg license endorsement, which authorizes sucker eggs to be taken at a rate of one quart of eggs for each 1-1/2 acres of licensed surface waters except that for intensive culture systems, sucker eggs may be taken at a rate of two quarts per 1,000 muskellunge fry being reared. The taking of sucker eggs from public waters is subject to chapter 97C and may be supervised by the commissioner.

Sec. 13. [17.4995] RECEIPTS TO THE GAME AND FISH FUND.

Money received by the state under sections 1 to 15 must be deposited in the state treasury and credited to the game and fish fund.

Sec. 14. [17.4996] WHITE EARTH INDIAN RESERVATION.

New language is indicated by underline, deletions by ~~strikeout~~.

Until the commissioner reaches an agreement with the White Earth Indian Reservation regarding the acquisition and sale of aquatic life from public waters, an aquatic farm licensee may acquire and transport rough fish, as defined in section 97A.015, subdivision 43, and yellow perch lawfully acquired and possessed by a tribal member for sale under tribal laws and regulations on the White Earth Reservation. Transportation of yellow perch off the reservation must be accompanied by documentation showing the source and number of the yellow perch.

Sec. 15. [17.4997] RULES.

The commissioner may adopt rules that are consistent with sections 1 to 14. The commissioner must notify the Minnesota aquaculture commission and the commissioner of agriculture prior to publication of the proposed rules.

Sec. 16. Minnesota Statutes 1990, section 86A.05, is amended by adding a subdivision to read:

Subd. 14. AQUATIC MANAGEMENT AREAS. (a) Aquatic management areas may be established to protect, develop, and manage lakes, rivers, streams, and adjacent wetlands and lands that are critical for fish and other aquatic life, for water quality, and for their intrinsic biological value, public fishing, or other compatible outdoor recreational uses.

(b) No unit may be authorized unless it meets one or more of the following criteria:

- (1) provides angler or management access;
- (2) protects fish spawning, rearing, or other unique habitat;
- (3) protects aquatic wildlife feeding and nesting areas;
- (4) protects critical shoreline habitat; or
- (5) provides a site for research on natural history.

(c) Aquatic management areas must be administered by the commissioner of natural resources in a manner consistent with the purposes of this subdivision to perpetuate and, if necessary, reestablish high quality aquatic habitat for production of fish, wildlife, and other aquatic species. Public fishing and other uses shall be consistent with the limitations of the resource, including the need to preserve adequate populations and prevent long-term habitat injury or excessive fish population reduction or increase. Public access to aquatic management areas may be closed during certain time periods.

Sec. 17. Minnesota Statutes 1990, section 86A.09, subdivision 1, is amended to read:

Subdivision 1. **MASTER PLAN REQUIRED.** No construction of new facilities or other development of an authorized unit, other than repairs and

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maintenance, shall commence until the managing agency has prepared and submitted to the commissioner of trade and economic development and the commissioner of trade and economic development has reviewed, pursuant to this section, a master plan for administration of the unit in conformity with this section. No master plan is required for wildlife management areas that do not have resident managers, for water access sites, for aquatic management areas, or for rest areas.

Sec. 18. Minnesota Statutes 1990, section 97C.203, is amended to read:

97C.203 DISPOSAL OF STATE HATCHERY EGGS OR FRY.

~~(a)~~ The commissioner shall dispose of game fish eggs and fry according to the following order of priorities:

(1) distribution of fish eggs and fry to state hatcheries to hatch fry or raise fingerlings for stocking waters of the state for recreational fishing;

(2) sale of fish eggs and fry to private fish hatcheries or licensed aquatic farms to hatch fry or raise fingerlings to stock waters of this state with fingerlings for recreational fishing at a price not less than the fair market value, established as the average price charged at the state's private hatcheries and contiguous states per volume rates; and

(3) sale at a ~~price not less than the~~ fair market value, established as the average price charged at the state's private ~~hatcheries~~ sources and contiguous states per volume rates of fish eggs and fry to private fish hatcheries and ~~fish~~ aquatic farms to hatch fry or raise fingerlings for sale.

~~(b) Until July 1, 1990, the commissioner must make at least two percent of the game fish eggs collected available to private hatcheries.~~

Sec. 19. Minnesota Statutes 1990, section 97C.301, is amended by adding a subdivision to read:

Subd. 5. AQUATIC FARMS. An aquatic farm licensee may take aquatic life under the aquatic farm license and its endorsements as authorized without additional licenses under the game and fish laws.

Sec. 20. Minnesota Statutes 1990, section 97C.345, subdivision 4, is amended to read:

Subd. 4. **EXCEPTIONS.** This section does not apply to:

- (1) nets used to take rainbow smelt during the open season;
- (2) nets used to land game fish taken by angling;
- (3) seines or traps used for the taking of minnows for bait; ~~and~~
- (4) nets, seines, or traps possessed and used under an aquatic farm license;
and

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(5) angling equipment.

Sec. 21. Minnesota Statutes 1990, section 97C.391, is amended to read:

97C.391 BUYING AND SELLING FISH.

Subdivision 1. **GENERAL RESTRICTIONS.** A person may not buy or sell fish taken from the waters of this state, except:

(1) minnows;

(2) rough fish excluding ciscoes;

(3) fish taken under licensed commercial fishing operations;

(4) ~~fish raised in a fish farm that are identified as prescribed by the commissioner that are private aquatic life; and~~

(5) ~~fish raised in a private hatchery that are tagged or labeled or otherwise identified as prescribed by the commissioner; and~~

(6) fish lawfully taken and subject to sale from other states and countries.

Subd. 2. **RESTRICTIONS ON CERTAIN GAME FISH.** Largemouth bass, smallmouth bass, rock bass, muskellunge, and sunfish may not be bought or sold; ~~unless bought or sold by a private hatchery or fish aquatic farm to stock waters for recreational fishing, or as prescribed by the commissioner.~~

Sec. 22. Minnesota Statutes 1990, section 97C.505, subdivision 6, is amended to read:

Subd. 6. **APPROVED EQUIPMENT REQUIRED.** A person must use equipment approved by the commissioner to possess or transport minnows for sale. This subdivision does not apply to licensed aquatic farms.

Sec. 23. **REPEALER.**

Minnesota Statutes 1990, sections 97A.475, subdivision 29a; and 97C.209, are repealed.

Sec. 24. **1992 TRANSITION.**

A 1992 private fish hatchery or fish farm licensee may obtain an aquatic farm license by applying to the commissioner and paying the difference between the aquatic farm license with endorsements and the private fish hatchery or fish farm license and corresponding licenses under the game and fish laws.

Sec. 25. **EFFECTIVE DATE.**

This act is effective the day after final enactment, except section 23 is effective February 28, 1993.

New language is indicated by underline, deletions by ~~strikeout~~.

Presented to the governor April 17, 1992

Signed by the governor April 29, 1992, 8:15 a.m.

CHAPTER 567—H.F.No. 2848

An act relating to state government; ratifying labor agreements; providing for classification changes for certain employees; requiring a report to the legislature; raising the salary range for the executive director of the board on judicial standards; appropriating money; amending Minnesota Statutes 1990, sections 15A.083, subdivision 4; 21.85, subdivision 2; Minnesota Statutes 1991 Supplement, sections 43A.08, subdivisions 1 and 1a; and 349A.02, subdivision 4.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

ARTICLE 1

Section 1. RATIFICATIONS.

Subdivision 1. COUNCIL 6. The labor agreement between the state of Minnesota and state bargaining units 2, 3, 4, 6, and 7, represented by the American Federation of State, County, and Municipal Employees, Council 6, approved by the legislative commission on employee relations on July 30, 1991, is ratified.

Subd. 2. COUNCIL 6. The labor agreement between the state of Minnesota and state bargaining unit 8, represented by the American Federation of State, County, and Municipal Employees, Council 6, approved by the legislative commission on employee relations on September 12, 1991, is ratified.

Subd. 3. PROFESSIONAL EMPLOYEES. The labor agreement between the state of Minnesota and the Minnesota Association of Professional Employees, approved by the legislative commission on employee relations on September 12, 1991, is ratified.

Subd. 4. SUPERVISORS. The labor agreement between the state of Minnesota and the Middle Management Association, approved by the legislative commission on employee relations on September 12, 1991, is ratified.

Subd. 5. ENGINEERS. The labor agreement between the state of Minnesota and the Minnesota Government Engineers Council, approved by the legislative commission on employee relations on September 12, 1991, is ratified.

Subd. 6. MANAGERIAL PLAN. The commissioner of employee relations' plan for managerial employees, approved by the legislative commission on employee relations on September 12, 1991, is ratified.

New language is indicated by underline, deletions by ~~strikeout~~.