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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. **2710**

03/07/2012 Authored by McElfatrick, Gottwalt and Erickson

The bill was read for the first time and referred to the Committee on Health and Human Services Reform

- 1.1 A bill for an act
- 1.2 relating to health; modifying well regulation to include bored geothermal heat
- 1.3 exchangers; amending Minnesota Statutes 2010, sections 103I.005, subdivisions
- 1.4 2, 8, 12, by adding a subdivision; 103I.101, subdivisions 2, 5; 103I.105;
- 1.5 103I.111, subdivision 8; 103I.205, subdivision 4; 103I.325, subdivision 2;
- 1.6 103I.501; 103I.531, subdivision 5; 103I.535, subdivision 6; 103I.641; 103I.711,
- 1.7 subdivision 1; 103I.715, subdivision 2; Minnesota Statutes 2011 Supplement,
- 1.8 section 103I.208, subdivision 2; proposing coding for new law in Minnesota
- 1.9 Statutes, chapter 103I.
- 1.10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.11 Section 1. Minnesota Statutes 2010, section 103I.005, is amended by adding a
- 1.12 subdivision to read:
- 1.13 Subd. 1a. **Bored geothermal heat exchanger.** "Bored geothermal heat exchanger"
- 1.14 means an earth-coupled heating or cooling device consisting of a sealed closed-loop
- 1.15 pipng system installed in a boring in the ground to transfer heat to or from the surrounding
- 1.16 earth with no discharge.
- 1.17 **EFFECTIVE DATE.** This section is effective July 1, 2012.
- 1.18 Sec. 2. Minnesota Statutes 2010, section 103I.005, subdivision 2, is amended to read:
- 1.19 Subd. 2. **Boring.** "Boring" means a hole or excavation that is not used to extract
- 1.20 water and includes exploratory borings, environmental bore holes, ~~vertical~~ bored
- 1.21 geothermal heat exchangers, and elevator ~~shafts~~ borings.
- 1.22 **EFFECTIVE DATE.** This section is effective July 1, 2012.
- 1.23 Sec. 3. Minnesota Statutes 2010, section 103I.005, subdivision 8, is amended to read:

Subd. 8. **Environmental bore hole.** "Environmental bore hole" means a hole or excavation in the ground that penetrates a confining layer or is greater than 25 feet in depth and enters or goes through a water bearing layer and is used to monitor or measure physical, chemical, radiological, or biological parameters without extracting water. An environmental bore hole also includes bore holes constructed for vapor recovery or venting systems. An environmental bore hole does not include a well, elevator ~~shaft~~ boring, exploratory boring, or monitoring well.

EFFECTIVE DATE. This section is effective July 1, 2012.

Sec. 4. Minnesota Statutes 2010, section 103I.005, subdivision 12, is amended to read:

Subd. 12. **Limited well/boring contractor.** "Limited well/boring contractor" means a person with a limited well/boring contractor's license issued by the commissioner. Limited well/boring contractor's licenses are issued for constructing, repairing, and sealing ~~vertical~~ bored geothermal heat exchangers; installing, repairing, and modifying pitless units and pitless adaptors, well casings above the pitless unit or pitless adaptor, well screens, or well diameters; constructing, repairing, and sealing drive point wells or dug wells; constructing, repairing, and sealing dewatering wells; sealing wells; and installing well pumps or pumping equipment.

EFFECTIVE DATE. This section is effective July 1, 2012.

Sec. 5. Minnesota Statutes 2010, section 103I.101, subdivision 2, is amended to read:

Subd. 2. **Duties.** The commissioner shall:

(1) regulate the drilling, construction, modification, repair, and sealing of wells and borings;

(2) examine and license well contractors; persons constructing, repairing, and sealing ~~vertical~~ bored geothermal heat exchangers; persons modifying or repairing well casings, well screens, or well diameters; persons constructing, repairing, and sealing drive point wells or dug wells; persons constructing, repairing, and sealing dewatering wells; persons sealing wells; persons installing well pumps or pumping equipment; and persons ~~excavating or drilling holes for the installation of~~ constructing, repairing, and sealing elevator borings ~~or hydraulic cylinders~~;

(3) register and examine monitoring well contractors;

(4) license explorers engaged in exploratory boring and examine individuals who supervise or oversee exploratory boring;

(5) after consultation with the commissioner of natural resources and the Pollution Control Agency, establish standards for the design, location, construction, repair, and sealing of wells and borings within the state; and

(6) issue permits for wells, groundwater thermal devices, ~~vertical~~ bored geothermal heat exchangers, and elevator borings.

Sec. 6. Minnesota Statutes 2010, section 103I.101, subdivision 5, is amended to read:

Subd. 5. **Commissioner to adopt rules.** The commissioner shall adopt rules including:

(1) issuance of licenses for:

(i) qualified well contractors, persons modifying or repairing well casings, well screens, or well diameters;

(ii) persons constructing, repairing, and sealing drive point wells or dug wells;

(iii) persons constructing, repairing, and sealing dewatering wells;

(iv) persons sealing wells;

(v) persons installing well pumps or pumping equipment;

(vi) persons constructing, repairing, and sealing ~~vertical~~ bored geothermal heat exchangers; and

(vii) persons constructing, repairing, and sealing elevator borings;

(2) issuance of registration for monitoring well contractors;

(3) establishment of conditions for examination and review of applications for license and registration;

(4) establishment of conditions for revocation and suspension of license and registration;

(5) establishment of minimum standards for design, location, construction, repair, and sealing of wells and borings to implement the purpose and intent of this chapter;

(6) establishment of a system for reporting on wells and borings drilled and sealed;

(7) establishment of standards for the construction, maintenance, sealing, and water quality monitoring of wells in areas of known or suspected contamination;

(8) establishment of wellhead protection measures for wells serving public water supplies;

(9) establishment of procedures to coordinate collection of well and boring data with other state and local governmental agencies;

(10) establishment of criteria and procedures for submission of well and boring logs, formation samples or well or boring cuttings, water samples, or other special information required for and water resource mapping; and

(11) establishment of minimum standards for design, location, construction, maintenance, repair, sealing, safety, and resource conservation related to borings, including exploratory borings as defined in section 103I.005, subdivision 9.

EFFECTIVE DATE. This section is effective July 1, 2012.

Sec. 7. Minnesota Statutes 2010, section 103I.105, is amended to read:

103I.105 ADVISORY COUNCIL ON WELLS AND BORINGS.

(a) The Advisory Council on Wells and Borings is established as an advisory council to the commissioner. The advisory council shall consist of 18 voting members. Of the 18 voting members:

(1) one member must be from the Department of Health, appointed by the commissioner of health;

(2) one member must be from the Department of Natural Resources, appointed by the commissioner of natural resources;

(3) one member must be a member of the Minnesota Geological Survey of the University of Minnesota, appointed by the director;

(4) one member must be a responsible individual for a licensed explorer;

(5) one member must be a certified representative of a licensed elevator boring contractor;

(6) two members must be members of the public who are not connected with the boring or well drilling industry;

(7) one member must be from the Pollution Control Agency, appointed by the commissioner of the Pollution Control Agency;

(8) one member must be from the Department of Transportation, appointed by the commissioner of transportation;

(9) one member must be from the Board of Water and Soil Resources appointed by its chair;

(10) one member must be a certified representative of a monitoring well contractor;

(11) six members must be residents of this state appointed by the commissioner, who are certified representatives of licensed well contractors, with not more than two from the seven-county metropolitan area and at least four from other areas of the state who represent different geographical regions; and

(12) one member must be a certified representative of a licensed ~~vertical bored~~ geothermal heat exchanger contractor.

(b) An appointee of the well drilling industry may not serve more than two consecutive terms.

(c) The appointees to the advisory council from the well drilling industry must:

(1) have been residents of this state for at least three years before appointment; and

(2) have at least five years' experience in the well drilling business.

(d) The terms of the appointed members and the compensation and removal of all members are governed by section 15.059, except section 15.059, subdivision 5, relating to expiration of the advisory council does not apply.

EFFECTIVE DATE. This section is effective July 1, 2012.

Sec. 8. Minnesota Statutes 2010, section 103I.111, subdivision 8, is amended to read:

Subd. 8. **Municipal regulation of drilling.** A municipality may regulate all drilling, except well, elevator ~~shaft~~ boring, and exploratory drilling that is subject to the provisions of this chapter, above, in, through, and adjacent to subsurface areas designated for mined underground space development and existing mined underground space. The regulations may prohibit, restrict, control, and require permits for the drilling.

EFFECTIVE DATE. This section is effective July 1, 2012.

Sec. 9. Minnesota Statutes 2010, section 103I.205, subdivision 4, is amended to read:

Subd. 4. **License required.** (a) Except as provided in paragraph (b), (c), (d), or (e), section 103I.401, subdivision 2, or section 103I.601, subdivision 2, a person may not drill, construct, repair, or seal a well or boring unless the person has a well contractor's license in possession.

(b) A person may construct, repair, and seal a monitoring well if the person:

(1) is a professional engineer licensed under sections 326.02 to 326.15 in the branches of civil or geological engineering;

(2) is a hydrologist or hydrogeologist certified by the American Institute of Hydrology;

(3) is a professional geoscientist licensed under sections 326.02 to 326.15;

(4) is a geologist certified by the American Institute of Professional Geologists; or

(5) meets the qualifications established by the commissioner in rule.

A person must register with the commissioner as a monitoring well contractor on forms provided by the commissioner.

(c) A person may do the following work with a limited well/boring contractor's license in possession. A separate license is required for each of the six activities:

(1) installing or repairing well screens or pitless units or pitless adaptors and well casings from the pitless adaptor or pitless unit to the upper termination of the well casing;

(2) constructing, repairing, and sealing drive point wells or dug wells;

(3) installing well pumps or pumping equipment;

(4) sealing wells;

(5) constructing, repairing, or sealing dewatering wells; or

(6) constructing, repairing, or sealing ~~vertical~~ bored geothermal heat exchangers.

(d) A person may construct, repair, and seal an elevator boring with an elevator boring contractor's license.

(e) Notwithstanding other provisions of this chapter requiring a license or registration, a license or registration is not required for a person who complies with the other provisions of this chapter if the person is:

(1) an individual who constructs a well on land that is owned or leased by the individual and is used by the individual for farming or agricultural purposes or as the individual's place of abode; or

(2) an individual who performs labor or services for a contractor licensed or registered under the provisions of this chapter in connection with the construction, sealing, or repair of a well or boring at the direction and under the personal supervision of a contractor licensed or registered under the provisions of this chapter.

EFFECTIVE DATE. This section is effective July 1, 2012.

Sec. 10. Minnesota Statutes 2011 Supplement, section 103I.208, subdivision 2, is amended to read:

Subd. 2. **Permit fee.** The permit fee to be paid by a property owner is:

(1) for a water supply well that is not in use under a maintenance permit, \$175 annually;

(2) for construction of a monitoring well, \$235, which includes the state core function fee;

(3) for a monitoring well that is unsealed under a maintenance permit, \$175 annually;

(4) for a monitoring well owned by a federal agency, state agency, or local unit of government that is unsealed under a maintenance permit, \$50 annually. "Local unit of government" means a statutory or home rule charter city, town, county, or soil and water conservation district, watershed district, an organization formed for the joint exercise of powers under section 471.59, a board of health or community health board, or other special purpose district or authority with local jurisdiction in water and related land resources management;

(5) for monitoring wells used as a leak detection device at a single motor fuel retail outlet, a single petroleum bulk storage site excluding tank farms, or a single agricultural chemical facility site, the construction permit fee is \$235, which includes the state core function fee, per site regardless of the number of wells constructed on the site, and the annual fee for a maintenance permit for unsealed monitoring wells is \$175 per site regardless of the number of monitoring wells located on site;

(6) for a groundwater thermal exchange device, in addition to the notification fee for water supply wells, \$235, which includes the state core function fee;

(7) for a ~~vertical~~ bored geothermal heat exchanger with less than ten tons of heating/cooling capacity, \$235;

(8) for a ~~vertical~~ bored geothermal heat exchanger with ten to 50 tons of heating/cooling capacity, \$475;

(9) for a ~~vertical~~ bored geothermal heat exchanger with greater than 50 tons of heating/cooling capacity, \$700;

(10) for a dewatering well that is unsealed under a maintenance permit, \$175 annually for each dewatering well, except a dewatering project comprising more than five dewatering wells shall be issued a single permit for \$875 annually for dewatering wells recorded on the permit; and

(11) for an elevator boring, \$235 for each boring.

EFFECTIVE DATE. This section is effective July 1, 2012.

Sec. 11. Minnesota Statutes 2010, section 103I.325, subdivision 2, is amended to read:

Subd. 2. **Liability after sealing.** (a) The owner of a well or boring is not liable for contamination of groundwater from the well or boring that occurs after the well or boring has been sealed by a licensed contractor in compliance with this chapter if a report of sealing has been filed with the commissioner of health by the contractor who performed the work, and if the owner has not disturbed or disrupted the sealed well or boring.

(b) The licensed contractor who seals a well or boring in compliance with this chapter and files a report with the commissioner of health is not liable for contamination of groundwater from the well or boring that occurs after the well or boring has been sealed.

EFFECTIVE DATE. This section is effective July 1, 2012.

Sec. 12. **[103I.327] SEALED WELLS.**

After a well or boring has been sealed in compliance with this chapter and the licensed contractor who performed the work files a report of the sealing with the

8.1 commissioner, the commissioner may not order the contractor to reseal the well or
8.2 otherwise perform work on the well.

8.3 **EFFECTIVE DATE.** This section is effective July 1, 2012.

8.4 Sec. 13. Minnesota Statutes 2010, section 103I.501, is amended to read:

8.5 **103I.501 LICENSING AND REGULATION OF WELLS AND BORINGS.**

8.6 (a) The commissioner shall regulate and license:

8.7 (1) drilling, constructing, and repair of wells;

8.8 (2) sealing of wells;

8.9 (3) installing of well pumps and pumping equipment;

8.10 (4) excavating, drilling, repairing, and sealing of elevator borings;

8.11 (5) construction, repair, and sealing of environmental bore holes; and

8.12 (6) construction, repair, and sealing of ~~vertical~~ bored geothermal heat exchangers.

8.13 (b) The commissioner shall examine and license well contractors, limited
8.14 well/boring contractors, and elevator boring contractors, and examine and register
8.15 monitoring well contractors.

8.16 (c) The commissioner shall license explorers engaged in exploratory boring and
8.17 shall examine persons who supervise or oversee exploratory boring.

8.18 **EFFECTIVE DATE.** This section is effective July 1, 2012.

8.19 Sec. 14. Minnesota Statutes 2010, section 103I.531, subdivision 5, is amended to read:

8.20 Subd. 5. **Bond.** (a) As a condition of being issued a limited well/boring contractor's
8.21 license for constructing, repairing, and sealing drive point wells or dug wells, sealing
8.22 wells or borings, constructing, repairing, and sealing dewatering wells, or constructing,
8.23 repairing, and sealing ~~vertical~~ bored geothermal heat exchangers, the applicant must
8.24 submit a corporate surety bond for \$10,000 approved by the commissioner. As a condition
8.25 of being issued a limited well/boring contractor's license for installing or repairing well
8.26 screens or pitless units or pitless adaptors and well casings from the pitless adaptor
8.27 or pitless unit to the upper termination of the well casing, or installing well pumps or
8.28 pumping equipment, the applicant must submit a corporate surety bond for \$2,000
8.29 approved by the commissioner. The bonds required in this paragraph must be conditioned
8.30 to pay the state on performance of work in this state that is not in compliance with this
8.31 chapter or rules adopted under this chapter. The bonds are in lieu of other license bonds
8.32 required by a political subdivision of the state.

(b) From proceeds of a bond required in paragraph (a), the commissioner may compensate persons injured or suffering financial loss because of a failure of the applicant to perform work or duties in compliance with this chapter or rules adopted under this chapter.

EFFECTIVE DATE. This section is effective July 1, 2012.

Sec. 15. Minnesota Statutes 2010, section 103I.535, subdivision 6, is amended to read:

Subd. 6. **License fee.** The fee for an elevator ~~shaft~~ boring contractor's license is \$75.

EFFECTIVE DATE. This section is effective July 1, 2012.

Sec. 16. Minnesota Statutes 2010, section 103I.641, is amended to read:

103I.641 VERTICAL BORED GEOTHERMAL HEAT EXCHANGERS.

Subdivision 1. **Requirements.** A person may not drill or construct an excavation used to install a ~~vertical~~ bored geothermal heat exchanger unless the person is a limited well/boring contractor licensed for constructing, repairing, and sealing ~~vertical~~ bored geothermal heat exchangers or a well contractor.

Subd. 2. **Regulations for ~~vertical~~ bored geothermal heat exchangers.** ~~Vertical Bored geothermal~~ bored geothermal heat exchangers must be constructed, maintained, and sealed under the provisions of this chapter.

Subd. 3. **Permit required.** (a) A ~~vertical~~ bored geothermal heat exchanger may not be installed without first obtaining a permit for the ~~vertical~~ bored geothermal heat exchanger from the commissioner. A limited well/boring contractor licensed for constructing, repairing, and sealing ~~vertical~~ bored geothermal heat exchangers or a well contractor must apply for the permit on forms provided by the commissioner and must pay the permit fee.

(b) As a condition of the permit, the owner of the property where the ~~vertical~~ bored geothermal heat exchanger is to be installed must agree to allow inspection by the commissioner during regular working hours of Department of Health inspectors.

EFFECTIVE DATE. This section is effective July 1, 2012.

Sec. 17. Minnesota Statutes 2010, section 103I.711, subdivision 1, is amended to read:

Subdivision 1. **Impoundment.** The commissioner may apply to district court for a warrant authorizing seizure and impoundment of all drilling machines or hoists owned or used by a person. The court shall issue an impoundment order upon the commissioner's

showing that a person is constructing, repairing, or sealing wells or borings or installing pumps or pumping equipment ~~or excavating holes for installing elevator shafts~~ without a license or registration as required under this chapter. A sheriff on receipt of the warrant must seize and impound all drilling machines and hoists owned or used by the person. A person from whom equipment is seized under this subdivision may file an action in district court for the purpose of establishing that the equipment was wrongfully seized.

EFFECTIVE DATE. This section is effective July 1, 2012.

Sec. 18. Minnesota Statutes 2010, section 103I.715, subdivision 2, is amended to read:

Subd. 2. **Gross misdemeanors.** A person is guilty of a gross misdemeanor who:

(1) willfully violates a provision of this chapter or order of the commissioner;

(2) engages in the business of drilling or making wells or borings, sealing wells or borings, or installing pumps or pumping equipment, ~~or constructing elevator shafts~~ without a license required by this chapter; or

(3) engages in the business of exploratory boring without an exploratory borer's license under this chapter.

EFFECTIVE DATE. This section is effective July 1, 2012.