

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 1291

(SENATE AUTHORS: TOMASSONI, Bakk and Saxhaug)

DATE	D-PG	OFFICIAL STATUS
03/11/2013	779	Introduction and first reading Referred to Jobs, Agriculture and Rural Development
03/20/2013		Comm report: To pass as amended Second reading

A bill for an act

relating to mines; making technical, clarifying, and other policy changes to mine inspector provisions; amending Minnesota Statutes 2012, sections 180.01; 180.02; 180.03; 180.04; 180.05; 180.08; 180.10; 180.11; 180.12; 180.13; proposing coding for new law in Minnesota Statutes, chapter 180; repealing Minnesota Statutes 2012, sections 180.06; 180.09.

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

Section 1. Minnesota Statutes 2012, section 180.01, is amended to read:

180.01 APPOINTMENT.

The board of commissioners of any county in this state, where there are at least five mines situate and in operation, is hereby authorized and directed, ~~on or before the first day of July, 1905, to appoint an inspector of mines, who shall hold office for the term of three years or until a successor is appointed and qualified, and in addition thereto may appoint one assistant inspector for every 20 mines as the board may determine for the purpose of discharging the duties hereinafter prescribed; to fix the compensation and traveling expenses of such inspector or any assistant inspector and provide for the payment of the same, and to remove such inspector or any assistant inspector and appoint another in place when in the judgment of the board the best interests of the owners and employees of such mines may so require. In any county where there are active, inactive, or idled mines, and no county mine inspector has been appointed as provided above, the county board shall enforce the provisions of chapter 180 by designating an appropriate county officer or employee to discharge the duties of county mine inspector. The qualifications and salary prescribed in section 180.02 do not apply to the person designated, except that the person may not be interested in any mine as an owner, operator, agent, stockholder, or engineer. to enforce the provisions of this chapter by designating the appropriate individual or individuals to~~

2.1 discharge the duties of county mine inspector. For counties where less than five mines are
 2.2 situated and in operation the county may designate an appropriate county officer that is
 2.3 exempt from the qualifications in section 180.02. Acts or omissions of a person appointed
 2.4 or designated to perform the duties of county of a mine inspector, whether statutory or
 2.5 discretionary, are acts or omissions as defined in section 466.03, subdivision 5 or 6.

2.6 Sec. 2. **[180.015] DEFINITIONS.**

2.7 Subdivision 1. **Scope.** The terms defined in this section have the meanings given.

2.8 Subd. 2. **Mine inspector.** "Mine inspector" or "inspector of mines" means the
 2.9 person designated by the county as the county mine inspector, and includes any assistant
 2.10 mine inspectors.

2.11 Subd. 3. **Mine waste.** "Mine waste" means any material, such as surface
 2.12 overburden, rock, lean ore, or tailings which in the process of mining and beneficiation
 2.13 has been removed from the earth and stored elsewhere on the surface.

2.14 Subd. 4. **Mining.** "Mining" means the process of removing; stockpiling; processing;
 2.15 storing; transporting, excluding use of common carriers and public transportation systems;
 2.16 and reclaiming any material in connection with the commercial production of metallic
 2.17 minerals. This includes exploration activities such as the taking of large bulk samples.

2.18 Subd. 5. **Mining area or area subjected to mining.** "Mining area" or "area
 2.19 subjected to mining" means an area of land from which material is removed in connection
 2.20 with the production or extraction of metallic minerals; the lands on which material from
 2.21 the mining is deposited; the lands on which beneficiating plants, heap and dump leaching
 2.22 facilities, and auxiliary facilities are located; lands on which the water reservoirs used in
 2.23 the mining process are located; and auxiliary lands that are used or intended to be used
 2.24 in a particular mining operation.

2.25 Subd. 6. **Mining operation.** "Mining operation" means all of a mining project
 2.26 without regard to political, administrative, or ownership boundaries, which includes
 2.27 mining area, mine waste, and all of the facilities used in mining as defined in this chapter.

2.28 Subd. 7. **Reportable accident.** "Reportable accident" means:

2.29 (1) a death of any individual on mine property;

2.30 (2) an injury that has a reasonable potential to cause death;

2.31 (3) mine fires that result in evacuation of miners or cause significant damage to
 2.32 structures or equipment at a mine;

2.33 (4) all explosions, including methane, dust, or unplanned detonation of explosives
 2.34 or blasting agents;

- 3.1 (5) coal or rock outbursts, including bumps or bounces, that result in injury or
 3.2 evacuation of an area, or that interrupts production for more than 30 minutes;
 3.3 (6) inundations by liquid or gas;
 3.4 (7) entrapment of any person requiring mine rescue efforts;
 3.5 (8) any unstable condition at an impoundment or refuse pile that requires emergency
 3.6 corrective action to prevent failure or requires evacuation;
 3.7 (9) any accident at a mine that is likely to be the subject of immediate or
 3.8 extraordinary media interest; or
 3.9 (10) a death of any individual off-mine property resulting from activities, such as
 3.10 flyrock, on mine property.

3.11 Sec. 3. Minnesota Statutes 2012, section 180.02, is amended to read:

3.12 **180.02 QUALIFICATIONS, SALARY, OATH, BOND.**

3.13 ~~Each inspector of mines and assistant shall be at least 25 years of age, a citizen~~
 3.14 ~~of the state, and a resident of the county wherein appointed, of good moral character~~
 3.15 ~~and temperate habits. Previous to appointment the inspector shall have had practical~~
 3.16 ~~experience as a miner or otherwise engaged as an employee in mines of the state at least~~
 3.17 ~~six years, or a mining engineer having had previous to appointment at least two years of~~
 3.18 ~~practical experience in iron mines and iron mining and having had at least one year of such~~
 3.19 ~~experience in this state. The inspector shall not while in office in any way be interested as~~
 3.20 ~~an owner, operator, agent, stockholder, or engineer of any mine. The inspector shall live or~~
 3.21 ~~have an office in the mining district of the county for which appointed. The salary of each~~
 3.22 ~~inspector of mines and assistant shall be such sum as shall be fixed by the county board~~
 3.23 ~~not exceeding \$7,500 per annum, and shall be allowed actual traveling expenses not to~~
 3.24 ~~exceed \$1,200 in any one year. The inspector shall file with the county auditor an itemized~~
 3.25 ~~account of expenses every three months, verified by affidavit, showing that they have been~~
 3.26 ~~incurred in the discharge of official duties in mining or mining-related safety work. Before~~
 3.27 ~~entering upon the discharge of the duties of office, the inspector shall take an oath before~~
 3.28 ~~some a person authorized by law to administer oaths to support the Constitution of the~~
 3.29 ~~United States and the Constitution of the state of Minnesota, and that the inspector will~~
 3.30 ~~faithfully, impartially, and to the best of ability discharge the duties of office, and file a~~
 3.31 ~~certificate of having done so in the office of the county auditor. The inspector shall give~~
 3.32 ~~bond, payable to the county board, in the penal sum of \$5,000, with sufficient sureties to~~
 3.33 ~~be approved by the county board, conditioned that the inspector will faithfully discharge~~
 3.34 ~~the duties of office and this bond shall be filed with the county auditor.~~

4.1 Sec. 4. Minnesota Statutes 2012, section 180.03, is amended to read:

4.2 **180.03 DUTIES.**

4.3 Subdivision 1. **Inspections.** The duties of the inspector of mines shall be to visit
 4.4 ~~in person or by assistants all the working mines of~~ mining operations for which a permit
 4.5 to mine has been obtained from the commissioner of natural resources in the inspector's
 4.6 county at least once every 90 days and ~~oftener~~ more often if requested so to do as
 4.7 hereinafter provided, and closely inspect the mines so visited and condemn all such places
 4.8 where the employees are in danger from any cause, whether resulting from careless mining
 4.9 or defective machinery or ~~appliances~~ equipment of any nature. ~~The inspector shall compel~~
 4.10 ~~the erection of a partition between all shafts where hoisting of ore is performed, and where~~
 4.11 ~~there are ladder ways, where workers must ascend or descend going to and from their~~
 4.12 ~~work.~~ In case the event that the inspector of mines ~~shall find~~ finds that a place is dangerous
 4.13 from any cause, ~~as aforesaid,~~ it shall be the inspector's duty immediately to order those
 4.14 engaged in the work at that place to ~~quit~~ cease work, and notify the superintendent, agent,
 4.15 or person in charge to secure the place from the existing danger, which notification or order
 4.16 shall be in writing, clearly define the limits of the dangerous place, and specify the work to
 4.17 be done or change to be made to render the same secure, ordinary mine risks excepted. It
 4.18 shall be the duty of the inspector of mines to order the person, persons, or corporation
 4.19 working any mine, or the agent, superintendent, lead supervisor, or other person having
 4.20 immediate charge of the working of any mine, to ~~furnish all shafts, open pits, caves, and~~
 4.21 ~~chutes of such mine where danger exists with some secure safeguard at the top of the shaft,~~
 4.22 ~~open pit, cave, or chute, so as to guard against accidents by persons falling therein or by~~
 4.23 ~~material falling down the same, also a covering overhead on all the carriages on which~~
 4.24 ~~persons ascend or descend up and down the shaft, if in the inspector's judgment it shall be~~
 4.25 ~~practicable and necessary for the purpose of safety~~ mitigate the identified hazard.

4.26 Subd. 2. **Fences.** Every person, firm, or corporation that is or has been engaged
 4.27 in the business of mining or removing iron ore, taconite, semitaconite or other minerals
 4.28 except sand, crushed rock, and gravel shall erect and maintain, as a minimum, a three
 4.29 strand wire fence along the outside perimeter of the excavation, open pit, or shaft of any
 4.30 mine in which mining operations have ceased for a period of six consecutive months or
 4.31 longer. ~~However,~~ Based upon local site conditions that may exist at shafts, caves, or open
 4.32 pits, the county mine inspector may require more secure fencing such as barbed wire
 4.33 or mesh fence, or may require barriers, appropriate signs, or any combination of the
 4.34 above, to reduce the possibility of accidental falls. The county mine inspector may grant
 4.35 exemptions under subdivision 4. ~~In the case of open pit mines in which~~ Where mining
 4.36 operations ~~cease after November 1, 1979, and before March 1, 1980, the fence, barrier,~~

5.1 ~~signs, or combination of them shall be erected as soon as possible after March 1, 1980.~~
 5.2 ~~Where mining operations cease on or after March 1, 1980, the fence, barrier, signs, or~~
 5.3 ~~combination of them shall be erected forthwith. In the case of open pit mines in which~~
 5.4 ~~mining operations had ceased for a period of six consecutive months or longer before~~
 5.5 ~~November 1, 1979, have ceased and not resumed, the fence, barrier, signs, or combination~~
 5.6 ~~of them shall be erected within two years from the date when the county mine inspector~~
 5.7 ~~directs the erection of fences, barriers, signs, or combination of them. Any fence, barrier,~~
 5.8 ~~signs, or combination of them, required by an inspector of mines pursuant to subdivision~~
 5.9 ~~3 or other applicable law, shall meet the standards of this section as a minimum. This~~
 5.10 ~~subdivision does not apply to any excavation, open pit, or shaft, or any portion thereof,~~
 5.11 ~~exempted from its application by the commissioner of natural resources pursuant to laws~~
 5.12 ~~relating to mine land reclamation, exempted from its application by the Iron Range~~
 5.13 ~~Resources and Rehabilitation Board under actions taken by the board, or exempted from~~
 5.14 ~~its application by the county mine inspector pursuant to subdivision 4.~~

5.15 Subd. 3. **Abandoned mines.** When any a mine is idle or abandoned it shall be is
 5.16 the duty of the inspector of mines to notify the person, firm, or corporation that is or has
 5.17 been engaged in the business of mining to erect and maintain around all the shafts, caves,
 5.18 and open pits of such mines a fence, barrier, appropriate signs, or combination of them,
 5.19 suitable to warn of the presence of shafts, caves, or open pits and reduce the possibility of
 5.20 accidentally falling into these shafts, caves, or open pits. If the mine has been idled or
 5.21 abandoned ~~for more than ten years~~, or if the person, firm, or corporation that has been
 5.22 engaged in the business of mining no longer exists, the fee owner shall erect the fence,
 5.23 barrier, or signs required by this section. ~~The notice shall be in writing and be served upon~~
 5.24 ~~such person, firm, corporation, or fee owner by certified mail. If the fee owner fails to act,~~
 5.25 ~~the county in which the mining operation is located may, in addition to any other remedies~~
 5.26 ~~available, abate the nuisance by erecting the fence, barrier, or signs and assessing the costs~~
 5.27 ~~and related expenses pursuant to section 429.011.~~

5.28 Subd. 4. **Exemptions.** Upon written application, the county mine inspector may
 5.29 exempt from the requirements of subdivision 2, any abandoned excavation, open pit, or
 5.30 shaft which is provided with fencing, barriers, appropriate signs, or combinations of them,
 5.31 in a manner that is reasonably similar to the standards set forth in subdivision 2, or which
 5.32 in the inspector's judgment does not constitute a safety hazard.

5.33 ~~Subd. 5. **Aquaculture exemption.** Upon written notice to the county mine~~
 5.34 ~~inspector, a person, firm, or corporation that is actively and exclusively engaged in the~~
 5.35 ~~business of cold water aquaculture shall be exempt from the requirements of subdivision~~
 5.36 ~~3. The exemption shall only apply to those portions of idle or abandoned open pit mines~~

6.1 ~~that are actively being used for aquaculture operations and that are owned by the person,~~
 6.2 ~~firm, or corporation. A landowner exempted assumes all responsibility for inspection and~~
 6.3 ~~safety measures pertaining to the affected parcels of land and the county mine inspector is~~
 6.4 ~~relieved of inspection requirements. The notice provided to the county mine inspector~~
 6.5 ~~pursuant to this subdivision shall be annual and shall be filed with the county mine~~
 6.6 ~~inspector's office by January 15 of each year. The notice shall describe the affected parcels~~
 6.7 ~~of land and shall provide a sworn affidavit by the landowner that the subject property will~~
 6.8 ~~be actively and exclusively used for aquaculture purposes during the calendar year. Failure~~
 6.9 ~~to comply with the notice requirement of this subdivision makes the idle or abandoned~~
 6.10 ~~open pit mines subject to the provisions of subdivision 3.~~

6.11 Sec. 5. Minnesota Statutes 2012, section 180.04, is amended to read:

6.12 **180.04 REQUIRING EMPLOYEES TO WORK AFTER ORDER TO QUIT;**
 6.13 **LIABILITY OF EMPLOYER.**

6.14 If any a person is required to continue work in any a place in which the inspector
 6.15 of mines has ordered employees to quit cease work, ~~as aforesaid,~~ except to do such the
 6.16 work ~~as may have been by the inspector~~ required by the inspector to be done in order to
 6.17 render such the place safe, ordinary risks of mining excepted, the persons or corporations
 6.18 ~~so~~ requiring employees to work in such the place shall be liable for all accidents causing
 6.19 injury or death to any employee arising by reason of such the place not having been
 6.20 repaired or changed as required by the inspector.

6.21 Sec. 6. Minnesota Statutes 2012, section 180.05, is amended to read:

6.22 **180.05 INSPECTOR, POWERS; OWNER, DUTIES.**

6.23 It shall be lawful for the inspector of mines or assistant inspector to enter, examine,
 6.24 and inspect any and all ~~mines~~ mining operations and machinery belonging ~~thereto~~ to
 6.25 the mine owner, operator, or agent at all reasonable times by day or by night, but so as
 6.26 not to obstruct or hinder the necessary workings of ~~such mines,~~ and it shall be the duty
 6.27 ~~of the owner, operator, or agent of every such mine,~~ upon the facility. At the request of
 6.28 the inspector of mines, ~~or assistant inspector to~~ the owner, operator, or agent of a mining
 6.29 operation shall furnish for inspection;

6.30 (1) all maps, drawings, and plans of the ~~mine~~ mining facility, together with the plans
 6.31 of all contemplated changes ~~in the manner of working the mine or any part thereof;~~ to
 6.32 furnish ~~some~~

6.33 (2) a suitable person, ~~as the inspector may desire,~~ who shall be chosen by the
 6.34 inspector from a list containing at least three candidates, submitted by a majority of

7.1 employees of the mine, to accompany the inspector through the mine, ~~or any part thereof,~~
 7.2 ~~and to furnish suitable ladders and other~~ mining operation;

7.3 (3) any necessary appliances equipment to make a proper inspection ~~and to furnish~~
 7.4 ~~upon request the inspector of mines with;~~ and

7.5 (4) all necessary facilities for such entry, examination, and inspection, ~~and if the~~
 7.6 ~~owner, operator, or agent refuse to permit such inspection or to furnish the necessary~~
 7.7 ~~facilities for such entry, examination, and inspection, and continue so to refuse or permit,~~
 7.8 ~~after.~~

7.9 Upon receipt of a written request thereof made by the inspector of mines, ~~such refusal or~~
 7.10 ~~neglect to permit the inspection or to furnish the necessary facilities for entry, examination,~~
 7.11 ~~and inspection,~~ shall be deemed a gross misdemeanor, ~~and, upon conviction thereof, such~~
 7.12 ~~owner, operator, or agent shall be punished by a fine of not less than \$500 nor more than~~
 7.13 ~~\$3,000 for each offense.~~

7.14 Sec. 7. Minnesota Statutes 2012, section 180.08, is amended to read:

7.15 **180.08 ACCIDENTS; NOTICE, INVESTIGATION.**

7.16 ~~When by reason of any~~ Upon the occurrence of a reportable accident in any mine
 7.17 ~~loss of life or serious personal injury shall occur,~~ it shall be ~~is~~ the duty of the manager
 7.18 or superintendent designee of the mine, ~~and in their absence the person or officer under~~
 7.19 ~~them in charge of the mine,~~ to give notice thereof ~~forthwith~~ to the inspector of mines, as
 7.20 soon as practical but at least within one hour of stabilization of the accident scene, stating
 7.21 the particulars of ~~such~~ the accident, ~~and.~~ Upon notification, the inspector shall, if the
 7.22 inspector deems it necessary ~~from the facts reported,~~ go immediately to the scene of ~~such~~
 7.23 the accident and make ~~such~~ suggestions and render ~~such~~ assistance as the inspector may
 7.24 deem necessary in the premises and personally investigate the cause of ~~such~~ the accident
 7.25 and take ~~such~~ steps as the inspector may deem necessary for the safety of the employees
 7.26 of ~~such~~ the mine and to prevent accident of a like or similar nature. The inspector shall be
 7.27 accompanied by three persons appointed by the manager or other person in charge of the
 7.28 mine and by three persons appointed by a majority of the employees of the mine ~~to serve~~
 7.29 ~~in such cases.~~ The requirement for accompaniment may be modified by a waiver signed
 7.30 by representatives from the employees, management, and inspector.

7.31 Sec. 8. Minnesota Statutes 2012, section 180.10, is amended to read:

7.32 **180.10 REMOVAL OF FENCE; GUARD.**

8.1 ~~Any~~ A worker, employee, or other person who ~~shall open, remove~~ opens, removes,
 8.2 ~~or disturb~~ disturbs any fence, guard, barrier, sign, or rail and ~~not~~ fails to close or replace or
 8.3 have the same closed or replaced again around or in front of any mine shaft, pit, chute,
 8.4 excavation, cave, or land liable to cave, injure, or destroy, ~~whereby~~ whether by accident,
 8.5 injury, or damage results, either to the mine or those at work therein, or to any other
 8.6 person, shall be guilty of a misdemeanor. A worker, employee, or other person who,
 8.7 in regard to any fence, guard, barrier, sign, or rail, does any of the acts prohibited by
 8.8 section 609.52, commits theft of the fence, guard, barrier, sign, or rail may be sentenced as
 8.9 provided in section 609.52.

8.10 Sec. 9. Minnesota Statutes 2012, section 180.11, is amended to read:

8.11 **180.11 ANNUAL REPORT.**

8.12 It ~~shall be~~ is the duty of the inspector of mines to make and file no later than March
 8.13 first each year with the auditor of the county for which appointed a full and complete
 8.14 report of ~~all acts, proceedings, and doings hereunder~~ the activities of the mine inspector
 8.15 for each year ending December 31, stating ~~therein among other things~~ the number of visits
 8.16 and inspections made, the number of mines in operation, the number of mines not in
 8.17 operation, ~~the names of the mines, where located, the owners, lessees, or managers, the~~
 8.18 ~~names of the officers,~~ the quantity of ore shipped, the number of workers employed, the
 8.19 ~~average wages for different kinds of work,~~ the number of accidents, ~~fatal or otherwise,~~
 8.20 ~~the cause of such accidents,~~ and ~~such~~ any other information ~~in relation~~ that relates to the
 8.21 subject of mines and mining inspection as the inspector may deem ~~of proper interest and~~
 8.22 ~~beneficial~~ pertinent to the ~~mining interests~~ reporting duties of the state office.

8.23 Sec. 10. Minnesota Statutes 2012, section 180.12, is amended to read:

8.24 **180.12 VIOLATIONS.**

8.25 Subdivision 1. **Owner, operator, or agent.** Any owner, operator, or agent of
 8.26 any mine in this state violating the provisions of this chapter shall, except as otherwise
 8.27 specifically provided, be deemed guilty of a gross misdemeanor, ~~and for each offense,~~
 8.28 ~~upon conviction, fined not less than \$100 nor more than \$3,000.~~

8.29 Subd. 2. **Person in immediate charge.** ~~Any~~ A person who is in immediate charge
 8.30 of the working of any mine who fails to carry out ~~any~~ an order of the inspector, issued
 8.31 pursuant to section 180.03 or who permits, directs, or authorizes any person to work in a
 8.32 manner which violates the provisions of section 180.04 shall upon finding by the district
 8.33 court of the county where the mine is situated that the order of the inspector was not
 8.34 unjust or unreasonable or an abuse of discretion be guilty of a gross misdemeanor, ~~and~~

9.1 ~~upon conviction thereof, shall be punished as provided in section 609.03.~~ Each time an
9.2 order of the inspector issued under section 180.04 is not complied with, shall constitute a
9.3 separate offense. Each offense shall be prosecuted by the county attorney of the county in
9.4 which having gross misdemeanor jurisdiction for the location of the facility where the
9.5 offense took place.

9.6 Sec. 11. Minnesota Statutes 2012, section 180.13, is amended to read:

9.7 **180.13 NEGLECT OF INSPECTOR.**

9.8 Any inspector of mines appointed ~~hereunder failing~~ under this chapter who fails to
9.9 comply with the requirements of this chapter shall be guilty of a gross misdemeanor; ~~and,~~
9.10 Upon conviction thereof, the inspector shall be fined not less than \$100 nor more than
9.11 \$3,000 and be dismissed from office, ~~and.~~ The board of commissioners shall remove the
9.12 inspector from office for neglect of duty, drunkenness, incompetency, malfeasance in
9.13 office, or other good cause.

9.14 Sec. 12. **REPEALER.**

9.15 Minnesota Statutes 2012, sections 180.06; and 180.09, are repealed.

APPENDIX
Repealed Minnesota Statutes: 13-1838

180.06 SALARY AND EXPENSES.

The county for which the inspector of mines was appointed shall pay the inspector's salary and expenses out of its treasury in the manner provided for payment of salaries and expenses of other county officials. The board of county commissioners shall furnish the inspector of mines with necessary books, stationery, and supplies. At the request of the county mine inspector, the county board may appropriate money, including money appropriated to the county by the legislature for the purposes of mine safety or inspection for the expenses of the county mine inspector including expenses that arise from the erection and maintenance, by the county, on county administered land, of fences, barriers, or signs required by chapter 180.

180.09 DUTY OF OWNER; TIMBER FOR SUPPORTS AND PROPS.

The owner, operator, or agent of any mine shall at all times keep a sufficient and suitable supply of timber and logging on hand when required to be used as supports, props, or otherwise in the mining work so that the workings of such mine may be rendered reasonably safe and secure.