

A bill for an act

relating to natural resources; modifying nonnative species provisions; modifying requirements for permits to control or harvest aquatic plants; providing criminal penalties and civil penalties; amending Minnesota Statutes 2010, sections 84D.01, subdivisions 8a, 16, 21, by adding subdivisions; 84D.02, subdivision 6; 84D.03, subdivisions 3, 4; 84D.09; 84D.10, subdivisions 1, 3, 4; 84D.11, subdivision 2a; 84D.13, subdivisions 3, 4, 5, 6, 7; 84D.15, subdivision 2; 103G.615, subdivision 1, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 84D; repealing Minnesota Statutes 2010, section 84D.02, subdivision 4.

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

Section 1. Minnesota Statutes 2010, section 84D.01, is amended by adding a subdivision to read:

Subd. 3a. **Decontaminate.** "Decontaminate" means to wash, drain, dry, or thermally or otherwise treat water-related equipment in order to remove or destroy aquatic invasive species using the "Recommended Uniform Minimum Protocol Standards" developed by the United States Fish and Wildlife Service, or other protocols, as prescribed by the commissioner. The commissioner may prescribe protocols in the same manner provided under section 84D.03, subdivision 1, paragraph (d), for designating infested waters.

Sec. 2. Minnesota Statutes 2010, section 84D.01, subdivision 8a, is amended to read:

Subd. 8a. **Introduce.** "Introduce" means to place, release, or allow the escape of a nonnative species into a free-living state. Introduce does not include:

(1) the immediate return of a nonnative species to waters of the state from which the nonnative species was removed; or

2.1 (2) the seasonal return of nonnative species attached to water-related equipment,
2.2 such as a dock or boat lift, that has been stored on riparian property and directly returned
2.3 to the same waters of the state from which the water-related equipment was removed.

2.4 Sec. 3. Minnesota Statutes 2010, section 84D.01, is amended by adding a subdivision
2.5 to read:

2.6 Subd. 8b. **Inspect.** "Inspect" means to examine water-related equipment to
2.7 determine whether aquatic invasive species, aquatic macrophytes, or water is present and
2.8 includes removal, drainage, decontamination, or treatment to prevent the transportation
2.9 and spread of aquatic invasive species, aquatic macrophytes, and water.

2.10 Sec. 4. Minnesota Statutes 2010, section 84D.01, is amended by adding a subdivision
2.11 to read:

2.12 Subd. 8c. **Inspector.** "Inspector" means an individual trained and authorized by
2.13 the commissioner to inspect water-related equipment, a conservation officer, or a licensed
2.14 peace officer.

2.15 Sec. 5. Minnesota Statutes 2010, section 84D.01, is amended by adding a subdivision
2.16 to read:

2.17 Subd. 15a. **Service provider.** "Service provider" means an individual who installs
2.18 or removes watercraft, equipment, motor vehicles, docks, boat lifts, rafts, vessels, trailers,
2.19 or other water-related equipment or structures from waters of the state for compensation.

2.20 Sec. 6. Minnesota Statutes 2010, section 84D.01, subdivision 16, is amended to read:

2.21 Subd. 16. **Transport.** "Transport" means to cause or attempt to cause a species to be
2.22 carried or moved into or within the state, and includes accepting or receiving the species
2.23 for transportation or shipment. Transport does not include:

2.24 (1) the ~~transport~~ movement of infested water or a nonnative species within a water
2.25 of the state or to a connected water of the state where the species being transported is
2.26 already present; or

2.27 (2) the movement of a nonnative species attached to water-related equipment or
2.28 other water-related structures from a water of the state to the shore of riparian property on
2.29 that water or the return of water-related equipment or structures from the shore into the
2.30 same water of the state.

Sec. 7. Minnesota Statutes 2010, section 84D.01, is amended by adding a subdivision to read:

Subd. 18a. **Water-related equipment.** "Water-related equipment" means a motor vehicle, boat, watercraft, dock, boat lift, raft, vessel, trailer, tool, implement, device, or any other associated equipment or container, including but not limited to portable bait containers, live wells, ballast tanks except for those vessels permitted under the Pollution Control Agency vessel discharge program, bilge areas, and water-hauling equipment that is capable of containing or transporting aquatic invasive species, aquatic macrophytes, or water.

Sec. 8. Minnesota Statutes 2010, section 84D.01, subdivision 21, is amended to read:

Subd. 21. **Wild animal.** ~~"Wild animal" means a living creature, not human, wild by nature, endowed with sensation and power of voluntary motion~~ has the meaning given under section 97A.015, subdivision 55.

Sec. 9. Minnesota Statutes 2010, section 84D.02, subdivision 6, is amended to read:

Subd. 6. **Annual report.** By January 15 each year, the commissioner shall submit a report on invasive species of aquatic plants and wild animals to the legislative committees having jurisdiction over environmental and natural resource issues. The report must include:

(1) detailed information on expenditures for administration, education, management, inspections, and research;

(2) an analysis of the effectiveness of management activities conducted in the state, including chemical control, harvesting, educational efforts, and inspections;

(3) information on the participation of other state agencies, local government units, and interest groups in control efforts;

(4) information on the progress made in the management of each species; and

(5) an assessment of future management needs and additional measures to protect the state's water resources from human transport and introduction of invasive species.

Sec. 10. Minnesota Statutes 2010, section 84D.03, subdivision 3, is amended to read:

Subd. 3. **Bait harvest from infested waters.** (a) ~~The Taking of~~ wild animals from infested waters for bait or aquatic farm purposes is prohibited, except as provided in paragraph (b) and section 97C.341.

(b) In waters that are designated as infested waters, except those designated because they contain prohibited invasive species of fish or certifiable diseases of fish, as defined under section 17.4982, subdivision 6, ~~the taking of~~ wild animals may be permitted for:

(1) commercial taking of wild animals for bait and aquatic farm purposes according to a permit issued under section 84D.11, subject to rules adopted by the commissioner; and

(2) bait purposes for noncommercial personal use in waters that contain Eurasian water milfoil, when the infested waters are designated solely because they contain Eurasian water milfoil and if the equipment for taking is limited to cylindrical minnow traps not exceeding 16 inches in diameter and 32 inches in length.

(c) Equipment authorized for minnow harvest in a designated infested water by permit issued under paragraph (b) may not be transported to, or used in, any waters other than waters specified in the permit.

Sec. 11. Minnesota Statutes 2010, section 84D.03, subdivision 4, is amended to read:

Subd. 4. **Commercial fishing and turtle, frog, and crayfish harvesting restrictions in infested and noninfested waters.** (a) All nets, traps, buoys, anchors, stakes, and lines used for commercial fishing or turtle, frog, or crayfish harvesting in an infested water that is designated because it contains invasive fish, invertebrates, or certifiable diseases, as defined in section 17.4982, may not be used in any other waters. If a commercial licensee operates in ~~both~~ an infested water designated because it contains invasive fish, invertebrates, or certifiable diseases, as defined in section 17.4982, ~~and other waters,~~ all nets, traps, buoys, anchors, stakes, and lines used for commercial fishing or turtle, frog, or crayfish harvesting in waters ~~not~~ designated as infested with invasive fish, invertebrates, or certifiable diseases, as defined in section 17.4982, must be tagged with tags provided by the commissioner, as specified in the commercial licensee's license or permit, ~~and may not be used in infested waters designated because the waters contain invasive fish, invertebrates, or certifiable diseases, as defined in section 17.4982.~~ This tagging requirement does not apply to commercial fishing equipment used in Lake Superior.

(b) All nets, traps, buoys, anchors, stakes, and lines used for commercial fishing or turtle, frog, or crayfish harvesting in an infested water that is designated solely because it contains Eurasian water milfoil must be dried for a minimum of ten days or frozen for a minimum of two days before they are used in any other waters, except as provided in this paragraph. Commercial licensees must notify the department's regional or area fisheries office or a conservation officer before removing nets or equipment from an infested water designated solely because it contains Eurasian water milfoil and before resetting those

5.1 nets or equipment in any other waters. Upon notification, the commissioner may authorize
5.2 a commercial licensee to move nets or equipment to another water without freezing or
5.3 drying, if that water is designated as infested solely because it contains Eurasian water
5.4 milfoil.

5.5 (c) A commercial licensee must remove all aquatic macrophytes from nets and other
5.6 equipment when the nets and equipment are removed from waters of the state.

5.7 (d) The commissioner shall provide a commercial licensee with a current listing of
5.8 designated infested waters at the time that a license or permit is issued.

5.9 Sec. 12. Minnesota Statutes 2010, section 84D.09, is amended to read:

5.10 **84D.09 AQUATIC MACROPHYTES.**

5.11 Subdivision 1. **Transportation prohibited.** A person may not transport aquatic
5.12 macrophytes ~~on any state forest road as defined by section 89.001, subdivision 14, any~~
5.13 ~~road or highway as defined in section 160.02, subdivision 26, or any other public road,~~
5.14 except as provided in this section.

5.15 Subd. 2. **Exceptions.** Unless otherwise prohibited by law, a person may transport
5.16 aquatic macrophytes:

5.17 (1) that are duckweeds in the family Lemnaceae;

5.18 (2) for disposal as part of a harvest or control activity conducted under an aquatic
5.19 plant management permit pursuant to section 103G.615, under permit pursuant to section
5.20 84D.11, or as specified by the commissioner;

5.21 (3) for purposes of constructing shooting or observation blinds in amounts sufficient
5.22 for that purpose, provided that the aquatic macrophytes are emergent and cut above the
5.23 waterline;

5.24 (4) when legally purchased or traded by or from commercial or hobbyist sources for
5.25 aquarium, wetland or lakeshore restoration, or ornamental purposes;

5.26 (5) when harvested for personal or commercial use if in a motor vehicle;

5.27 (6) to the department, or another destination as the commissioner may direct, in a
5.28 sealed container for purposes of identifying a species or reporting the presence of a species;

5.29 (7) when transporting commercial aquatic plant harvesting or control equipment to a
5.30 suitable location for purposes of cleaning any remaining aquatic macrophytes;

5.31 (8) that are wild rice harvested under section 84.091; ~~or~~

5.32 (9) in the form of fragments of emergent aquatic macrophytes incidentally
5.33 transported in or on watercraft or decoys used for waterfowl hunting during the waterfowl
5.34 season; or

(10) when removing water-related equipment from waters of the state for purposes of cleaning off aquatic macrophytes before leaving a water access site.

Sec. 13. Minnesota Statutes 2010, section 84D.10, subdivision 1, is amended to read:

Subdivision 1. **Launching prohibited.** A person may not place or attempt to place into waters of the state a watercraft, a trailer, or aquatic plant harvesting or control equipment that has aquatic macrophytes, zebra mussels, or prohibited invasive species attached except as provided in this section.

Sec. 14. Minnesota Statutes 2010, section 84D.10, subdivision 3, is amended to read:

Subd. 3. **Removal and confinement.** (a) A conservation officer or other licensed peace officer may order:

(1) the removal of aquatic macrophytes or prohibited invasive species from ~~a trailer or watercraft~~ water-related equipment before it is placed into waters of the state;

(2) confinement of the ~~watercraft~~ water-related equipment at a mooring, dock, or other location until the ~~watercraft~~ water-related equipment is removed from the water; ~~and~~

(3) removal of ~~a watercraft~~ water-related equipment from waters of the state to remove prohibited invasive species if the water has not been designated by the commissioner as being infested with that species; and

(4) a prohibition on placing water-related equipment into waters of the state when the water-related equipment has aquatic macrophytes or prohibited invasive species attached in violation of subdivision 1 or when water has not been drained or the drain plug has not been removed in violation of subdivision 4.

(b) An inspector who is not a licensed peace officer may issue orders under paragraph (a), clauses (1), (3), and (4).

Sec. 15. Minnesota Statutes 2010, section 84D.10, subdivision 4, is amended to read:

Subd. 4. **Persons ~~leaving public waters; report~~ transporting water-related equipment.** (a) ~~A person~~ When leaving waters of the state a person must drain ~~boating-related~~ water-related equipment holding water and live wells and bilges by removing the drain plug before transporting the ~~watercraft and associated~~ water-related equipment ~~on public roads~~ off the water access site or riparian property.

(b) Drain plugs, bailers, valves, or other devices used to control the draining of water from ballast tanks, bilges, and live wells must be removed or opened while transporting ~~watercraft on a public road~~ water-related equipment.

(c) Emergency response vehicles and equipment may be transported on a public road with the drain plug or other similar device replaced only after all water has been drained from the equipment upon leaving the water body.

(d) Marine sanitary systems and portable bait containers are excluded exempt from this requirement subdivision.

(e) A person must not dispose of bait in waters of the state.

~~(b) The commissioner shall report, by January 15 of each odd-numbered year, to the chairs and ranking minority members of the house of representatives and senate committees and divisions having jurisdiction over water resources policy and finance. The report shall advise the legislature on additional measures to protect state water resources from human transport of invasive species.~~

Sec. 16. **[84D.105] INSPECTION OF WATERCRAFT AND WATER-RELATED EQUIPMENT.**

Subdivision 1. **Compliance inspections.** Compliance with aquatic invasive species inspection requirements is an express condition of operating or transporting water-related equipment. An inspector may prohibit an individual who refuses to allow an inspection of the individual's water-related equipment or who refuses to remove and dispose of aquatic invasive species, aquatic macrophytes, and water from placing or operating water-related equipment in waters of the state.

Subd. 2. **Inspector authority.** (a) The commissioner shall train and authorize individuals to inspect water-related equipment for aquatic macrophytes, aquatic invasive species, and water. Inspectors may visually and tactilely inspect watercraft and water-related equipment to determine whether aquatic invasive species, aquatic macrophytes, or water is present. If a person transporting watercraft or water-related equipment refuses to take required corrective actions or fails to comply with an order under section 84D.10, subdivision 3, an inspector who is not a licensed peace officer shall refer the violation to a conservation officer or other licensed peace officer.

(b) In addition to paragraph (a), a conservation officer or other licensed peace officer may inspect any watercraft or water-related equipment that is stopped at a water access site or stopped at any other location in the state if the officer determines there is reason to believe that aquatic invasive species, aquatic macrophytes, or water is present on the watercraft or water-related equipment.

(c) Conservation officers or other licensed peace officers may utilize check stations in locations, or in proximity to locations, where watercraft or other water-related

equipment is placed into or removed from waters of the state. Any check stations shall be operated in a manner that minimizes delays to vehicles, equipment, and their occupants.

Sec. 17. **[84D.108] SERVICE PROVIDER PERMIT.**

Subdivision 1. **Service provider permit required.** (a) Service providers must apply for and obtain a permit from the commissioner before providing any services described in section 84D.01, subdivision 15a.

(b) Service providers must have a valid permit in possession while providing services described in section 84D.01, subdivision 15a.

Subd. 2. **Permit requirements.** (a) Service providers must complete invasive species training provided by the commissioner and pass an examination to qualify for a permit. Service provider permits are valid for three calendar years.

(b) A \$50 application and testing fee is required for service provider permit applications.

Subd. 3. **Standard for issuing.** The commissioner may issue, deny, modify, or revoke a permit as provided in section 84D.11, subdivision 3.

Subd. 4. **Appeal of permit decision.** Permit decisions may be appealed as provided in section 84D.11, subdivision 4.

Sec. 18. Minnesota Statutes 2010, section 84D.11, subdivision 2a, is amended to read:

Subd. 2a. **Harvest of bait from infested waters.** (a) The commissioner may issue a permit to allow the harvest of bait from waters that are designated as infested waters, except those designated because they contain prohibited invasive species of fish. The permit shall include conditions necessary to avoid spreading aquatic invasive species.

(b) Before receiving a permit, or working for a permittee, a person annually must satisfactorily complete aquatic invasive species-related training provided by the commissioner.

Sec. 19. Minnesota Statutes 2010, section 84D.13, subdivision 3, is amended to read:

Subd. 3. **Criminal penalties.** (a) A person who violates a provision of ~~section~~ sections 84D.03 or 84D.06, ~~84D.07, 84D.08, or 84D.10~~ to 84D.11, or a rule adopted under section 84D.12, is guilty of a misdemeanor.

(b) A person who possesses, transports, or introduces a prohibited invasive species in violation of section 84D.05 is guilty of a misdemeanor. A person who imports, purchases, sells, or propagates a prohibited invasive species in violation of section 84D.05 is guilty of a gross misdemeanor.

9.1 (c) A person who refuses to obey an order of a peace officer or conservation officer
9.2 to remove prohibited invasive species or aquatic macrophytes from any ~~watercraft, trailer,~~
9.3 ~~or plant harvesting~~ water-related equipment is guilty of a gross misdemeanor.

9.4 Sec. 20. Minnesota Statutes 2010, section 84D.13, subdivision 4, is amended to read:

9.5 Subd. 4. **Warnings; civil citations.** After appropriate training, conservation
9.6 officers, other licensed peace officers, and other department personnel designated by the
9.7 commissioner may issue warnings or citations to a person who:

9.8 (1) unlawfully transports prohibited invasive species or aquatic macrophytes;

9.9 (2) unlawfully places or attempts to place into waters of the state ~~a trailer, a~~
9.10 ~~watercraft, or plant harvesting~~ water-related equipment that has aquatic macrophytes
9.11 or prohibited invasive species attached;

9.12 (3) intentionally damages, moves, removes, or sinks a buoy marking, as prescribed
9.13 by rule, Eurasian water milfoil;

9.14 (4) fails to remove plugs, open valves, and drain water, ~~as required by rule,~~ from
9.15 ~~watercraft and~~ water-related equipment before leaving ~~designated zebra mussel, spiny~~
9.16 ~~water flea, or other invasive plankton infested~~ waters of the state or when transporting
9.17 water-related equipment as provided in section 84D.10, subdivision 4; or

9.18 (5) transports infested water, in violation of rule, off riparian property.

9.19 Sec. 21. Minnesota Statutes 2010, section 84D.13, subdivision 5, is amended to read:

9.20 Subd. 5. **Civil penalties.** A civil citation issued under this section must impose
9.21 the following penalty amounts:

9.22 (1) for transporting aquatic macrophytes ~~on a forest road as defined by section~~
9.23 ~~89.001, subdivision 14, road or highway as defined by section 160.02, subdivision 26, or~~
9.24 ~~any other public road, \$50~~ in violation of section 84D.09, \$50;

9.25 (2) for placing or attempting to place into waters of the state ~~a watercraft, a trailer, or~~
9.26 ~~aquatic plant harvesting~~ water-related equipment that has aquatic macrophytes attached,
9.27 \$100;

9.28 (3) for unlawfully possessing or transporting a prohibited invasive species other
9.29 than an aquatic macrophyte, \$250;

9.30 (4) for placing or attempting to place into waters of the state ~~a watercraft, a trailer,~~
9.31 ~~or aquatic plant harvesting~~ water-related equipment that has prohibited invasive species
9.32 attached when the waters are not designated by the commissioner as being infested with
9.33 that invasive species, \$500 for the first offense and \$1,000 for each subsequent offense;

(5) for intentionally damaging, moving, removing, or sinking a buoy marking, as prescribed by rule, Eurasian water milfoil, \$100;

(6) for failing to remove plugs, open valves, and drain water, as required by rule, for infested waters and from watercraft and water-related equipment, other than marine sanitary systems ~~and portable bait containers~~, before leaving waters of the state, \$50; and

(7) for transporting infested water off riparian property without a permit as required by rule, \$200.

Sec. 22. Minnesota Statutes 2010, section 84D.13, subdivision 6, is amended to read:

Subd. 6. **Watercraft license suspension.** A civil citation may be issued to suspend, for up to a year, the watercraft license of an owner or person in control of a watercraft or trailer who refuses to submit to an inspection under section ~~84D.02, subdivision 4,~~ 84D.105 or who refuses to comply with a removal order given under this section ~~84D.13~~.

Sec. 23. Minnesota Statutes 2010, section 84D.13, subdivision 7, is amended to read:

Subd. 7. **Satisfaction of civil penalties.** A civil penalty is due and a watercraft license suspension is effective 30 days after issuance of the civil citation. A civil penalty collected under this section ~~is payable to~~ must be paid to either: (1) the commissioner if the citation was issued by a conservation officer and must be credited to the invasive species account; or (2) the treasury of the unit of government employing the officer who issued the civil citation.

Sec. 24. Minnesota Statutes 2010, section 84D.15, subdivision 2, is amended to read:

Subd. 2. **Receipts.** Money received from surcharges on watercraft licenses under section 86B.415, subdivision 7, ~~and~~ civil penalties under section 84D.13, and service provider permits under section 84D.108, shall be deposited in the invasive species account. Each year, the commissioner of management and budget shall transfer from the game and fish fund to the invasive species account, the annual surcharge collected on nonresident fishing licenses under section 97A.475, subdivision 7, paragraph (b). ~~In fiscal years 2010 and 2011, the commissioner of management and budget shall transfer \$725,000 from the water recreation account under section 86B.706 to the invasive species account.~~

Sec. 25. Minnesota Statutes 2010, section 103G.615, subdivision 1, is amended to read:

Subdivision 1. **Authorization Issuance; validity.** (a) The commissioner may issue permits, with or without a fee, to:

11.1 (1) gather or harvest aquatic plants, or plant parts, other than wild rice from public
11.2 waters;

11.3 (2) transplant aquatic plants into public waters;

11.4 (3) destroy harmful or undesirable aquatic vegetation or organisms in public waters
11.5 under prescribed conditions to protect the waters, desirable species of fish, vegetation,
11.6 other forms of aquatic life, and the public.

11.7 (b) Application for a permit must be accompanied by a permit fee, if required.

11.8 (c) An aquatic plant management permit is valid for one growing season and expires
11.9 on December 31 of the year it is issued unless the commissioner stipulates a different
11.10 expiration date in rule or in the permit.

11.11 Sec. 26. Minnesota Statutes 2010, section 103G.615, is amended by adding a
11.12 subdivision to read:

11.13 Subd. 3a. **Invasive aquatic plant management permit.** (a) "Invasive aquatic plant
11.14 management permit" means an aquatic plant management permit as defined in Minnesota
11.15 Rules, part 6280.0100, subpart 2b, that authorizes the selective control of invasive aquatic
11.16 plants at a scale to cause a significant lakewide or baywide reduction in the abundance of
11.17 the invasive aquatic plant.

11.18 (b) The commissioner may waive the dated signature of approval requirement in
11.19 Minnesota Rules, part 6280.0450, subpart 1a, for invasive aquatic plant management
11.20 permits if obtaining signatures would create an undue burden on the permittee or if
11.21 the commissioner determines that aquatic plant control is necessary to protect natural
11.22 resources.

11.23 (c) If the signature requirement is waived under paragraph (b) because obtaining
11.24 signatures would create an undue burden on the permittee, the commissioner shall require
11.25 an alternate form of landowner notification, including news releases or public notices in
11.26 a local newspaper, a public meeting, or a mailing to the most recent permanent address
11.27 of affected landowners. The notification must be given annually and must include: the
11.28 proposed date of treatment, the target species, the method of control or product being
11.29 used, and instructions on how the landowner may request that control not occur adjacent
11.30 to the landowner's property.

11.31 (d) For an invasive aquatic plant management permit, the commissioner may allow
11.32 dated signatures of approval obtained to satisfy Minnesota Rules, part 6280.0450, subpart
11.33 1a, to remain valid for three years if property ownership remains unchanged.

11.34 Sec. 27. **REPEALER.**

H.F. No. 1162, 1st Engrossment - 87th Legislative Session (2011-2012) [H1162-1]

- 12.1 Minnesota Statutes 2010, section 84D.02, subdivision 4, is repealed.
- 12.2 Sec. 28. **EFFECTIVE DATE.**
- 12.3 Sections 1 to 16 and 19 to 27 are effective the day following final enactment.