

A bill for an act

relating to solid waste; requiring manufacturers of fluorescent or high-intensity discharge lamps to organize collection and recycling programs for household generators; providing civil penalties; appropriating money; amending Minnesota Statutes 2006, section 13.7411, subdivision 4; Minnesota Statutes 2007 Supplement, section 216B.241, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 115A.

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

Section 1. Minnesota Statutes 2006, section 13.7411, subdivision 4, is amended to read:

Subd. 4. **Waste management.** (a) **Fluorescent or high-intensity discharge lamps.** Data received and maintained by the commissioner of the Pollution Control Agency under sections 115A.1364 and 115A.1366 are classified under those sections.

(b) **Transfer station data.** Data received by a county or district from a transfer station under section 115A.84, subdivision 5, are classified under that section.

~~(b)~~ (c) **Solid waste records.** Records of solid waste facilities received, inspected, or copied by a county pursuant to section 115A.882 are classified pursuant to section 115A.882, subdivision 3.

~~(c)~~ (d) **Customer lists.** Customer lists provided to counties or cities by solid waste collectors are classified under section 115A.93, subdivision 5.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 2. **[115A.1360] DEFINITIONS.**

Subdivision 1. **Scope.** For purposes of sections 115A.1360 to 115A.1369, the following terms have the meanings given.

Subd. 2. **Collector.** "Collector" means a public or private entity that receives fluorescent or high-intensity discharge lamps and arranges for their transportation and delivery to a lamp recycling facility.

Subd. 3. **Fluorescent or high-intensity discharge lamp.** "Fluorescent or high-intensity discharge lamp" means a fluorescent or high-intensity discharge lamp sold to or generated by a household in this state.

Subd. 4. **Lamp recycling facility.** "Lamp recycling facility" has the meaning given in section 116.93, subdivision 1.

Subd. 5. **Manufacturer.** "Manufacturer" means a person who:

(1) manufactures fluorescent or high-intensity discharge lamps to be sold under its own brand as identified by its own brand label; or

(2) sells fluorescent or high-intensity discharge lamps manufactured by others under its own brand as identified by its own brand label.

Subd. 6. **Retailer.** "Retailer" means a persons who sells a fluorescent or high-intensity discharge lamp to a household.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 3. **[115A.1361] REGISTRATION.**

Subdivision 1. **Requirements for sale.** (a) On or after September 1, 2008, a manufacturer must not sell or offer for sale in this state or deliver to a retailer for subsequent sale in this state a fluorescent or high-intensity discharge lamp unless the manufacturer has filed a registration with the agency, as specified in subdivision 2.

(b) On or after February 1, 2009, a retailer who sells or offers for sale a fluorescent or high-intensity discharge lamp in this state must, before the initial offer for sale, review the agency Web site specified in subdivision 2, paragraph (f), to determine that all fluorescent or high-intensity discharge lamps that the retailer is offering for sale are labeled with the manufacturer's brands that are registered with the agency.

(c) A retailer is not responsible for an unlawful sale under this subdivision if the manufacturer's registration expired or was revoked and the retailer took possession of a fluorescent or high-intensity discharge lamp prior to the expiration or revocation of the manufacturer's registration and the unlawful sale occurred within six months after the expiration or revocation.

Subd. 2. **Manufacturer's registration.** (a) A manufacturer of fluorescent or high-intensity discharge lamps sold or offered for sale in this state after September 1, 2008, must submit a registration to the agency that includes:

(1) a list of the manufacturer's brands of fluorescent or high-intensity discharge lamps sold or offered for sale in this state;

(2) the name, address, and contact information of a person responsible for ensuring compliance with this chapter; and

(3) a certification that the manufacturer has complied and will continue to comply with the requirements of sections 115A.1360 to 115A.1369.

(b) A manufacturer who begins to sell or offer for sale fluorescent or high-intensity discharge lamps in this state after September 1, 2008, and has not filed a registration under this subdivision must submit a registration to the agency within ten days of beginning to sell or offer for sale fluorescent or high-intensity discharge lamps in this state.

(c) A registration must be updated within ten days after a change in the manufacturer's brands of fluorescent or high-intensity discharge lamps sold or offered for sale in this state.

(d) A registration is effective upon receipt by the agency and is valid until September 1 of each year.

(e) The agency must review each registration and notify the manufacturer of any information required by this section that is omitted from the registration. Within 30 days of receipt of a notification from the agency, the manufacturer must submit a revised registration providing the information noted by the agency.

(f) The agency must maintain on its Web site the names of manufacturers and the manufacturers' brands listed in registrations filed with the agency. The agency must update the Web site information promptly upon receipt of a new or updated registration.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 4. [115A.1362] MANUFACTURER'S REGISTRATION FEE; CREATION OF ACCOUNT.

Subdivision 1. Registration fee. (a) Each manufacturer that registers under section 115A.1361, must, by September 1, 2008, and each year thereafter, pay to the commissioner an annual registration fee of \$...... The commissioner must deposit the fee in the account established in subdivision 2.

(b) The registration fee for a manufacturer who sells fewer than ... units of fluorescent or high-intensity discharge lamps annually in this state, as determined under section 115A.1364, is \$......

Subd. 2. Creation of account; appropriations. (a) The fluorescent and high-intensity discharge lamp waste account is established in the environmental fund. The commissioner of revenue must deposit receipts from the fee established in subdivision 1 in

the account. Any interest earned on the account must be credited to the account. Money from other sources may be credited to the account.

(b) Until June 30, 2010, money in the account is annually appropriated to the commissioner to implement sections 115A.1360 to 115A.1369.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 5. **[115A.1363] COLLECTION AND RECYCLING PROGRAM.**

Subdivision 1. Submission of plan. (a) A manufacturer who, as of July 1, 2008, sells or offers for sale fluorescent or high-intensity discharge lamps in this state must, by January 1, 2009, submit a plan to the commissioner describing a statewide program, financed and implemented by the manufacturer, that will enable the manufacturer to, by July 1, 2010, collect, transport, and recycle a number of fluorescent or high-intensity discharge lamps equal to at least 80 percent of the number of those products sold under the manufacturer's brand in this state during the previous year.

(b) A manufacturer who begins to sell or offer for sale fluorescent or high-intensity discharge lamps in this state after July 1, 2008, must submit a plan that meets the requirements of this section to the commissioner within 60 days of filing a registration under section 115A.1361, subdivision 2.

(c) Manufacturers are encouraged to collaborate with retailers, lamp recycling facilities, consumers, electric utilities, trade associations, nonprofit organizations, and local units of government in developing and implementing a fluorescent or high-intensity discharge lamp collection and recycling system.

Subd. 2. Plan contents. (a) The plan must contain, at a minimum:

(1) a description of the system to collect, transport, and recycle fluorescent or high-intensity discharge lamps;

(2) a description of permanent and event collection services that will be provided throughout the state, including the number and frequency of collection opportunities;

(3) a description of how existing public and private efforts to collect and recycle fluorescent or high-intensity discharge lamps will be integrated into the plan;

(4) a consumer education program to inform consumers of the prohibition against placing fluorescent or high-intensity discharge lamps in solid waste and of opportunities to dispose of fluorescent or high-intensity discharge lamps safely;

(5) a list of one or more permanent collection opportunities that will be provided in each county; and

(6) a list of collectors who will transport fluorescent or high-intensity discharge lamps to a lamp recycling facility.

Subd. 3. **Plan review and approval.** (a) The commissioner must review and approve, and may modify, each plan. The commissioner must approve a plan no later than 60 days after the plan has been received by the agency. A manufacturer may not implement a plan that has not been approved by the commissioner.

(b) In determining whether to approve a plan, the commissioner must consider, at a minimum, whether the plan:

(1) is likely to meet the 80 percent recycling goal;

(2) provides reasonable opportunities to recycle fluorescent or high-intensity discharge lamps in all geographic areas of the state; and

(3) makes use of existing recycling programs and avoids duplication of effort.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 6. [115A.1364] REPORTING REQUIREMENTS.

Subdivision 1. **Manufacturer's reporting requirements.** (a) By September 1 of each year, beginning in 2009, each manufacturer must report to the agency the number of units of fluorescent or high-intensity discharge lamps sold in this state under its brands during the previous year and a description of how the information or estimate was calculated.

(b) By September 1 of each year, beginning in 2009, each manufacturer must report to the agency the total number of units of fluorescent or high-intensity discharge lamps the manufacturer collected and recycled in this state or arranged to have collected and recycled in this state during the preceding program year.

(c) Data reported under this subdivision by an individual manufacturer is classified as nonpublic data, as defined in section 13.02, subdivision 9, except that the agency may release the data in summary form in which individual manufacturers are not identified and from which neither the manufacturers' identities nor any other characteristic that could uniquely identify an individual manufacturer is ascertainable.

Subd. 2. **Retailer's reporting requirements.** By August 1 of each year, beginning in 2009, a retailer must report to a manufacturer the number of fluorescent or high-intensity discharge lamps labeled with the manufacturer's brand sold in this state during the previous program year.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 7. [115A.1365] MANUFACTURER'S RESPONSIBILITIES.

(a) A manufacturer must annually collect and recycle or arrange for the collection and recycling of at least 80 percent of the total number of units of fluorescent or high-intensity discharge lamps sold by the manufacturer under its brands in this state during the previous year, as estimated by the agency under section 115A.1367, paragraph (d). A manufacturer may fulfill this requirement by collecting and recycling brands of fluorescent or high-intensity discharge lamps other than its own, provided the brands are registered under section 115A.1361, subdivision 2.

(b) A manufacturer must conduct and document due diligence assessments of collectors with whom it contracts for the collection of fluorescent or high-intensity discharge lamps. A manufacturer is responsible for maintaining, for a period of three years, documentation that all fluorescent or high-intensity discharge lamps the manufacturer collected or arranged to have collected were delivered to a lamp recycling facility. Fluorescent or high-intensity discharge lamps may be recycled only by a lamp recycling facility permitted or licensed by the agency under section 116.93, subdivision 2, or by a county under section 473.811, subdivision 5b.

(c) A manufacturer must provide the agency with contact information for a person who can be contacted regarding the manufacturer's activities under sections 115A.1360 to 115A.1369.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 8. [115A.1366] PENALTIES.

(a) The commissioner shall impose a penalty on a manufacturer that fails to meet the recycling requirement established in section 115A.1365, paragraph (a). The penalty is \$..... for each one-tenth of one percent below 80 percent. Revenues from the penalties shall be deposited in the account established in section 115A.1362.

(b) Data regarding penalties imposed under this section is classified as nonpublic data, as defined in section 13.02, subdivision 9, except that the agency may release the data in summary form in which individual manufacturers are not identified and from which neither the manufacturers' identities nor any other characteristic that could uniquely identify an individual manufacturer is ascertainable.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 9. [115A.1367] AGENCY DUTIES; ENFORCEMENT.

(a) The agency shall administer sections 115A.1360 to 115A.1369.

(b) The agency shall establish procedures for:

7.1 (1) receipt and maintenance of the registration statements filed with the agency
7.2 under section 115A.1361; and

7.3 (2) making the statements easily available to manufacturers, retailers, and members
7.4 of the public.

7.5 (c) The agency shall review the reports submitted to it under section 115A.1364.

7.6 (d) By August 1 of each year, beginning in 2010, the agency shall calculate
7.7 estimated sales of fluorescent or high-intensity discharge lamps sold in this state by each
7.8 manufacturer during the preceding year, based on national sales data, and forward the
7.9 estimates to the manufacturers.

7.10 (e) On or before December 1, 2010, and each year thereafter, the agency shall submit
7.11 a report to the governor and the legislature on the implementation of sections 115A.1360
7.12 to 115A.1369. The report must discuss the total units of fluorescent or high-intensity
7.13 discharge lamps recycled in the previous year and must summarize information in the
7.14 reports submitted by manufacturers under section 115A.1364. The report must also
7.15 discuss the various collection programs used by manufacturers to collect fluorescent
7.16 or high-intensity discharge lamps; information regarding fluorescent or high-intensity
7.17 discharge lamps that are being collected by persons other than registered manufacturers
7.18 and collectors; and information about fluorescent or high-intensity discharge lamps, if
7.19 any, being disposed of in landfills in this state. The report must include a description of
7.20 enforcement actions under sections 115A.1360 to 115A.1369. The agency may include
7.21 in its report other information received by the agency regarding the implementation of
7.22 sections 115A.1360 to 115A.1369.

7.23 (f) The agency shall promote public participation in the activities regulated under
7.24 sections 115A.1360 to 115A.1369 through public education and outreach efforts.

7.25 (g) The agency shall enforce sections 115A.1360 to 115A.1369 in the manner
7.26 provided by sections 115.071, subdivisions 1, 3, 4, 5, and 6; and 116.072. The agency
7.27 may revoke a registration of a collector found to have violated sections 115A.1360
7.28 to 115A.1369.

7.29 (h) The agency shall impose penalties as required under section 115A.1366.

7.30 (i) The agency shall facilitate communication between counties, collectors, lamp
7.31 recycling facilities, and manufacturers to ensure that manufacturers are aware of
7.32 fluorescent or high-intensity discharge lamps available for recycling.

7.33 (j) The agency shall develop a form retailers must use to report information to
7.34 manufacturers under section 115A.1364, subdivision 2, and post it on the agency's Web
7.35 site.

(k) The agency shall post on its Web site the contact information provided by each manufacturer under section 115A.1365, paragraph (c).

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 10. **[115A.1368] OTHER RECYCLING PROGRAMS.**

A city, county, or other public agency may not require households to use public facilities to recycle their fluorescent or high-intensity discharge lamps to the exclusion of other lawful programs available. Cities, counties, and other public agencies are encouraged to work with manufacturers to assist them in meeting their recycling obligations under section 115A.1365. Nothing in sections 115A.1360 to 115A.1369 prohibits or restricts the operation of any program recycling fluorescent or high-intensity discharge lamps in addition to those provided by manufacturers or prohibits or restricts any persons from receiving, collecting, or transporting fluorescent or high-intensity discharge lamps, provided that those persons are registered under section 115A.1361.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 11. **[115A.1369] ANTICOMPETITIVE CONDUCT.**

(a) A manufacturer that organizes collection or recycling of fluorescent or high-intensity discharge lamps under sections 115A.1360 to 115A.1369 may engage in anticompetitive conduct to the extent necessary to plan and implement its chosen organized collection or recycling system and is immune from liability under state laws relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce.

(b) An organization of manufacturers, an individual manufacturer, and its officers, members, employees, and agents who cooperate with a political subdivision that organizes collection or recycling under sections 115A.1360 to 115A.1369 may engage in anticompetitive conduct to the extent necessary to plan and implement the organized collection or recycling system, provided that the political subdivision actively supervises the participation of each entity. An organization, entity, or person covered by this paragraph is immune from liability under state law relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 12. Minnesota Statutes 2007 Supplement, section 216B.241, subdivision 5, is amended to read:

9.1 Subd. 5. **Efficient lighting program.** (a) Each public utility, cooperative electric
9.2 association, and municipal utility that provides electric service to retail customers shall
9.3 include as part of its conservation improvement activities a program to strongly encourage
9.4 the use of fluorescent and high-intensity discharge lamps. The program must include at
9.5 least a public information campaign to encourage use of the lamps and proper management
9.6 of spent lamps by all customer classifications.

9.7 (b) A public utility that provides electric service at retail to 200,000 or more
9.8 customers shall establish, either directly or through contracts with other persons, including
9.9 lamp manufacturers, distributors, wholesalers, and retailers and local government units, a
9.10 system to collect for delivery to a reclamation or recycling facility spent fluorescent and
9.11 high-intensity discharge lamps ~~from households and~~ from small businesses as defined in
9.12 section 645.445 that generate an average of fewer than ten spent lamps per year.

9.13 (c) A collection system must include establishing reasonably convenient locations
9.14 for collecting spent lamps ~~from households~~ and financial incentives sufficient to encourage
9.15 spent lamp generators to take the lamps to the collection locations. Financial incentives
9.16 may include coupons for purchase of new fluorescent or high-intensity discharge lamps,
9.17 a cash back system, or any other financial incentive or group of incentives designed to
9.18 collect the maximum number of spent lamps from ~~households and~~ small businesses that is
9.19 reasonably feasible.

9.20 (d) A public utility ~~that provides electric service at retail to fewer than 200,000~~
9.21 ~~customers~~, a cooperative electric association, or a municipal utility that provides
9.22 electric service at retail to customers may establish a collection system for households
9.23 and qualifying small businesses under paragraphs (b) and (c) as part of conservation
9.24 improvement activities required under this section.

9.25 (e) The commissioner of the Pollution Control Agency may not, unless clearly
9.26 required by federal law, require a public utility, cooperative electric association, or
9.27 municipality that establishes a household fluorescent and high-intensity discharge lamp
9.28 collection system under this section to manage the lamps as hazardous waste as long as
9.29 the lamps are managed to avoid breakage and are delivered to a recycling or reclamation
9.30 facility that removes mercury and other toxic materials contained in the lamps prior to
9.31 placement of the lamps in solid waste.

9.32 (f) If a public utility, cooperative electric association, or municipal utility contracts
9.33 with a local government unit to provide a collection system under this subdivision,
9.34 the contract must provide for payment to the local government unit of all the unit's
9.35 incremental costs of collecting and managing spent lamps.

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10.1 (g) All the costs incurred by a public utility, cooperative electric association, or
10.2 municipal utility for promotion and collection of fluorescent and high-intensity discharge
10.3 lamps under this subdivision are conservation improvement spending under this section.

10.4 **EFFECTIVE DATE.** This section is effective the day following final enactment.