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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. **1165**

02/18/2021 Authored by Wazlawik, Boe and Acomb
The bill was read for the first time and referred to the Committee on Environment and Natural Resources Finance and Policy
03/08/2021 Adoption of Report: Re-referred to the Committee on Commerce Finance and Policy
03/22/2021 Adoption of Report: Amended and re-referred to the Committee on Ways and Means

1.1 A bill for an act
1.2 relating to environment; modifying certain requirements for labeling items as
1.3 biodegradable or compostable; amending Minnesota Statutes 2020, section
1.4 325E.046.

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

1.6 Section 1. Minnesota Statutes 2020, section 325E.046, is amended to read:

1.7 **325E.046 STANDARDS FOR LABELING ~~PLASTIC~~ BAGS, FOOD OR**
1.8 **BEVERAGE PRODUCTS, AND PACKAGING.**

1.9 Subdivision 1. **"Biodegradable" label.** A manufacturer, distributor, or wholesaler may
1.10 not sell or offer for sale and any other person may not knowingly sell or offer for sale in
1.11 this state a ~~plastic bag~~ covered product labeled "biodegradable," "degradable,"
1.12 "decomposable," or any form of those terms, or in any way imply that the ~~bag covered~~
1.13 product will chemically decompose into innocuous elements in a reasonably short period
1.14 of time in a landfill, composting, or other terrestrial environment unless a scientifically
1.15 based standard for biodegradability is developed and the bags are certified as meeting the
1.16 standard. ~~break down, fragment, degrade, biodegrade, or decompose in a landfill or other~~
1.17 environment, unless an ASTM standard specification is adopted for the term claimed and
1.18 the specification is approved by the legislature.

1.19 Subd. 2. **"Compostable" label.** (a) A manufacturer, distributor, or wholesaler may not
1.20 sell or offer for sale and any other person may not knowingly sell or offer for sale in this
1.21 state a ~~plastic bag~~ covered product labeled "compostable" unless, at the time of sale or offer
1.22 for sale, the ~~bag~~ covered product:

2.1 (1) meets the ASTM Standard Specification for ~~Compostable~~ Labeling of Plastics
2.2 Designed to be Aerobically Composted in Municipal or Industrial Facilities (D6400). Each
2.3 bag must be labeled to reflect that it meets the standard. For purposes of this subdivision,
2.4 "ASTM" has the meaning given in section 296A.01, subdivision 6, or its successor or the
2.5 ASTM Standard Specification for Labeling of End Items that Incorporate Plastics and
2.6 Polymers as Coatings or Additives with Paper and Other Substrates Designed to be
2.7 Aerobically Composted in Municipal or Industrial Facilities (D6868) or its successor, and
2.8 the covered product is labeled to reflect that it meets the specification;

2.9 (2) is comprised of only wood without any coatings or additives; or

2.10 (3) is comprised of only paper without any coatings or additives.

2.11 (b) A covered product labeled "compostable" and meeting the criteria under paragraph
2.12 (a) must be clearly and prominently labeled on the product, or on the product's smallest unit
2.13 of sale, to reflect that it is intended for an industrial or commercial compost facility. The
2.14 label required under this paragraph must be in a legible text size and font.

2.15 Subd. 2a. **Certification of compostable products.** Beginning January 1, 2024, a
2.16 manufacturer, distributor, or wholesaler may not sell or offer for sale and any other person
2.17 may not knowingly sell or offer for sale in this state a covered product labeled as
2.18 "compostable" unless the covered product is certified as meeting the requirements of
2.19 subdivision 2 by an entity that:

2.20 (1) is a nonprofit corporation;

2.21 (2) as its primary focus of operation, promotes the production, use, and appropriate end
2.22 of life for materials and products that are designed to fully biodegrade in specific biologically
2.23 active environments such as industrial composting; and

2.24 (3) is technically capable of and willing to perform analysis necessary to determine a
2.25 product's compliance with subdivision 2.

2.26 Subd. 3. **Enforcement; civil penalty; injunctive relief.** (a) A ~~manufacturer, distributor,~~
2.27 ~~or wholesaler~~ person who violates ~~subdivision 1 or 2~~ this section is subject to a civil or
2.28 administrative penalty of \$100 for each prepackaged saleable unit sold or offered for sale
2.29 up to a maximum of \$5,000 and may be enjoined from those violations.

2.30 (b) The attorney general may bring an action in the name of the state in a court of
2.31 competent jurisdiction for recovery of civil penalties or for injunctive relief as provided in
2.32 this subdivision. The attorney general may accept an assurance of discontinuance of acts

3.1 in violation of ~~subdivision 1 or 2~~ this section in the manner provided in section 8.31,
3.2 subdivision 2b.

3.3 (c) The commissioner of the Pollution Control Agency may enforce this section under
3.4 sections 115.071 and 116.072.

3.5 (d) When requested by the attorney general or the commissioner of the Pollution Control
3.6 Agency, a person selling or offering for sale a covered product labeled as "compostable"
3.7 must furnish to the attorney general or the commissioner any information that the person
3.8 may have or may reasonably obtain that is relevant to show compliance with this section.

3.9 Subd. 4. Definitions. For purposes of this section, the following terms have the meanings
3.10 given:

3.11 (1) "ASTM" has the meaning given in section 296A.01, subdivision 6;

3.12 (2) "covered product" means a bag, food or beverage product, or packaging;

3.13 (3) "food or beverage product" means a product that is used to wrap, package, contain,
3.14 serve, store, prepare, or consume a food or beverage, such as plates, bowls, cups, lids, trays,
3.15 straws, utensils, and hinged or lidded containers; and

3.16 (4) "packaging" has the meaning given in section 115A.03, subdivision 22b.

3.17 **EFFECTIVE DATE.** This section is effective January 1, 2023.