

SENATE

STATE OF MINNESOTA

EIGHTY-SEVENTH LEGISLATURE

S.F. No. 2061

(SENATE AUTHORS: MAGNUS, Skoe, Brown, Kubly and Dahms)

DATE	D-PG	OFFICIAL STATUS
02/23/2012	3938	Introduction and first reading Referred to Agriculture and Rural Economies
03/15/2012	4418a	Comm report: To pass as amended and re-refer to Judiciary and Public Safety
03/19/2012		Comm report: To pass as amended Second reading

A bill for an act

relating to agriculture; modifying provisions related to pesticides, plants, nursery law, inspections, enforcements, food, animals, grain, and weights and measures; establishing Dairy Research, Teaching, and Consumer Education Authority; requiring reports; modifying certain ethanol and biodiesel provisions; delaying the effective date to eliminate certain limitations on wind easements; providing for food law enforcement; making technical and conforming changes; amending Minnesota Statutes 2010, sections 17.114, subdivisions 3, 4; 17.982, subdivision 1; 17.983; 17.984, subdivision 1; 18B.065, subdivision 2a, by adding a subdivision; 18B.316, subdivision 6; 18G.02, subdivision 14; 18G.07, subdivision 1; 18G.10, subdivision 7, by adding a subdivision; 18H.02, subdivision 14, by adding a subdivision; 18H.10; 18H.14; 18J.01; 18J.02; 18J.03; 18J.04, subdivisions 1, 2, 3, 4; 18J.05, subdivisions 1, 2, 6; 18J.06; 18J.07, subdivisions 3, 4, 5; 21.82, subdivisions 7, 8; 25.33, subdivisions 5, 13, 14; 25.36; 25.37; 28A.03, subdivisions 3, 5, 6; 28A.21, subdivision 6; 31.01, subdivisions 2, 3, 4, 21, 25, 28; 31.121; 31.123; 31.13; 31.94; 31A.02, subdivisions 13, 14, 15, 16; 31A.23; 32.01, subdivisions 11, 12; 35.0661, subdivisions 2, 3; 40A.17; 41A.12, subdivisions 2, 4; 223.16, subdivision 12; 223.17, subdivisions 1, 4, 6, 9; 232.21, subdivisions 2, 6, 12; 232.22, subdivisions 3, 4, 5, 7; 232.23, subdivisions 2, 5, 10; 232.24, subdivisions 1, 2; 239.092; 239.093; 239.77, subdivisions 3, 5; 239.791, subdivision 1a; Laws 2008, chapter 296, article 1, section 25, as amended; Laws 2011, chapter 14, section 6; proposing coding for new law as Minnesota Statutes, chapters 32C; 34A; repealing Minnesota Statutes 2010, sections 17B.01; 17B.02; 17B.03; 17B.04; 17B.041; 17B.0451; 17B.048; 17B.05; 17B.06; 17B.07; 17B.10; 17B.11; 17B.12; 17B.13; 17B.14; 17B.15, subdivisions 1, 3; 17B.16; 17B.17; 17B.18; 17B.20; 17B.22, subdivisions 1, 2; 17B.28; 17B.29; 27.19, subdivisions 2, 3; 27.20; 28.15; 28A.12; 28A.13; 29.28; 31.031; 31.041; 31.05; 31.14; 31.393; 31.58; 31.592; 31.621, subdivision 5; 31.631, subdivision 4; 31.633, subdivision 2; 31.681; 31.74, subdivision 3; 31.91; 31A.24; 31A.26; 34.113; 35.243; 35.255; 35.67; 35.68; 35.69; 35.72; 223.16, subdivision 7; 223.18; 232.21, subdivision 4; 232.24, subdivision 3; 232.25; 233.01; 233.015; 233.017; 233.02; 233.03; 233.04; 233.05; 233.06; 233.07; 233.08; 233.09; 233.10; 233.11; 233.12; 233.22; 233.23; 233.24; 233.33; 234.01; 234.03; 234.04; 234.05; 234.06; 234.08; 234.09; 234.10; 234.11; 234.12; 234.13; 234.14; 234.15; 234.16; 234.17; 234.18; 234.19; 234.20; 234.21; 234.22; 234.23; 234.24; 234.25; 234.27; 235.01; 235.02; 235.04; 235.05; 235.06; 235.07; 235.08; 235.09; 235.10; 235.13; 235.18; 236.01; 236.02; 236.03; 236.04; 236.05; 236.06; 236.07; 236.08; 236.09; 395.14; 395.15; 395.16; 395.17; 395.18; 395.19; 395.20; 395.21; 395.22; 395.23; 395.24; Minnesota Rules, parts 1505.0780;

2.1 1505.0810; 1511.0100; 1511.0110; 1511.0120; 1511.0130; 1511.0140;
2.2 1511.0150; 1511.0160; 1511.0170; 1540.0010, subpart 26; 1550.0930, subparts
2.3 3, 4, 5, 6, 7; 1550.1040, subparts 3, 4, 5, 6; 1550.1260, subparts 6, 7; 1562.0100,
2.4 subparts 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23,
2.5 24, 25; 1562.0200; 1562.0400; 1562.0700; 1562.0900; 1562.1300; 1562.1800.

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

2.7 **ARTICLE 1**

2.8 **AGRICULTURE POLICY**

2.9 Section 1. Minnesota Statutes 2010, section 17.114, subdivision 3, is amended to read:

2.10 Subd. 3. **Duties.** ~~(a)~~ The commissioner shall:

2.11 (1) establish a clearinghouse and provide information, appropriate educational
2.12 opportunities and other assistance to individuals, producers, and groups about sustainable
2.13 agricultural techniques, practices, and opportunities;

2.14 (2) survey producers and support services and organizations to determine
2.15 information and research needs in the area of sustainable agricultural practices;

2.16 (3) demonstrate the on-farm applicability of sustainable agriculture practices to
2.17 conditions in this state;

2.18 (4) coordinate the efforts of state agencies regarding activities relating to sustainable
2.19 agriculture;

2.20 (5) direct the programs of the department so as to work toward the sustainability of
2.21 agriculture in this state;

2.22 (6) inform agencies of how state or federal programs could utilize and support
2.23 sustainable agriculture practices;

2.24 (7) work closely with farmers, the University of Minnesota, and other appropriate
2.25 organizations to identify opportunities and needs as well as assure coordination and
2.26 avoid duplication of state agency efforts regarding research, teaching, and extension
2.27 work relating to sustainable agriculture; and

2.28 (8) work cooperatively with local governments and others to strengthen the
2.29 connection between farmers who practice sustainable farming methods and urban, rural,
2.30 and suburban consumers, including, but not limited to, promoting local farmers' markets
2.31 and community-supported agriculture; and

2.32 ~~(9) report to the Environmental Quality Board for review and then to the house of~~
2.33 ~~representatives and senate committees with jurisdiction over the environment, natural~~
2.34 ~~resources, and agriculture every even-numbered year.~~

2.35 ~~(b) The report under paragraph (a), clause (9), must include:~~

~~(1) the presentation and analysis of findings regarding the current status and trends regarding the economic condition of producers; the status of soil and water resources utilized by production agriculture; the magnitude of off-farm inputs used; and the amount of nonrenewable resources used by Minnesota farmers;~~

~~(2) a description of current state or federal programs directed toward sustainable agriculture including significant results and experiences of those programs;~~

~~(3) a description of specific actions the Department of Agriculture is taking in the area of sustainable agriculture, including, but not limited to, specific actions to strengthen the connection between sustainable farmers and consumers under paragraph (a), clause (8);~~

~~(4) a description of current and future research needs at all levels in the area of sustainable agriculture; and~~

~~(5) suggestions for changes in existing programs or policies or enactment of new programs or policies that will affect farm profitability, maintain soil and water quality, reduce input costs, or lessen dependence upon nonrenewable resources.~~

Sec. 2. Minnesota Statutes 2010, section 17.114, subdivision 4, is amended to read:

Subd. 4. **Integrated pest management.** (a) The state shall promote and facilitate the use of integrated pest management through education, technical or financial assistance, information and research.

(b) The commissioner shall coordinate the development of a state approach to the promotion and use of integrated pest management, which shall include delineation of the responsibilities of the state, public postsecondary institutions, Minnesota Extension Service, local units of government, and the private sector; establishment of information exchange and integration; procedures for identifying research needs and reviewing and preparing informational materials; procedures for factoring integrated pest management into state laws, rules, and uses of pesticides; and identification of barriers to adoption.

~~(c) The commissioner shall report to the Environmental Quality Board for review and then to the house of representatives and senate committees with jurisdiction over the environment, natural resources, and agriculture every even-numbered year. The report shall be combined with the report required in subdivision 3.~~

Sec. 3. Minnesota Statutes 2010, section 18B.065, subdivision 2a, is amended to read:

Subd. 2a. **Disposal site requirement.** (a) For agricultural waste pesticides, the commissioner must designate a place in each county of the state that is available at least every other year for persons to dispose of unused portions of agricultural pesticides. The commissioner shall consult with the person responsible for solid waste management

and disposal in each county to determine an appropriate location and to advertise each collection event. The commissioner may provide a collection opportunity in a county more frequently if the commissioner determines that a collection is warranted.

(b) For nonagricultural waste pesticides, the commissioner must provide a disposal opportunity each year in each county or enter into a contract with a group of counties under a joint powers agreement or contract for household hazardous waste disposal.

(c) As provided under subdivision 7, the commissioner may enter into cooperative agreements with local units of government to provide the collections required under paragraph (a) or (b) and shall provide a local unit of government, as part of the cooperative agreement, with funding for reasonable costs incurred including, but not limited to, related supplies, transportation, advertising, and disposal costs as well as reasonable overhead costs.

(d) A person who collects waste pesticide under this section shall, on a form provided or in a method approved by the commissioner, record information on each waste pesticide product collected including, but not limited to, the quantity collected and either the product name and its active ingredient or ingredients or the United States Environmental Protection Agency registration number. The person must submit this information to the commissioner at least annually by January 30.

Sec. 4. Minnesota Statutes 2010, section 18B.065, is amended by adding a subdivision to read:

Subd. 10. Indemnification. (a) A local unit of government, when operating or participating in a waste pesticide collection program pursuant to a cooperative agreement with the commissioner under this section, is an employee of the state, certified to be acting within the scope of employment, for purposes of the indemnification provisions of section 3.736, subdivision 9, for claims that arise out of the transportation, management, or disposal of any waste pesticide covered by the agreement:

(1) from and after the time the waste permanently leaves the local unit of government's possession and comes into the possession of the state's authorized transporter; and

(2) during the time the waste is transported between the local unit of government facilities by the state's authorized transporter.

(b) The state is not obligated to defend or indemnify a local unit of government under this subdivision to the extent of the local unit of government's liability insurance. The local unit of government's right to indemnify is not a waiver of the limitation, defenses, and immunities available to either the local unit of government or the state by law.

Sec. 5. Minnesota Statutes 2010, section 18B.316, subdivision 6, is amended to read:

Subd. 6. **Agricultural pesticide sales invoices.** (a) Sales invoices for agricultural pesticides sold in or into this state by a licensed agricultural pesticide dealer or a pesticide dealer under this section must show the percent of gross sales fee rate assessed and the gross sales fee paid under section 18B.26, subdivision 3, paragraph (c).

(b) A licensed agricultural pesticide dealer or a pesticide dealer may request an exemption from paragraph (a). The request for exemption must be in writing to the commissioner and must include verifiable information to justify that compliance with paragraph (a) is an extreme business hardship for the licensed agricultural pesticide dealer or pesticide dealer. The commissioner may approve or reject a request for exemption based upon review of the submitted information. An approved exemption under this paragraph is valid for one calendar year. The commissioner must maintain a list of those licensed agricultural pesticide dealers or pesticide dealers that have been granted an exemption on the department's Web site.

(c) A licensed agricultural pesticide dealer or a pesticide dealer issued an exemption under paragraph (b) must include the following statement on each sales invoice for any sale of an agricultural pesticide: "Minnesota Department of Agriculture Annual Gross Sales Fees of 0.55% have been Assessed and Paid on the Sale of an Agricultural Pesticide."

(d) Only the person who actually will pay the gross sales fee may show the rate or the amount of the fee as a line item on the sales invoice.

Sec. 6. Minnesota Statutes 2010, section 18G.02, subdivision 14, is amended to read:

Subd. 14. **Infested.** "Infested" means a plant has been overrun by plant pests, including weeds, or contains or harbors plant pests in a quantity that may threaten other plants.

Sec. 7. Minnesota Statutes 2010, section 18G.07, subdivision 1, is amended to read:

Subdivision 1. **Creation of registry.** (a) The commissioner shall maintain a list of all persons, businesses, and companies that employ persons who provide tree care or tree trimming services in Minnesota. All commercial tree care providers, tree trimmers, and ~~persons who~~ employers that direct employees to remove trees, limbs, branches, brush, or shrubs for hire must be registered ~~by~~ with the commissioner.

(b) Persons or companies who are required to be registered under paragraph (a) must register annually by providing the following to the commissioner:

(1) accurate and up-to-date business name, address, and telephone number;

(2) a complete list of all Minnesota counties in which they work; and

(3) a nonrefundable fee of \$25 for initial application or renewing the registration.

(c) All persons and companies required to be registered under paragraph (a) must register before conducting the activities specified in paragraph (a). Annual registration expires December 31, must be renewed annually, and the renewal fee remitted by January 7¹ of the year for which it is issued. In addition, a penalty of ten percent of the renewal fee due must be charged for each month, or portion of a month, that the fee is delinquent up to a maximum of 30 percent for any application for renewal postmarked after December 31.

Sec. 8. Minnesota Statutes 2010, section 18G.10, subdivision 7, is amended to read:

Subd. 7. **Supplemental, additional, or other certificates and permits.** (a) The commissioner may provide inspection, sampling, or certification services to ensure that Minnesota plant treatment processes, plant products, or commodities meet import requirements of other states or countries.

(b) The state plant regulatory official may issue permits and certificates verifying that various Minnesota agricultural plant treatment processes, products, or commodities meet specified plant health requirements, treatment requirements, or pest absence assurances based on determinations by the commissioner.

Sec. 9. Minnesota Statutes 2010, section 18G.10, is amended by adding a subdivision to read:

Subd. 8. **Misuse of a certificate or permit.** (a) Certificates and permits may not be altered, counterfeited, obtained, or used improperly, for any plant product.

(b) Certificates and permits are not transferable to another location or another person.

Sec. 10. Minnesota Statutes 2010, section 18H.02, subdivision 14, is amended to read:

Subd. 14. **Infested.** "Infested" means a plant has been overrun by plant pests, including weeds, or contains or harbors plant pests in a quantity that may threaten other plants.

Sec. 11. Minnesota Statutes 2010, section 18H.02, is amended by adding a subdivision to read:

Subd. 16a. **Nonhardy.** "Nonhardy" means a plant that cannot be expected to survive or reliably produce flowers and fruit in average minimum winter temperatures at the growing site as determined by the commissioner based upon independent field trials and industry input represented by the United States Department of Agriculture Plant Hardiness Zone designations.

Sec. 12. Minnesota Statutes 2010, section 18H.10, is amended to read:

18H.10 STORAGE OF NURSERY STOCK.

(a) All nursery stock must be kept and displayed under conditions of temperature, light, and moisture sufficient to maintain the viability and vigor of the nursery stock.

(b) Packaged dormant nursery stock must be stored under conditions that retard growth, prevent etiolated growth, and protect its viability.

(c) Balled and burlapped nursery stock being held for sale to the public must be kept in a moisture-holding material approved by the commissioner and not toxic to plants. The moisture-holding material must adequately cover and protect the ball of earth and must be kept moist at all times.

Sec. 13. Minnesota Statutes 2010, section 18H.14, is amended to read:

18H.14 LABELING AND ADVERTISING OF NURSERY STOCK.

(a) Plants, plant materials, or nursery stock must not be labeled or advertised with false or misleading information including, but not limited to, scientific name, variety, place of origin, hardiness zone as defined by the United States Department of Agriculture, and growth habit.

(b) All nonhardy nursery stock as designated by the commissioner must be labeled "nonhardy" in Minnesota.

~~(b)~~ (c) A person may not offer for distribution plants, plant materials, or nursery stock, represented by some specific or special form of notation, including, but not limited to, "free from" or "grown free of," unless the plants are produced under a specific program approved by the commissioner to address the specific plant properties addressed in the special notation claim.

(d) Nursery stock collected from the wild state must be inspected and certified prior to sale and at the time of sale must be labeled "Collected from the Wild." The label must remain on each plant or clump of plants while it is offered for sale and during the distribution process. The collected stock may be grown in nursery rows at least two years, after which the plants may be sold without the labeling required by this paragraph.

Sec. 14. Minnesota Statutes 2010, section 18J.01, is amended to read:

18J.01 DEFINITIONS.

(a) The definitions in sections 18G.02 ~~and~~ 18H.02, 27.01, 223.16, 231.01, and 232.21 apply to this chapter.

(b) For purposes of this chapter, "associated rules" means rules adopted under this chapter, chapter 18G ~~or~~, 18H, 27, 223, 231, or 232, or sections 21.80 to 21.92.

Sec. 15. Minnesota Statutes 2010, section 18J.02, is amended to read:

18J.02 DUTIES OF COMMISSIONER.

The commissioner shall administer and enforce this chapter, chapters 18G ~~and~~, 18H, 27, 223, 231, and 232; sections 21.80 to 21.92~~;~~ and associated rules.

Sec. 16. Minnesota Statutes 2010, section 18J.03, is amended to read:

18J.03 CIVIL LIABILITY.

A person regulated by this chapter, chapter 18G ~~or~~, 18H, 27, 223, 231, or 232, or sections 21.80 to 21.92, is civilly liable for any violation of one of those statutes or associated rules by the person's employee or agent.

Sec. 17. Minnesota Statutes 2010, section 18J.04, subdivision 1, is amended to read:

Subdivision 1. **Access and entry.** The commissioner, upon presentation of official department credentials, must be granted immediate access at reasonable times to sites where a person manufactures, distributes, uses, handles, disposes of, stores, or transports seeds, plants, grain, household goods, general merchandise, produce, or other living or nonliving products or other objects regulated under chapter 18G ~~or~~, 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~ or associated rules.

Sec. 18. Minnesota Statutes 2010, section 18J.04, subdivision 2, is amended to read:

Subd. 2. **Purpose of entry.** (a) The commissioner may enter sites for:

(1) inspection of inventory and equipment for the manufacture, storage, handling, distribution, disposal, or any other process regulated under chapter 18G ~~or~~, 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~ or associated rules;

(2) sampling of sites, seeds, plants, products, grain, household goods, general merchandise, produce, or other living or nonliving objects that are manufactured, stored, distributed, handled, or disposed of at those sites and regulated under chapter 18G ~~or~~, 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~ or associated rules;

(3) inspection of records related to the manufacture, distribution, storage, handling, or disposal of seeds, plants, products, grain, household goods, general merchandise, produce, or other living or nonliving objects regulated under chapter 18G ~~or~~, 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~ or associated rules;

(4) investigating compliance with chapter 18G ~~or~~ 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~ or associated rules; or

(5) other purposes necessary to implement chapter 18G ~~or~~ 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~ or associated rules.

(b) The commissioner may enter any public or private premises during or after regular business hours without notice of inspection when a suspected violation of chapter 18G ~~or~~ 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~ or associated rules may threaten public health or the environment.

Sec. 19. Minnesota Statutes 2010, section 18J.04, subdivision 3, is amended to read:

Subd. 3. **Notice of inspection samples and analyses.** (a) The commissioner shall provide the owner, operator, or agent in charge with a receipt describing any samples obtained. If requested, the commissioner shall split any samples obtained and provide them to the owner, operator, or agent in charge. If an analysis is made of the samples, a copy of the results of the analysis must be furnished to the owner, operator, or agent in charge within 30 days after an analysis has been performed. If an analysis is not performed, the commissioner must notify the owner, operator, or agent in charge within 30 days of the decision not to perform the analysis.

(b) The sampling and analysis must be done according to methods provided for under applicable provisions of chapter 18G ~~or~~ 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~ or associated rules. In cases not covered by those sections and methods or in cases where methods are available in which improved applicability has been demonstrated the commissioner may adopt appropriate methods from other sources.

Sec. 20. Minnesota Statutes 2010, section 18J.04, subdivision 4, is amended to read:

Subd. 4. **Inspection requests by others.** (a) A person who believes that a violation of chapter 18G ~~or~~ 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~ or associated rules has occurred may request an inspection by giving notice to the commissioner of the violation. The notice must be in writing, state with reasonable particularity the grounds for the notice, and be signed by the person making the request.

(b) If after receiving a notice of violation the commissioner reasonably believes that a violation has occurred, the commissioner shall make a special inspection in accordance with the provisions of this section as soon as practicable, to determine if a violation has occurred.

(c) An inspection conducted pursuant to a notice under this subdivision may cover an entire site and is not limited to the portion of the site specified in the notice. If the

10.1 commissioner determines that reasonable grounds to believe that a violation occurred
10.2 do not exist, the commissioner must notify the person making the request in writing of
10.3 the determination.

10.4 Sec. 21. Minnesota Statutes 2010, section 18J.05, subdivision 1, is amended to read:

10.5 Subdivision 1. **Enforcement required.** (a) A violation of chapter 18G ~~or~~ 18H, 27,
10.6 223, 231, or 232; sections 21.80 to 21.92~~;~~ or an associated rule is a violation of this
10.7 chapter.

10.8 (b) Upon the request of the commissioner, county attorneys, sheriffs, and other
10.9 officers having authority in the enforcement of the general criminal laws must take action
10.10 to the extent of their authority necessary or proper for the enforcement of chapter 18G ~~or~~
10.11 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~ or associated rules or valid orders,
10.12 standards, stipulations, and agreements of the commissioner.

10.13 Sec. 22. Minnesota Statutes 2010, section 18J.05, subdivision 2, is amended to read:

10.14 Subd. 2. **Commissioner's discretion.** If minor violations of chapter 18G ~~or~~
10.15 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~ or associated rules occur or the
10.16 commissioner believes the public interest will be best served by a suitable notice of
10.17 warning in writing, this section does not require the commissioner to:

- 10.18 (1) report the violation for prosecution;
10.19 (2) institute seizure proceedings; or
10.20 (3) issue a withdrawal from distribution, stop-sale, or other order.

10.21 Sec. 23. Minnesota Statutes 2010, section 18J.05, subdivision 6, is amended to read:

10.22 Subd. 6. **Agent for service of process.** All persons licensed, permitted, registered,
10.23 or certified under chapter 18G ~~or~~ 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~ or
10.24 associated rules must appoint the commissioner as the agent upon whom all legal process
10.25 may be served and service upon the commissioner is deemed to be service on the licensee,
10.26 permittee, registrant, or certified person.

10.27 Sec. 24. Minnesota Statutes 2010, section 18J.06, is amended to read:

10.28 **18J.06 FALSE STATEMENT OR RECORD.**

10.29 A person must not knowingly make or offer a false statement, record, or other
10.30 information as part of:

- 10.31 (1) an application for registration, license, certification, or permit under chapter 18G
10.32 ~~or~~ 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~ or associated rules;

- 11.1 (2) records or reports required under chapter 18G ~~or~~ 18H, 27, 223, 231, or 232;
- 11.2 sections 21.80 to 21.92~~;~~ or associated rules; or
- 11.3 (3) an investigation of a violation of chapter 18G ~~or~~ 18H, 27, 223, 231, or 232;
- 11.4 sections 21.80 to 21.92~~;~~ or associated rules.

11.5 Sec. 25. Minnesota Statutes 2010, section 18J.07, subdivision 3, is amended to read:

11.6 Subd. 3. **Cancellation of registration, permit, license, certification.** The

11.7 commissioner may cancel or revoke a registration, permit, license, or certification

11.8 provided for under chapter 18G ~~or~~ 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~

11.9 or associated rules or refuse to register, permit, license, or certify under provisions of

11.10 chapter 18G ~~or~~ 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~ or associated rules

11.11 if the registrant, permittee, licensee, or certified person has used fraudulent or deceptive

11.12 practices in the evasion or attempted evasion of a provision of chapter 18G ~~or~~ 18H, 27,

11.13 223, 231, or 232; sections 21.80 to 21.92~~;~~ or associated rules.

11.14 Sec. 26. Minnesota Statutes 2010, section 18J.07, subdivision 4, is amended to read:

11.15 Subd. 4. **Service of order or notice.** (a) If a person is not available for service of an

11.16 order, the commissioner may attach the order to the facility, site, seed or seed container,

11.17 plant or other living or nonliving object regulated under chapter 18G ~~or~~ 18H, 27, 223,

11.18 231, or 232; sections 21.80 to 21.92~~;~~ or associated rules and notify the owner, custodian,

11.19 other responsible party, or registrant.

11.20 (b) The seed, seed container, plant, or other living or nonliving object regulated

11.21 under chapter 18G ~~or~~ 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~ or associated

11.22 rules may not be sold, used, tampered with, or removed until released under conditions

11.23 specified by the commissioner, by an administrative law judge, or by a court.

11.24 Sec. 27. Minnesota Statutes 2010, section 18J.07, subdivision 5, is amended to read:

11.25 Subd. 5. **Unsatisfied judgments.** (a) An applicant for a license, permit, registration,

11.26 or certification under provisions of this chapter, chapter 18G ~~or~~ 18H, 27, 223, 231, or

11.27 232; sections 21.80 to 21.92~~;~~ or associated rules may not allow a final judgment against

11.28 the applicant for damages arising from a violation of those statutes or rules to remain

11.29 unsatisfied for a period of more than 30 days.

11.30 (b) Failure to satisfy, within 30 days, a final judgment resulting from a violation

11.31 of this chapter results in automatic suspension of the license, permit, registration, or

11.32 certification.

12.1 Sec. 28. Minnesota Statutes 2010, section 21.82, subdivision 7, is amended to read:

12.2 Subd. 7. **Vegetable seeds.** For vegetable seeds prepared for use in home gardens
12.3 or household plantings the requirements in paragraphs (a) to (p) apply. Vegetable seeds
12.4 packed for sale in commercial quantities to farmers, conservation groups, and other similar
12.5 entities are considered agricultural seeds and must be labeled accordingly.

12.6 (a) The label must contain the name of the kind or kind and variety for each seed
12.7 component in excess of five percent of the whole and the percentage by weight of each
12.8 in order of its predominance. If the variety of those kinds generally labeled as to variety
12.9 is not stated and it is not required to be stated, the label must show the name of the kind
12.10 and the words "variety not stated."

12.11 (b) The percentage that is hybrid must be at least 95 percent of the percentage of pure
12.12 seed shown unless the percentage of pure seed which is hybrid seed is shown separately.
12.13 If two or more kinds of varieties are present in excess of five percent and are named on
12.14 the label, each that is hybrid must be designated as hybrid on the label. Any one kind or
12.15 kind and variety that has pure seed that is less than 95 percent but more than 75 percent
12.16 hybrid seed as a result of incompletely controlled pollination in a cross must be labeled
12.17 to show the percentage of pure seed that is hybrid seed or a statement such as "contains
12.18 from 75 percent to 95 percent hybrid seed." No one kind or variety of seed may be labeled
12.19 as hybrid if the pure seed contains less than 75 percent hybrid seed. The word "hybrid"
12.20 must be shown on the label in conjunction with the kind.

12.21 (c) Blends must be listed on the label using the term "blend" in conjunction with
12.22 the kind.

12.23 (d) Mixtures shall be listed on the label using the term "mixture," "mix," or "mixed."

12.24 (e) The label must show a lot number or other lot identification.

12.25 (f) The origin may be omitted from the label.

12.26 (g) The label must show the year for which the seed was packed for sale listed as
12.27 "packed for (year)" for seed with a percentage of germination that exceeds the standard last
12.28 established by the commissioner, the percentage of germination and the calendar month
12.29 and year that the percentages were determined by test, or the calendar month and year the
12.30 germination test was completed and the statement "sell by (month and year listed here),"
12.31 which may be no more than 12 months from the date of test, exclusive of the month of test.

12.32 (h) For vegetable seeds which germinate less than the standard last established by
12.33 the commissioner, the label must show:

12.34 (1) a percentage of germination, exclusive of hard or dormant seed or both;

12.35 (2) a percentage of hard or dormant seed or both, if present; and

(3) the words "below standard" in not less than eight point type and the month and year the percentages were determined by test.

(i) The net weight of the contents or a statement indicating the number of seeds in the container or both, must appear on either the container or the label, ~~except that for containers with contents of 200 seeds or less a statement indicating the number of seeds in the container may be listed along with or in lieu of the net weight of contents.~~

(j) The heading for and percentage by weight of pure seed may be omitted from a label if the total is more than 90 percent.

(k) The heading for and percentage by weight of weed seed may be omitted from a label if they are not present in the seed.

(l) The heading "noxious weed seeds" may be omitted from a label if they are not present in the seed.

(m) The heading for and percentage by weight of other crop seed may be omitted from a label if it is less than five percent.

(n) The heading for and percentage by weight of inert matter may be omitted from a label if it is less than ten percent.

(o) The label must contain the name and address of the person who labeled the seed or who sells the seed in this state or a code number that has been registered with the commissioner.

(p) The labeling requirements for vegetable seeds prepared for use in home gardens or household plantings when sold outside their original containers are met if the seed is weighed from a properly labeled container in the presence of the purchaser.

Sec. 29. Minnesota Statutes 2010, section 21.82, subdivision 8, is amended to read:

Subd. 8. **Flower seeds.** For flower and wildflower seeds prepared for use in home gardens or household plantings, the requirements in paragraphs (a) to (l) apply. Flower and wildflower seeds packed for sale in commercial quantities to farmers, conservation groups, and other similar entities are considered agricultural seeds and must be labeled accordingly.

(a) The label must contain the name of the kind and variety or a statement of type and performance characteristics as prescribed by rule.

(b) The percentage that is hybrid must be at least 95 percent of the percentage of pure seed shown unless the percentage of pure seed which is hybrid seed is shown separately. If two or more kinds of varieties are present in excess of five percent and are named on the label, each that is hybrid must be designated as hybrid on the label. Any one kind or kind and variety that has pure seed that is less than 95 percent but more than 75 percent

14.1 hybrid seed as a result of incompletely controlled pollination in a cross must be labeled
14.2 to show the percentage of pure seed that is hybrid seed or a statement such as "contains
14.3 from 75 percent to 95 percent hybrid seed." No one kind or variety of seed may be labeled
14.4 as hybrid if the pure seed contains less than 75 percent hybrid seed. The word "hybrid"
14.5 must be shown on the label in conjunction with the kind.

14.6 (c) Blends must be listed on the label using the term "blend" in conjunction with
14.7 the kind.

14.8 (d) Mixtures must be listed on the label using the term "mixture," "mix," or "mixed."

14.9 (e) The label must contain the lot number or other lot identification.

14.10 (f) The origin may be omitted from the label.

14.11 (g) The label must contain the year for which the seed was packed for sale listed as
14.12 "packed for (year)" for seed with a percentage of germination that exceeds the standard last
14.13 established by the commissioner, the percentage of germination and the calendar month
14.14 and year that the percentages were determined by test, or the calendar month and year the
14.15 germination test was completed and the statement "sell by (month and year listed here),"
14.16 which may be no more than 12 months from the date of test, exclusive of the month of test.

14.17 (h) For flower seeds which germinate less than the standard last established by
14.18 the commissioner, the label must show:

14.19 (1) percentage of germination exclusive of hard or dormant seed or both;

14.20 (2) percentage of hard or dormant seed or both, if present; and

14.21 (3) the words "below standard" in not less than eight point type and the month and
14.22 year this percentage was determined by test.

14.23 (i) The label must show the net weight of contents or a statement indicating the
14.24 number of seeds in the container, or both, on either the container or the label, ~~except that~~
14.25 ~~for containers with contents of 200 seeds or less a statement indicating the number of~~
14.26 ~~seeds in the container may be listed along with or in lieu of the net weight of contents.~~

14.27 (j) The heading for and percentage by weight of pure seed may be omitted from a
14.28 label if the total is more than 90 percent.

14.29 (k) The heading for and percentage by weight of weed seed may be omitted from a
14.30 label if they are not present in the seed.

14.31 (l) The heading "noxious weed seeds" may be omitted from a label if they are not
14.32 present in the seed.

14.33 (m) The heading for and percentage by weight of other crop seed may be omitted
14.34 from a label if it is less than five percent.

14.35 (n) The heading for and percentage by weight of inert matter may be omitted from a
14.36 label if it is less than ten percent.

15.1 (o) The label must show the name and address of the person who labeled the seed
15.2 or who sells the seed within this state, or a code number which has been registered with
15.3 the commissioner.

15.4 Sec. 30. Minnesota Statutes 2010, section 25.33, subdivision 5, is amended to read:

15.5 Subd. 5. **Commercial feed.** "Commercial feed" means materials or combinations
15.6 of materials that are distributed or intended to be distributed for use as feed or for
15.7 mixing in feed, including feed for aquatic animals, unless the materials are specifically
15.8 exempted. Unmixed whole seeds and physically altered entire unmixed seeds, if the
15.9 whole or physically altered seeds are not chemically changed or are not adulterated
15.10 within the meaning of section 25.37, paragraph (a), are exempt. The commissioner by
15.11 rule may exempt from this definition, or from specific provisions of sections 25.31 to
15.12 25.43, commodities such as hay, straw, stover, silage, cobs, husks, hulls, and individual
15.13 chemical compounds or substances if those commodities, compounds, or substances
15.14 are not intermixed with other materials, and are not adulterated within the meaning of
15.15 section 25.37, paragraph (a). Commercial feed does not include feed produced and used
15.16 by a distributor.

15.17 Sec. 31. Minnesota Statutes 2010, section 31.13, is amended to read:

15.18 **31.13 ANALYSIS; EVIDENCE.**

15.19 It shall be the duty of the ~~chief chemist and assistants~~ laboratory director, managers,
15.20 and analysts to make analyses and examinations of such articles as shall be furnished
15.21 to them by the commissioner, for the purpose of determining from such examination
15.22 whether such articles are adulterated, misbranded, insufficiently labeled, unwholesome,
15.23 poisonous, or deleterious and whether such articles have been manufactured, used, sold,
15.24 transported, offered for use, sale, or transportation, or had in possession with intent to use,
15.25 sell, or transport in violation of any law now or hereafter enacted relating to food, or of
15.26 any definition, standard, rule, or ruling made and published thereunder, and to certify the
15.27 result of such analysis and examination to the commissioner. A copy of the result of the
15.28 examination or analysis of any such article, duly authenticated, by the ~~chemist~~ analyst
15.29 making such ~~analysis determinations~~ or examination, under oath of such ~~chemist~~ analyst,
15.30 shall be prima facie evidence in all courts of the matters and facts therein contained.

15.31 Sec. 32. Minnesota Statutes 2010, section 31.94, is amended to read:

15.32 **31.94 COMMISSIONER DUTIES.**

(a) In order to promote opportunities for organic agriculture in Minnesota, the commissioner shall:

(1) survey producers and support services and organizations to determine information and research needs in the area of organic agriculture practices;

(2) work with the University of Minnesota to demonstrate the on-farm applicability of organic agriculture practices to conditions in this state;

(3) direct the programs of the department so as to work toward the promotion of organic agriculture in this state;

(4) inform agencies of how state or federal programs could utilize and support organic agriculture practices; and

(5) work closely with producers, the University of Minnesota, the Minnesota Trade Office, and other appropriate organizations to identify opportunities and needs as well as ensure coordination and avoid duplication of state agency efforts regarding research, teaching, marketing, and extension work relating to organic agriculture.

(b) By November 15 of each ~~even-numbered~~ year that ends in a zero or a five, the commissioner, in conjunction with the task force created in paragraph (c), shall report on the status of organic agriculture in Minnesota to the legislative policy and finance committees and divisions with jurisdiction over agriculture. The report must include: available data on organic acreage and production, available data on the sales or market performance of organic products, and recommendations regarding programs, policies, and research efforts that will benefit Minnesota's organic agriculture sector.

~~(1) a description of current state or federal programs directed toward organic agriculture, including significant results and experiences of those programs;~~

~~(2) a description of specific actions the department of agriculture is taking in the area of organic agriculture, including the proportion of the department's budget spent on organic agriculture;~~

~~(3) a description of current and future research needs at all levels in the area of organic agriculture;~~

~~(4) suggestions for changes in existing programs or policies or enactment of new programs or policies that will affect organic agriculture;~~

~~(5) a description of market trends and potential for organic products;~~

~~(6) available information, using currently reliable data, on the price received, yield, and profitability of organic farms, and a comparison with data on conventional farms; and~~

~~(7) available information, using currently reliable data, on the positive and negative impacts of organic production on the environment and human health.~~

(c) A Minnesota Organic Advisory Task Force shall advise the commissioner and the University of Minnesota on policies and programs that will improve organic agriculture in Minnesota, including how available resources can most effectively be used for outreach, education, research, and technical assistance that meet the needs of the organic agriculture community. The task force must consist of the following residents of the state:

- (1) three farmers using organic agriculture methods;
- (2) one wholesaler or distributor of organic products;
- (3) one representative of organic certification agencies;
- (4) two organic processors;
- (5) one representative from University of Minnesota Extension;
- (6) one University of Minnesota faculty member;
- (7) one representative from a nonprofit organization representing producers;
- (8) two public members;
- (9) one representative from the United States Department of Agriculture;
- (10) one retailer of organic products; and
- (11) one organic consumer representative.

The commissioner, in consultation with the director of the Minnesota Agricultural Experiment Station; the dean and director of University of Minnesota Extension; and the dean of the College of Food, Agricultural and Natural Resource Sciences shall appoint members to serve staggered two-year terms.

Compensation and removal of members are governed by section 15.059, subdivision 6. The task force must meet at least twice each year and expires on June 30, 2013.

(d) For the purposes of expanding, improving, and developing production and marketing of the organic products of Minnesota agriculture, the commissioner may receive funds from state and federal sources and spend them, including through grants or contracts, to assist producers and processors to achieve certification, to conduct education or marketing activities, to enter into research and development partnerships, or to address production or marketing obstacles to the growth and well-being of the industry.

(e) The commissioner may facilitate the registration of state organic production and handling operations including those exempt from organic certification according to Code of Federal Regulations, title 7, section 205.101, and certification agents operating within the state.

Sec. 33. [32C.01] ORGANIZATION.

Subdivision 1. Establishment. The Dairy Research, Teaching, and Consumer Education Authority is established as a public corporation. The business of the authority

must be conducted under the name "Dairy Research, Teaching, and Consumer Education Authority."

Subd. 2. **Board of directors.** The authority is governed by a board of nine directors. The term of a director, except as otherwise provided in this subdivision, is four years. The commissioner of agriculture is a member of the board. The governor shall appoint four members of the board. Two of the members appointed by the governor must be currently engaged in the business of operating a dairy, including at least one processor, as defined in section 32.70, subdivision 4. Two of the members appointed by the governor must be representatives of Minnesota-based businesses actively engaged in working with or serving Minnesota's dairy industry. The dean of the University of Minnesota College of Food, Agriculture and Natural Resource Sciences, or the dean's designee, is a member of the board. One member of the board must be a representative of a state trade association that represents the interests of milk producers. One member of the board must be a representative of the Minnesota Division of the Midwest Dairy Council. One member of the board must be a member of the agricultural education faculty of the Minnesota State Colleges and Universities System. The four members of the initial board of directors who are appointed by the governor must be appointed for terms of four years, and the other four members must be appointed for an initial term of two years. Vacancies for the governor's appointed positions on the board must be filled by appointment of the governor. Vacancies for other positions on the board must be filled by the named represented entities. Board members must not be compensated for their services.

Subd. 3. **Bylaws.** The board must adopt bylaws necessary for the conduct of the business of the authority, consistent with this chapter.

Subd. 4. **Place of business.** The board must locate and maintain the authority's place of business within the state.

Subd. 5. **Chair.** The board must annually elect from among its members a chair and other officers necessary for the performance of its duties.

Subd. 6. **Meetings.** The board must meet at least four times each year and may hold additional meetings upon giving notice in accordance with the bylaws of the authority. Board meetings are subject to chapter 13D.

Subd. 7. **Conflict of interest.** A director, employee, or officer of the authority may not participate in or vote on a decision of the board relating to an organization in which the director has either a direct or indirect financial interest.

Subd. 8. **Economic interest statements.** Directors and officers of the authority are public officials for the purpose of section 10A.09, and must file statements of economic interest with the Campaign Finance and Public Disclosure Board.

Sec. 34. **[32C.02] POWERS.**

Subdivision 1. General corporate powers. (a) The authority has the powers granted to a business corporation by section 302A.161, subdivisions 3; 4; 5; 7; 8; 9; 11; 12; 13, except that the authority may not act as a general partner in any partnership; 14; 15; 16; 17; 18; and 22, and the powers necessary or convenient to exercise the enumerated powers.

(b) Section 302A.041 applies to this chapter and the authority in the same manner that it applies to business corporations established under chapter 302A.

Subd. 2. Facility design; development and operation. The authority may enter into management contracts, lease agreements, or both, with a Minnesota nonprofit corporation to design, develop, and operate a facility to further the purposes of this chapter at the site determined by the board and on the terms that the board finds desirable. The board must identify and acquire a site that will accommodate the following facilities and activities:

- (1) housing for bred and lactating animals;
- (2) milking parlor;
- (3) automatic milking systems;
- (4) cross-ventilated and natural-ventilated housing;
- (5) transition cow housing;
- (6) special needs and hospital housing;
- (7) classrooms and a conference room;
- (8) dairy processing facility with retail;
- (9) visitors' center;
- (10) student housing;
- (11) laboratory facilities;
- (12) space to accommodate installation of an anaerobic digester system to research energy production from feedstock produced on-site or from off-site sources; and
- (13) space for feed storage to allow for research capabilities at the facility.

Notwithstanding the provisions of section 32C.01, subdivision 7, relating to conflict of interest, a director or officer of the authority who is also a director, officer, or member of a nonprofit corporation with which the authority enters into management contracts or lease agreements may participate in and vote on the decision of the board as to the terms and conditions of management contracts or lease agreements between the Minnesota nonprofit corporation and the authority.

Subd. 3. Funds. The authority may accept and use gifts, grants, or contributions from any source to support operation of the facility. Unless otherwise restricted by the terms of a gift or bequest, the board may sell, exchange, or otherwise dispose of, and invest or reinvest the money, securities, or other property given or bequeathed to it. The

principal of these funds, the income from them, and all other revenues received by the authority from any nonstate source must be placed in depositories chosen by the board and are subject to expenditure for the board's purposes. Expenditures of \$25,000 or more must be approved by the full board.

Subd. 4. **Animals; regulation.** The authority must comply with all applicable laws and rules relating to quarantine, transportation, examination, habitation, care, and treatment of animals.

Sec. 35. **[32C.03] EMPLOYEES.**

(a) The board may hire an executive director of the authority and other employees the board considers necessary to carry out the program, conduct research, and operate and maintain facilities of the authority.

(b) Persons employed by contractors or lessees are not state employees and may not participate in state retirement, deferred compensation, insurance, or other plans that apply to state employees generally and are not subject to regulation by the Campaign Finance and Public Disclosure Board, provided, however, that any employee of the state or any employee or faculty member of the University of Minnesota or Minnesota State Colleges and Universities System who teaches or conducts research at the authority does not have their status as employees of the state, the University of Minnesota, or Minnesota State Colleges and Universities System interrupted by virtue of having their employment activity take place at facilities owned by the authority.

Sec. 36. **[32C.04] ACCOUNTS; AUDITS.**

The authority may establish funds and accounts that it determines to be reasonable and necessary to conduct the business of the authority. The board shall provide for and pay the cost of an independent annual audit of its official books and records by the state auditor. A copy of this audit must be filed with the secretary of state.

Sec. 37. **[32C.05] ANNUAL REPORT.**

The board shall submit a report to the chairs and ranking minority members of the senate and house of representatives agriculture committees and the governor on the activities of the authority and its contractors and lessees by February 1 of each year. The report must include at least the following:

(1) a description of each of the programs that the authority has provided or undertaken at some time during the previous year;

21.1 (2) an identification of the sources of funding in the previous year for the authority's
21.2 programs including federal, state, and local government, foundations, gifts, donations,
21.3 fees, and all other sources;

21.4 (3) a description of the administrative expenses of the authority during the previous
21.5 year;

21.6 (4) a listing of the assets and liabilities of the authority at the end of the previous
21.7 fiscal year;

21.8 (5) a description of any changes made to the operational plan during the previous
21.9 year; and

21.10 (6) a description of any newly adopted or significant changes to bylaws, policies,
21.11 rules, or programs created or administered by the authority during the previous year.

21.12 Reports must be made to the legislature as required by section 3.195.

21.13 Sec. 38. **[32C.06] EXPIRATION.**

21.14 Sections 32C.01 to 32C.05 expire on August 1, 2017.

21.15 Sec. 39. Minnesota Statutes 2010, section 35.0661, subdivision 2, is amended to read:

21.16 Subd. 2. **Quarantine zones.** Upon an emergency declaration by the governor
21.17 under subdivision 1, the board or any licensed veterinarian designated by the board may
21.18 establish quarantine zones of control in any area where a specific animal is deemed by a
21.19 licensed veterinarian as likely to be infected with the disease based on an actual veterinary
21.20 examination or laboratory testing. Quarantine zones of control to restrict the movement of
21.21 livestock must be the smallest size practicable to prevent the spread of disease and must
21.22 exist for the shortest duration consistent with effective disease control. ~~A quarantine zone~~
21.23 ~~of control must not extend beyond a radius of three miles from an animal deemed as likely~~
21.24 ~~to be infected with the disease, unless the board has adopted a rule regarding a specific~~
21.25 ~~disease requiring a larger quarantine zone of control.~~

21.26 Sec. 40. Minnesota Statutes 2010, section 35.0661, subdivision 3, is amended to read:

21.27 Subd. 3. **Restrictions on movement out of quarantine zones.** (a) The board may
21.28 issue orders restricting the movement of persons, ~~livestock~~, machinery, and personal
21.29 property ~~out of zones~~ off infected premises designated by the board as quarantined under
21.30 subdivision 2. The executive director of the board or any licensed veterinarian designated
21.31 by the board may issue the orders. An order may be issued upon a determination that
21.32 reasonable cause exists to believe that the movement of persons or personal property out

of a quarantine zone will reasonably threaten to transport a dangerous, infectious, or communicable disease outside of the quarantine zone.

(b) The order must be served upon any person subject to the order. The restrictions sought by the board on movement out of a quarantine zone must be limited to the greatest extent possible consistent with the paramount disease control objectives as determined by the board. An order under this section may be served on any day at any time. The order must include a notice of the person's rights under this section, including the ability to enter into an agreement to abide by disease control measures under paragraph (c) and the right to request a court hearing under paragraph (d).

(c) No person may be restricted by an order under this subdivision for longer than 72 hours, exclusive of Saturdays, Sundays, and legal holidays, so long as the person agrees to abide by the disease control measures established by the board. The person shall sign an acknowledgment form prepared by the board evidencing the person's agreement to abide by the disease control measures established by the board.

(d) A person whose movements are restricted by an order under this subdivision may seek a district court hearing on the order at any time after it is served on the person. The hearing may be held by electronic means as soon as possible. The subject of the order may:

(1) contest imposition of the order on grounds that it is an abuse of the board's discretion under this section; or

(2) seek a variance from it to allow movement of a person inconsistent with the order, upon a showing that the person would otherwise suffer irreparable harm.

Sec. 41. Minnesota Statutes 2010, section 40A.17, is amended to read:

40A.17 REPORT.

The commissioner shall report to the legislature on ~~January~~ March 1 of each even-numbered year on activities under this chapter. By July 1, 1985, the report must include the survey of public awareness in the awareness program. The report shall include recommendations for funding levels and other necessary legislative action.

Sec. 42. Minnesota Statutes 2010, section 41A.12, subdivision 2, is amended to read:

Subd. 2. **Activities authorized.** For the purposes of this program, the commissioner may issue grants, loans, or other forms of financial assistance. Eligible activities include, but are not limited to, grants to livestock producers under the livestock investment grant program under section 17.118, bioenergy awards made by the NextGen Energy Board under section 41A.105, cost-share grants for the installation of biofuel blender pumps, and financial assistance to support other rural economic infrastructure activities.

23.1 Sec. 43. Minnesota Statutes 2010, section 41A.12, subdivision 4, is amended to read:

23.2 Subd. 4. **Sunset.** This section expires on June 30, ~~2013~~ 2015.

23.3 Sec. 44. Minnesota Statutes 2010, section 223.16, subdivision 12, is amended to read:

23.4 Subd. 12. **Public grain warehouse operator.** "Public grain warehouse operator"
23.5 means a person operating a grain warehouse in which grain belonging to persons other
23.6 than the grain warehouse operator is accepted for storage or purchase or who offers grain
23.7 storage or warehouse facilities to the public for hire or a feed-processing plant that
23.8 receives and stores grain, the equivalent of which it processes and returns to the grain's
23.9 owner in amounts, at intervals, and with added ingredients that are mutually agreeable to
23.10 the grain's owner and the person operating the plant.

23.11 Sec. 45. Minnesota Statutes 2010, section 223.17, subdivision 1, is amended to read:

23.12 Subdivision 1. **Licenses.** An application for a grain buyer's license must be filed
23.13 with the commissioner and the license issued before any grain may be purchased. ~~The~~
23.14 ~~commissioner must provide application forms and licenses that state the restrictions and~~
23.15 ~~authority to purchase and store grain under the license being applied for and issued. The~~
23.16 ~~categories of grain buyers' licenses are:~~

- 23.17 ~~(a) private grain warehouse operator's license;~~
23.18 ~~(b) public grain warehouse operator's license; and~~
23.19 ~~(c) independent grain buyer's license.~~

23.20 The applicant for a grain buyer's license shall identify all grain buying locations
23.21 owned or controlled by the grain buyer and all vehicles owned or controlled by the grain
23.22 buyer used to transport purchased grain. Every applicant for a grain buyer's license shall
23.23 have a permanent established place of business at each licensed location. An "established
23.24 place of business" means a permanent enclosed building, including a house or a farm,
23.25 either owned by the applicant or leased by the applicant for a period of at least one year,
23.26 and where the books, records, and files necessary to conduct the business are kept and
23.27 maintained. ~~The commissioner may maintain information on grain buyers by categories~~
23.28 ~~including, but not limited to, the categories provided in clauses (a) to (c) and grain buyers~~
23.29 ~~that are licensed to purchase grain using trucks but that do not have a public or private~~
23.30 ~~warehouse license.~~

23.31 Sec. 46. Minnesota Statutes 2010, section 223.17, subdivision 4, is amended to read:

Subd. 4. **Bond.** (a) Before a grain buyer's license is issued, the applicant for the license must file with the commissioner a bond in a penal sum prescribed by the commissioner but not less than the following amounts:

~~(a)~~ (1) \$10,000 for grain buyers whose gross annual purchases are \$100,000 or less;

~~(b)~~ (2) \$20,000 for grain buyers whose gross annual purchases are more than \$100,000 but not more than \$750,000;

~~(c)~~ (3) \$30,000 for grain buyers whose gross annual purchases are more than \$750,000 but not more than \$1,500,000;

~~(d)~~ (4) \$40,000 for grain buyers whose gross annual purchases are more than \$1,500,000 but not more than \$3,000,000;

~~(e)~~ (5) \$50,000 for grain buyers whose gross annual purchases are more than \$3,000,000 but not more than \$6,000,000;

~~(f)~~ (6) \$70,000 for grain buyers whose gross annual purchases are more than \$6,000,000 but not more than \$12,000,000;

~~(g)~~ (7) \$125,000 for grain buyers whose gross annual purchases are more than \$12,000,000 but not more than \$24,000,000; and

~~(h)~~ (8) \$150,000 for grain buyers whose gross annual purchases exceed \$24,000,000.

(b) A grain buyer who has filed a bond with the commissioner prior to July 1, 2004, is not required to increase the amount of the bond to comply with this section until July 1, 2005. The commissioner may postpone an increase in the amount of the bond until July 1, 2006, if a licensee demonstrates that the increase will impose undue financial hardship on the licensee, and that producers will not be harmed as a result of the postponement. The commissioner may impose other restrictions on a licensee whose bond increase has been postponed. The amount of the bond shall be based on the most recent ~~financial statement~~ gross annual grain purchase report of the grain buyer ~~filed under subdivision 6.~~

(c) A first-time applicant for a grain buyer's license shall file a \$50,000 bond with the commissioner. This bond shall remain in effect for the first year of the license. Thereafter, the licensee shall comply with the applicable bonding requirements contained in ~~clauses (a) to (h)~~ paragraph (a), clauses (1) to (8).

(d) In lieu of the bond required by this subdivision the applicant may deposit with the commissioner of management and budget cash, a certified check, a cashier's check, a postal, bank, or express money order, assignable bonds or notes of the United States, or an assignment of a bank savings account or investment certificate or an irrevocable bank letter of credit as defined in section 336.5-102, in the same amount as would be required for a bond.

25.1 (e) Bonds must be continuous until canceled. To cancel a bond, a surety must provide
25.2 90 days' written notice of the bond's termination date to the licensee and the commissioner.

25.3 Sec. 47. Minnesota Statutes 2010, section 223.17, subdivision 6, is amended to read:

25.4 Subd. 6. **Financial statements.** ~~For the purpose of fixing or changing the amount of~~
25.5 ~~a required bond or for any other proper reason, (a) The commissioner shall~~ may require an
25.6 annual financial statement from a licensee which has been prepared in accordance with
25.7 generally accepted accounting principles and which meets the following requirements:

25.8 ~~(a) (1)~~ (1) The financial statement shall include, but not be limited to the following: ~~(1)~~

25.9 (i) a balance sheet; ~~(2)~~

25.10 (ii) a statement of income (profit and loss); ~~(3)~~

25.11 (iii) a statement of retained earnings; ~~(4)~~

25.12 (iv) a statement of changes in financial position; and ~~(5)~~

25.13 (v) a statement of the dollar amount of grain purchased in the previous fiscal year
25.14 of the grain buyer.

25.15 ~~(b) (2)~~ (2) The financial statement shall be accompanied by a compilation report of the
25.16 financial statement that is prepared by a grain commission firm or a management firm
25.17 approved by the commissioner or by an independent public accountant, in accordance with
25.18 standards established by the American Institute of Certified Public Accountants. Grain
25.19 buyers purchasing less than 150,000 bushels of grain per calendar year may submit a
25.20 financial statement prepared by a public accountant who is not an employee or a relative
25.21 within the third degree of kindred according to civil law.

25.22 ~~(c) (3)~~ (3) The financial statement shall be accompanied by a certification by the chief
25.23 executive officer or the chief executive officer's designee of the licensee, under penalty
25.24 of perjury, that the financial statement accurately reflects the financial condition of the
25.25 licensee for the period specified in the statement.

25.26 (b) Only one financial statement must be filed for a chain of warehouses owned
25.27 or operated as a single business entity, unless otherwise required by the commissioner.
25.28 Any grain buyer having a net worth in excess of \$500,000,000 need not file the financial
25.29 statement required by this subdivision but must provide the commissioner with a certified
25.30 net worth statement. All financial statements filed with the commissioner are private or
25.31 nonpublic data as provided in section 13.02.

25.32 Sec. 48. Minnesota Statutes 2010, section 223.17, subdivision 9, is amended to read:

25.33 Subd. 9. **Defaults; violations.** It is a violation under this chapter if the commissioner
25.34 finds, after an investigation is conducted, that a complaint is valid or that a licensee is in

violation of the provisions of this chapter, ~~the commissioner may immediately suspend the license, in which case the licensee shall surrender the license to the commissioner. Within 15 days, the licensee may request an administrative hearing subject to chapter 14 to determine whether the license should be revoked. If no request is made within 15 days, the commissioner shall revoke the license.~~

Sec. 49. Minnesota Statutes 2010, section 232.21, subdivision 2, is amended to read:

Subd. 2. **Bond.** "Bond" means an acceptable obligation, running to the state as obligee, for the purpose of indemnifying depositors and producers of grain against breach of contract by a public grain warehouse ~~or grain bank operator.~~

Sec. 50. Minnesota Statutes 2010, section 232.21, subdivision 6, is amended to read:

Subd. 6. **Depositor.** "Depositor" means a person who is the owner or legal holder of an outstanding grain warehouse receipt, grain bank receipt or open scale ticket marked for storage on which a receipt is to be issued, representing any grain stored in a public grain warehouse ~~or grain bank.~~

Sec. 51. Minnesota Statutes 2010, section 232.21, subdivision 12, is amended to read:

Subd. 12. **Public grain warehouse operator.** "Public grain warehouse operator" means a person licensed to operate a grain warehouse in which grain belonging to persons other than the grain warehouse operator is accepted for storage or purchase, or who offers grain storage or grain warehouse facilities to the public for hire or a feed-processing plant that receives and stores grain, the equivalent of which, it processes and returns to the grain's owner in amounts, at intervals, and with added ingredients that are mutually agreeable to the grain's owner and the person operating the plant.

Sec. 52. Minnesota Statutes 2010, section 232.22, subdivision 3, is amended to read:

Subd. 3. **Fees; grain buyers and storage account.** There is created in the agricultural fund an account known as the grain buyers and storage account. The commissioner shall set the fees for ~~inspections~~ examinations, certifications, and licenses under sections 232.20 to ~~232.25~~ 232.24 at levels necessary to pay the costs of administering and enforcing sections 232.20 to ~~232.25~~ 232.24. All money collected pursuant to sections 232.20 to ~~232.25~~ and chapters 233 and 236 232.24 shall be paid by the commissioner into the state treasury and credited to the grain buyers and storage account and is appropriated to the commissioner for the administration and enforcement of sections 232.20 to ~~232.25~~ and chapters 233 and 236 232.24. All money collected pursuant to chapter 231 shall be

paid by the commissioner into the grain buyers and storage account and is appropriated to the commissioner for the administration and enforcement of chapter 231.

The fees for a license to store grain are as follows:

(a) For a license to store grain, \$110 for each home rule charter or statutory city or town in which a public grain warehouse is operated.

(b) A person with a license to store grain in a public grain warehouse is subject to an examination fee for each licensed location, based on the following schedule for one examination:

Bushel Capacity	Examination Fee
Less than 150,001	\$ 300
150,001 to 250,000	\$ 425
250,001 to 500,000	\$ 545
500,001 to 750,000	\$ 700
750,001 to 1,000,000	\$ 865
1,000,001 to 1,200,000	\$ 1,040
1,200,001 to 1,500,000	\$ 1,205
1,500,001 to 2,000,000	\$ 1,380
More than 2,000,000	\$ 1,555

(c) The fee for the second examination is \$55 per hour per examiner for warehouse operators who choose to have it performed by the commissioner.

(d) A penalty amount not to exceed ten percent of the fees due may be imposed by the commissioner for each month for which the fees are delinquent.

Sec. 53. Minnesota Statutes 2010, section 232.22, subdivision 4, is amended to read:

Subd. 4. **Bonding.** (a) Before a license is issued, the applicant for a public grain warehouse operator's license shall file with the commissioner a bond in a penal sum prescribed by the commissioner. ~~The penal sum on a condition one bond shall be established by rule by the commissioner pursuant to the requirements of chapter 14 for all grain outstanding on grain warehouse receipts. The penal sum on a condition two bond shall not be less than \$10,000 for each location up to a maximum of five locations.~~ based on the annual average storage liability as stated on the statement of grain in storage report or on the gross annual grain purchase report, whichever is greater, and applying the following amounts:

(1) \$10,000 for storages with annual average storage liability of more than \$0 but not more than \$25,000;

(2) \$20,000 for storages with annual average storage liability of more than \$25,001 but not more than \$50,000;

28.1 (3) \$30,000 for storages with annual average storage liability of more than \$50,001
28.2 but not more than \$75,000;

28.3 (4) \$50,000 for storages with annual average storage liability of more than \$75,001
28.4 but not more than \$100,000;

28.5 (5) \$75,000 for storages with annual average storage liability of more than \$100,001
28.6 but not more than \$200,000;

28.7 (6) \$125,000 for storages with annual average storage liability of more than
28.8 \$200,001 but not more than \$300,000;

28.9 (7) \$175,000 for storages with annual average storage liability of more than
28.10 \$300,001 but not more than \$400,000;

28.11 (8) \$225,000 for storages with annual average storage liability of more than
28.12 \$400,001 but not more than \$500,000;

28.13 (9) \$275,000 for storages with annual average storage liability of more than
28.14 \$500,001 but not more than \$600,000;

28.15 (10) \$325,000 for storages with annual average storage liability of more than
28.16 \$600,001 but not more than \$700,000;

28.17 (11) \$375,000 for storages with annual average storage liability of more than
28.18 \$700,001 but not more than \$800,000;

28.19 (12) \$425,000 for storages with annual average storage liability of more than
28.20 \$800,001 but not more than \$900,000;

28.21 (13) \$475,000 for storages with annual average storage liability of more than
28.22 \$900,001 but not more than \$1,000,000; and

28.23 (14) \$500,000 for storages with annual average storage liability of more than
28.24 \$1,000,000.

28.25 (b) Bonds must be continuous until canceled. To cancel a bond, a surety must provide
28.26 90 days' written notice of the bond's termination date to the licensee and the commissioner.

28.27 Sec. 54. Minnesota Statutes 2010, section 232.22, subdivision 5, is amended to read:

28.28 Subd. 5. **Statement of grain in storage; reports.** (a) All public grain warehouse
28.29 operators must by ~~the tenth day of each month~~ February 15 of each year file with the
28.30 commissioner on ~~forms~~ a form approved by the commissioner a report showing the ~~net~~
28.31 annual average liability of all grain outstanding on grain warehouse receipts ~~as of the close~~
28.32 ~~of business on the last day of~~ that occurred during the preceding month calendar year.

28.33 This report shall be used for the purpose of establishing the penal sum of the bond.

28.34 (b) Warehouse operators that are at a maximum bond and want to continue at
28.35 maximum bond do not need to file this report.

~~(b) If (c) It is a violation of this chapter for any public grain warehouse operator willfully neglects or refuses to fail to file the report required in clause (a) for two consecutive months, the commissioner may immediately suspend the person's license and the licensee must surrender the license to the commissioner. Within 15 days the licensee may request an administrative hearing subject to chapter 14 to determine if the license should be revoked. If no request is made within 15 days the commissioner shall revoke the license.~~

~~(e)~~ (d) Every public grain warehouse operator shall keep in a place of safety complete and accurate records and accounts relating to any grain warehouse operated. The records shall reflect each commodity received and shipped daily, the balance remaining in the grain warehouse at the close of each business day, a listing of all unissued grain warehouse receipts in the operator's possession, a record of all grain warehouse receipts issued which remain outstanding and a record of all grain warehouse receipts which have been returned for cancellation. Copies of grain warehouse receipts or other documents evidencing ownership of grain by a depositor, or other liability of the grain warehouse operator, shall be retained as long as the liability exists but must be kept for a minimum of three years.

~~(d)~~ (e) Every public grain warehouse operator must maintain in the grain warehouse at all times grain of proper grade and sufficient quantity to meet delivery obligations on all outstanding grain warehouse receipts.

Sec. 55. Minnesota Statutes 2010, section 232.22, subdivision 7, is amended to read:

Subd. 7. **Bond disbursement.** (a) The ~~condition one~~ bond of a public grain warehouse operator must be conditioned that the public grain warehouse operator issuing a grain warehouse receipt is liable to the depositor for the delivery of the kind, grade and net quantity of grain called for by the receipt.

~~(b) The condition two bond shall provide for payment of loss caused by the grain buyer's failure to pay, upon the owner's demand, the purchase price of grain sold to the grain buyer. The bond shall be conditioned upon the grain buyer being duly licensed as provided herein. The bond shall not cover any transaction which constitutes a voluntary extension of credit.~~

~~(e)~~ (b) Upon notification of default, the commissioner shall determine the validity of all claims and notify all parties having filed claims. Any aggrieved party may appeal the commissioner's determination by requesting, within 15 days, that the commissioner initiate a contested case proceeding. In the absence of such a request, or following the issuance of a final order in a contested case, the surety company shall issue payment to those claimants entitled to payment. If the commissioner determines it is necessary, the

commissioner may apply to the district court for an order appointing a trustee or receiver to manage and supervise the operations of the grain warehouse operator in default. The commissioner may participate in any resulting court proceeding as an interested party.

~~(d)~~ (c) For the purpose of determining the amount of bond disbursement against all valid claims under a condition one bond, all grain owned or stored in the public grain warehouse shall be sold and the combined proceeds deposited in a special fund. Payment shall be made from the special fund satisfying the valid claims of grain warehouse receipt holders.

~~(e)~~ (d) If a public grain warehouse operator has become liable to more than one depositor or producer by reason of breaches of the conditions of the bond and the amount of the bond is insufficient to pay, beyond the proceeds of the special fund, the entire liability to all valid claimants, the proceeds of the bond and special fund shall be apportioned among the valid claimants on a pro rata basis.

~~(f)~~ (e) A bond is not cumulative from one licensing period to the next. The maximum liability of the bond shall be its face value for the licensing period.

Sec. 56. Minnesota Statutes 2010, section 232.23, subdivision 2, is amended to read:

Subd. 2. **Scale tickets.** A public or private grain warehouse operator, upon receiving grain, shall issue a scale ticket for each load of grain received. Scale tickets shall contain the name, location and the date of each transaction, weight, volume, kind of grain, signature of warehouse operator, and be consecutively numbered. Electronic grain tickets do not require a signature. A duplicate copy of each scale ticket shall remain in the possession of the public or private grain warehouse operator as a permanent record. The original scale ticket shall be delivered to the depositor upon receipt of each load of grain. Each scale ticket shall have printed across its face "This is a memorandum, nonnegotiable, possession of which does not signify that settlement has or has not been consummated." The scale ticket shall state specifically whether the grain is received on contract, for storage, for shipment or consignment or sold. If the grain is received on contract or sold, the price shall be indicated on the scale ticket. All paper scale tickets shall be dated and signed by the public or private grain warehouse operator or the operator's agent or manager.

Sec. 57. Minnesota Statutes 2010, section 232.23, subdivision 5, is amended to read:

Subd. 5. **Void agreements; penalty.** A provision or agreement in a grain warehouse receipt not contained in subdivision 4 is void. The failure to issue a grain warehouse receipt, as directed, or the issuance of slips, memoranda or other forms of receipt embracing a different grain warehouse or storage contract is a misdemeanor, and no

31.1 slip, memorandum or other form of receipt is admissible as evidence in any civil action.
31.2 Nothing in sections 232.20 to ~~232.25~~ 232.24 requires or compels any person operating a
31.3 flour, cereal or feed mill or malthouse doing a manufacturing business, to receive, store or
31.4 purchase at the mill or malthouse any kind of grain.

31.5 Sec. 58. Minnesota Statutes 2010, section 232.23, subdivision 10, is amended to read:

31.6 Subd. 10. **Delivery of grain.** (a) On the redemption of a grain warehouse receipt
31.7 and payment of all lawful charges, the grain represented by the receipt is immediately
31.8 deliverable to the depositor or the depositor's order, and is not subject to any further charge
31.9 for storage after demand for delivery has been made and proper facilities for receiving and
31.10 shipping the grain have been provided. If delivery has not commenced within 48 hours
31.11 after demand has been made and proper facilities have been provided, the public grain
31.12 warehouse operator issuing the grain warehouse receipt is liable to the owner in damages
31.13 not exceeding two cents per bushel for each day's delay, unless the public grain warehouse
31.14 operator makes delivery to different owners in the order demanded as rapidly as it can be
31.15 done through ordinary diligence, or unless insolvency has occurred.

31.16 (b) If a disagreement arises between the person receiving and the person delivering
31.17 the grain at a public grain warehouse in this state as to the proper grade or dockage of any
31.18 grain, an average sample of at least three quarts of the grain in dispute may be taken by
31.19 either or both of the persons interested. The sample shall be certified by both the owner
31.20 and the public grain warehouse operator as being true samples of the grain in dispute on
31.21 the delivery day. The samples shall be forwarded in a suitable airtight container by parcel
31.22 post or express, prepaid, with the name and address of both parties, to ~~the head of the a~~
31.23 United States Department of Agriculture authorized grain inspection program ~~of the~~
31.24 ~~Department of Agriculture~~, who shall, upon request, examine the grain, and determine
31.25 what grade or dockage the samples of grain are entitled to under the inspection rules.
31.26 Before the results of the inspection are released to the person requesting the inspection,
31.27 the person shall pay the required fee. The fee shall be the same as that required for similar
31.28 services rendered by the grain inspection program.

31.29 Sec. 59. Minnesota Statutes 2010, section 232.24, subdivision 1, is amended to read:

31.30 Subdivision 1. **Schedule of inspection examination.** A licensee under sections
31.31 232.20 to 232.25 is subject to two ~~audits~~ examinations annually conducted by the
31.32 commissioner or the agricultural marketing service of the United States Department of
31.33 Agriculture. The commissioner may, by rule, authorize one ~~audit~~ examination to be
31.34 conducted by a qualified nongovernmental unit.

32.1 Sec. 60. Minnesota Statutes 2010, section 232.24, subdivision 2, is amended to read:

32.2 Subd. 2. **Financial reports.** A licensee under sections 232.20 to 232.25 upon request
32.3 must provide to the commissioner a copy of the financial reports of an audit conducted by
32.4 a qualified nongovernmental unit containing information the commissioner requires.

32.5 Sec. 61. Minnesota Statutes 2010, section 239.092, is amended to read:

32.6 **239.092 SALE FROM BULK.**

32.7 (a) Bulk sales of commodities, when the buyer and seller are not both present to
32.8 witness the measurement, must be accompanied by a delivery ticket containing the
32.9 following information:

32.10 (1) the name and address of the person who weighed or measured the commodity;

32.11 (2) the date delivered;

32.12 (3) the quantity delivered;

32.13 (4) the count of individually wrapped packages delivered, if more than one is
32.14 included in the quantity delivered;

32.15 (5) the quantity on which the price is based, if different than the quantity delivered;

32.16 and

32.17 (6) the identity of the commodity in the most descriptive terms commercially
32.18 practicable, including representations of quality made in connection with the sale.

32.19 (b) This section is not intended to conflict with the bulk sale requirements of the
32.20 Department of Agriculture. If a conflict occurs, the law and rules of the Department of
32.21 Agriculture govern.

32.22 (c) Firewood sold or distributed ~~across state boundaries or more than 100 miles~~
32.23 ~~from its origin in this state~~ must include delivery ticket information regarding the harvest
32.24 locations of the wood by county or counties and state.

32.25 (d) Paragraph (c) may be enforced using the authority granted in this chapter or
32.26 section 18J.05 or 84D.13.

32.27 Sec. 62. Minnesota Statutes 2010, section 239.093, is amended to read:

32.28 **239.093 INFORMATION REQUIRED WITH PACKAGE.**

32.29 (a) A package offered, exposed, or held for sale must bear a clear and conspicuous
32.30 declaration of:

32.31 (1) the identity of the commodity in the package, unless the commodity can be easily
32.32 identified through the wrapper or container;

32.33 (2) the net quantity in terms of weight, measure, or count;

(3) the name and address of the manufacturer, packer, or distributor, if the packages were not produced on the premises where they are offered, exposed, or held for sale; and

(4) the unit price, if the packages are part of a lot containing random weight packages of the same commodity.

(b) This section is not intended to conflict with the packaging requirements of the Department of Agriculture. If a conflict occurs, the laws and rules of the Department of Agriculture govern.

(c) Firewood sold or distributed ~~across state boundaries or more than 100 miles from its origin in this state~~ must include information regarding the harvest locations of the wood by county or counties and state on each label or wrapper.

(d) Paragraph (c) may be enforced using the authority granted in this chapter or section 18J.05 or 84D.13.

Sec. 63. Minnesota Statutes 2010, section 239.77, subdivision 3, is amended to read:

Subd. 3. **Exceptions.** (a) The minimum content requirements of subdivision 2 do not apply to fuel used in the following equipment:

(1) motors located at an electric generating plant regulated by the Nuclear Regulatory Commission;

(2) railroad locomotives;

(3) off-road taconite and copper mining equipment and machinery;

(4) off-road logging equipment and machinery; and

~~(5) until May 1, 2010, vehicles and equipment used exclusively on an aircraft landing field~~ vessels of the U.S. Coast Guard and vessels subject to inspection under United States Code, title 46, section 3301, subsections (1), (9), (10), (13), or (15).

(b) The exemption in paragraph (a), clause (1), expires 30 days after the Nuclear Regulatory Commission has approved the use of biodiesel fuel in motors at electric generating plants under its regulation.

(c) The minimum content requirements of subdivision 2 do not apply to Number 1 diesel fuel sold or offered for sale during the months of October, November, December, January, February, and March.

(d) This subdivision expires on May 1, 2012 2014.

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

Sec. 64. Minnesota Statutes 2010, section 239.77, subdivision 5, is amended to read:

Subd. 5. **Annual report.** (a) Beginning in 2009, the commissioner of agriculture must report by January 15 of each year to the chairs and ranking minority members of

the legislative committees and divisions with jurisdiction over agriculture policy and finance regarding the implementation of the minimum content requirements in subdivision 2, including information about the price and supply of biodiesel fuel. The report shall include information about the impacts of the biodiesel mandate on the development of biodiesel production capacity in the state, and on the use of feedstock grown or raised in the state for biodiesel production. The report must include any written comments received from members of the biodiesel fuel task force by January 1 of that year designated by them for inclusion in the report.

(b) The commissioner of agriculture, in consultation with the commissioner of commerce and the Biodiesel Fuel Task Force, shall study the need to continue the exceptions in subdivision 3. The 2013 report under paragraph (a) shall include recommendations for studies and other research needs to make a determination on the need for the exceptions, including any recommendations for use of the agricultural growth, research, and innovation program funding to conduct the research. The 2014 report under paragraph (a) shall contain the commissioner of agriculture's recommendations on whether to continue any of the exceptions in subdivision 3.

Sec. 65. Minnesota Statutes 2010, section 239.791, subdivision 1a, is amended to read:

Subd. 1a. **Minimum ethanol content required.** (a) Except as provided in subdivisions 10 to 14, on August 30, ~~2013~~ 2014, and thereafter, a person responsible for the product shall ensure that all gasoline sold or offered for sale in Minnesota must contain at least the quantity of ethanol required by clause (1) or (2), whichever is greater:

(1) 20 percent denatured ethanol by volume; or

(2) the maximum percent of denatured ethanol by volume authorized in a waiver granted by the United States Environmental Protection Agency.

(b) For purposes of enforcing the minimum ethanol requirement of paragraph (a), clause (1), a gasoline/ethanol blend will be construed to be in compliance if the ethanol content, exclusive of denaturants and other permitted components, comprises not less than 18.4 percent by volume and not more than 20 percent by volume of the blend as determined by an appropriate United States Environmental Protection Agency or American Society of Testing Materials standard method of analysis of alcohol content in motor fuels.

(c) This subdivision expires on December 31, ~~2012~~ 2013, if by that date:

(1) the commissioner of agriculture certifies and publishes the certification in the State Register that at least 20 percent of the volume of gasoline sold in the state is denatured ethanol; or

(2) federal approval has not been granted under paragraph (a), clause (1). The United States Environmental Protection Agency's failure to act on an application shall not be deemed approval under paragraph (a), clause (1), or a waiver under section 211(f)(4) of the Clean Air Act, United States Code, title 42, section 7545, subsection (f), paragraph (4).

Sec. 66. Laws 2008, chapter 296, article 1, section 25, the effective date, as amended by Laws 2010, chapter 333, article 1, section 33, is amended to read:

EFFECTIVE DATE. This section is effective June 1, ~~2012~~ 2017.

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

Sec. 67. Laws 2011, chapter 14, section 6, is amended by adding an effective date to read:

EFFECTIVE DATE. This section is effective retroactively from April 16, 2011.

Sec. 68. **NEXT GENERATION BIOFUEL BLENDS.**

The NextGen Energy Board, established in Minnesota Statutes, section 41A.105, shall include in its February 2013 report to the legislature an analysis of next generation biofuels that can be blended with gasoline or other energy sources. The report shall analyze research on next generation biofuel blends and information on federal approvals needed and the status of the federal approval for next generation biofuel blends.

Sec. 69. **REPEALER.**

(a) Minnesota Statutes 2010, sections 17B.01; 17B.02; 17B.03; 17B.04; 17B.041; 17B.0451; 17B.048; 17B.05; 17B.06; 17B.07; 17B.10; 17B.11; 17B.12; 17B.13; 17B.14; 17B.15, subdivisions 1 and 3; 17B.16; 17B.17; 17B.18; 17B.20; 17B.22, subdivisions 1 and 2; 17B.28; 17B.29; 27.19, subdivisions 2 and 3; 27.20; 35.243; 35.255; 35.67; 35.68; 35.69; 35.72; 223.16, subdivision 7; 223.18; 232.21, subdivision 4; 232.24, subdivision 3; 232.25; 233.01; 233.015; 233.017; 233.02; 233.03; 233.04; 233.05; 233.06; 233.07; 233.08; 233.09; 233.10; 233.11; 233.12; 233.22; 233.23; 233.24; 233.33; 234.01; 234.03; 234.04; 234.05; 234.06; 234.08; 234.09; 234.10; 234.11; 234.12; 234.13; 234.14; 234.15; 234.16; 234.17; 234.18; 234.19; 234.20; 234.21; 234.22; 234.23; 234.24; 234.25; 234.27; 235.01; 235.02; 235.04; 235.05; 235.06; 235.07; 235.08; 235.09; 235.10; 235.13; 235.18; 236.01; 236.02; 236.03; 236.04; 236.05; 236.06; 236.07; 236.08; 236.09; 395.14; 395.15; 395.16; 395.17; 395.18; 395.19; 395.20; 395.21; 395.22; 395.23; and 395.24, are repealed.

36.1 (b) Minnesota Rules, parts 1505.0780; 1505.0810; 1511.0100; 1511.0110;
36.2 1511.0120; 1511.0130; 1511.0140; 1511.0150; 1511.0160; 1511.0170; 1562.0100,
36.3 subparts 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, and 25;
36.4 1562.0200; 1562.0400; 1562.0700; 1562.0900; 1562.1300; and 1562.1800, are repealed.

36.5 **ARTICLE 2**

36.6 **FOOD ENFORCEMENT**

36.7 Section 1. Minnesota Statutes 2010, section 17.982, subdivision 1, is amended to read:

36.8 Subdivision 1. **Criminal penalties.** A person who violates a provision of chapter
36.9 ~~25, 28A, 29, 31, 31A, or 31B, or 34~~ for which a penalty has not been prescribed is guilty
36.10 of a misdemeanor.

36.11 Sec. 2. Minnesota Statutes 2010, section 17.983, is amended to read:

36.12 **17.983 ADMINISTRATIVE PENALTIES AND ENFORCEMENT.**

36.13 Subdivision 1. **Administrative penalties; citation.** If a person has violated a
36.14 provision of chapter 25, ~~28A, 29, 31, 31A, 31B, or 32, or 34~~, the commissioner may issue
36.15 a written citation to the person by personal service or by certified mail. The citation must
36.16 describe the nature of the violation and the statute or rule alleged to have been violated;
36.17 state the time for correction, if applicable; and the amount of any proposed fine. The
36.18 citation must advise the person to notify the commissioner in writing within 30 days if the
36.19 person wishes to appeal the citation. If the person fails to appeal the citation, the citation
36.20 is the final order and not subject to further review.

36.21 Subd. 3. **Contested case.** If a person appeals a citation or a penalty assessment
36.22 within the time limits in subdivision 1, the commissioner shall initiate a contested
36.23 proceeding under chapter 14. ~~The report of the administrative law judge is the final~~
36.24 ~~decision of the commissioner of agriculture.~~

36.25 Sec. 3. Minnesota Statutes 2010, section 17.984, subdivision 1, is amended to read:

36.26 Subdivision 1. **Authority.** To carry out the commissioner's enforcement duties
36.27 under chapter ~~29, 31, 31A, 32, or 34~~, the commissioner may, upon presenting appropriate
36.28 credentials, during regular working hours and at other reasonable times, inspect premises
36.29 subject to the commissioner's enforcement and licensing authority for reasons related to
36.30 the commissioner's enforcement and licensing authority; request information from persons
36.31 with information relevant to an inspection; and inspect relevant papers and records,

37.1 including business records. The commissioner may issue notices in lieu of citations for
37.2 minor violations if a notice is in the public interest.

37.3 Sec. 4. Minnesota Statutes 2010, section 25.33, subdivision 13, is amended to read:

37.4 Subd. 13. **Label.** "Label" ~~means a display of written, printed, or graphic matter~~
37.5 ~~upon or affixed to the container in which a commercial feed is distributed, or on the~~
37.6 ~~invoice or delivery slip with which a commercial feed is distributed~~ has the meaning given
37.7 in section 34A.01, subdivision 6.

37.8 Sec. 5. Minnesota Statutes 2010, section 25.33, subdivision 14, is amended to read:

37.9 Subd. 14. **Labeling.** "Labeling" ~~means all labels and other written, printed,~~
37.10 ~~or graphic matter upon a commercial feed or any of its containers or wrapper or~~
37.11 ~~accompanying or supporting such commercial feed~~ has the meaning given in section
37.12 34A.01, subdivision 7.

37.13 Sec. 6. Minnesota Statutes 2010, section 25.36, is amended to read:

37.14 **25.36 MISBRANDING.**

37.15 A commercial feed is misbranded if: it is covered by section 34A.03.

37.16 ~~(1) its labeling is false or misleading in any particular;~~

37.17 ~~(2) it is distributed under the name of another commercial feed;~~

37.18 ~~(3) it is not labeled as required in section 25.35;~~

37.19 ~~(4) it purports to be or is represented as a commercial feed or it purports to contain or~~
37.20 ~~is represented as containing a commercial feed ingredient unless that commercial feed or~~
37.21 ~~feed ingredient conforms to the definition, if any, prescribed by rule by the commissioner;~~

37.22 ~~(5) any word, statement, or other information required by or under authority of~~
37.23 ~~sections 25.31 to 25.43 to appear on the label or labeling is not prominently placed on it~~
37.24 ~~with such conspicuousness as compared with other words, statements, designs, or devices~~
37.25 ~~in the labeling, and in such terms as to render it likely to be read and understood by the~~
37.26 ~~ordinary individual under customary conditions of purchase and use; or~~

37.27 ~~(6) its labeling would deceive or mislead the purchaser with respect to its~~
37.28 ~~composition or suitability.~~

37.29 Sec. 7. Minnesota Statutes 2010, section 25.37, is amended to read:

37.30 **25.37 ADULTERATION.**

37.31 ~~(a)~~ A commercial feed or a material exempted from the definition of commercial
37.32 feed under section 25.33, subdivision 5, is adulterated if: it is covered by section 34A.02.

~~(1) it bears or contains a poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, the commercial feed is not considered adulterated if the quantity of the substance in the commercial feed does not ordinarily render it injurious to health;~~

~~(2) it bears or contains an added poisonous, deleterious, or nonnutritive substance which is unsafe within the meaning of section 406 of the Federal Food, Drug, and Cosmetic Act, other than the one which is a pesticide chemical in or on a raw agricultural commodity, or a food additive;~~

~~(3) it is unsafe or bears or contains any food additive which is unsafe within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act;~~

~~(4) it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of section 408(a) of the Federal Food, Drug, and Cosmetic Act; provided, that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under section 408 of the Federal Food, Drug, and Cosmetic Act and that raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of the pesticide chemical remaining in or on the processed feed is not unsafe if the residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of the residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity unless the feeding of the processed feed will result or is likely to result in a pesticide residue in the edible product of the animal, which is unsafe within the meaning of section 408(a) of the Federal Food, Drug, and Cosmetic Act;~~

~~(5) it is, or it bears or contains any color additive which is unsafe within the meaning of section 706 of the Federal Food, Drug, and Cosmetic Act;~~

~~(6) it is, or it bears or contains, any new animal drug which is unsafe within the meaning of section 512 of the Federal Food, Drug, and Cosmetic Act;~~

~~(7) it consists, in whole or in part, of any filthy, putrid, or decomposed substance, or is otherwise unfit for feed;~~

~~(8) it has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth or may have been rendered injurious to health;~~

~~(9) it is, in whole or in part, the product of a diseased animal or of an animal which has died otherwise than by slaughter which is unsafe within the meaning of section 402(a)(1) or (2) of the Federal Food, Drug, and Cosmetic Act;~~

~~(10) its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or~~

~~(11) it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect under section 409 of the Federal Food, Drug, and Cosmetic Act.~~

~~(b) A commercial feed is adulterated if:~~

~~(1) any valuable constituent has been in whole or in part omitted or abstracted from it or any less valuable substance substituted for a constituent;~~

~~(2) its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling;~~

~~(3) it contains a drug and the methods used in or the facilities or controls used for its manufacture, processing, or packaging do not conform to current good manufacturing practice rules promulgated by the commissioner to assure that the drug meets the safety requirements of sections 25.31 to 25.43 and has the identity and strength and meets the quality and purity characteristics which it purports or is represented to possess. In adopting rules under this clause, the commissioner shall adopt the current good manufacturing practice rules for medicated feed premixes and for medicated feeds established under authority of the Federal Food, Drug, and Cosmetic Act, unless the commissioner determines that they are not appropriate to the conditions which exist in this state; or~~

~~(4) it contains viable weed seeds in amounts exceeding limits established by the commissioner by rule.~~

Sec. 8. Minnesota Statutes 2010, section 28A.03, subdivision 3, is amended to read:

Subd. 3. **Person.** "Person" ~~means any individual, firm, corporation, company, association, cooperative, or partnership and includes any trustee, receiver, assignee, or other similar representative thereof~~ has the meaning given in section 34A.01, subdivision 10.

Sec. 9. Minnesota Statutes 2010, section 28A.03, subdivision 5, is amended to read:

Subd. 5. **Food.** "Food₂" ~~includes every article used for, entering into the consumption of, or used or intended for use in the preparation of food, drink, confectionery, or condiment for humans, whether simple, mixed or compound.~~ "nonperishable food," "frozen food," "perishable food," and "readily perishable food" have the meanings given in section 34A.01.

~~(a) "Perishable food" is food which includes, but is not limited to fresh fruits, fresh vegetables, and other products which need protection from extremes of temperatures in order to avoid decomposition by microbial growth or otherwise.~~

~~(b) "Readily perishable food" is food or a food ingredient consisting in whole or in part of milk, milk products, eggs, meat, fish, poultry or other food or food ingredient which is capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms.~~

~~(c) "Frozen food" is food which is processed and preserved by freezing in accordance with good commercial practices and which is intended to be sold in the frozen state.~~

~~(d) For the purposes of this definition, packaged food in hermetically sealed containers processed by heat to prevent spoilage; packaged pickles; jellies; jams and condiments in sealed containers; bakery products such as bread, rolls, buns, donuts, fruit-filled pies and pastries; dehydrated packaged food; and dry or packaged food so low in moisture content as to preclude development of microorganisms are not "perishable food," "readily perishable food," or "frozen food" within the meaning of paragraphs (a), (b), and (c), when they are stored and handled in accordance with good commercial practices.~~

~~(e) "Nonperishable food" is food described in paragraph (d) with a shelf life of more than 90 days.~~

Sec. 10. Minnesota Statutes 2010, section 28A.03, subdivision 6, is amended to read:

Subd. 6. **Sell; sale.** "Sell" and "sale" ~~include the keeping, offering, or exposing for sale, use, transporting, transferring, negotiating, soliciting, or exchange of food, the having in possession with intent to sell, use, transport, negotiate, solicit, or exchange the same and the storing, or carrying thereof in aid of traffic therein whether done or permitted in person or through others~~ have the meanings given in section 34A.01, subdivision 12.

Sec. 11. Minnesota Statutes 2010, section 28A.21, subdivision 6, is amended to read:

Subd. 6. **Expiration.** Notwithstanding section 15.059, subdivision 5, this section expires June 30, ~~2012~~ 2017.

Sec. 12. Minnesota Statutes 2010, section 31.01, subdivision 2, is amended to read:

Subd. 2. **Person.** "Person" ~~means any individual, firm, partnership, copartnership, society, association, company, or corporation and includes any trustee, receiver, assignee or other similar representative thereof~~ has the meaning given in section 34A.01, subdivision 10.

Sec. 13. Minnesota Statutes 2010, section 31.01, subdivision 3, is amended to read:

41.1 Subd. 3. **Food.** "Food" ~~means articles used for food or drink for humans or other~~
41.2 ~~animals, chewing gum, and articles used for components of any such article~~ has the
41.3 meaning given in section 34A.01, subdivision 4.

41.4 Sec. 14. Minnesota Statutes 2010, section 31.01, subdivision 4, is amended to read:

41.5 Subd. 4. **Sell and sale.** "Sell" and "sale" ~~shall be considered to include the~~
41.6 ~~manufacture, production, processing, packing, exposure, offer, possession, and holding of~~
41.7 ~~any such article for sale; and the sale, dispensing, and giving of any such article, and the~~
41.8 ~~supplying or applying of any such article in the conduct of any food operation~~ have the
41.9 meanings given in section 34A.01, subdivision 12.

41.10 Sec. 15. Minnesota Statutes 2010, section 31.01, subdivision 21, is amended to read:

41.11 Subd. 21. **Label.** "Label" ~~means a display of written, printed, or graphic matter~~
41.12 ~~upon the immediate container of any article, and includes a like display, if required by law~~
41.13 ~~or rule, on the outside container or wrapper, if any there be, of the retail package of such~~
41.14 ~~article~~ has the meaning given in section 34A.01, subdivision 6.

41.15 Sec. 16. Minnesota Statutes 2010, section 31.01, subdivision 25, is amended to read:

41.16 Subd. 25. **Labeling.** "Labeling" ~~means all labels and other written, printed, or~~
41.17 ~~graphic matter upon an article or any of its containers or wrappers, or accompanying such~~
41.18 ~~article~~ has the meaning given in section 34A.01, subdivision 7.

41.19 Sec. 17. Minnesota Statutes 2010, section 31.01, subdivision 28, is amended to read:

41.20 Subd. 28. **Pesticide chemical.** "Pesticide chemical" ~~means any substance which,~~
41.21 ~~alone, in chemical combination, or in formulation with one or more other substances is an~~
41.22 ~~"economic poison" within the meaning of chapter 24, or the Federal Insecticide, Fungicide~~
41.23 ~~and Rodenticide Act (United States Code, title 7, sections 135-135k), as amended, and~~
41.24 ~~which is used in the production, storage, or transportation of raw agricultural commodities~~
41.25 has the meaning given in section 18B.01, subdivision 18.

41.26 Sec. 18. Minnesota Statutes 2010, section 31.121, is amended to read:

41.27 **31.121 FOOD ADULTERATION.**

41.28 A food shall be deemed to be adulterated: if it is covered by section 34A.02.

41.29 ~~(a) If it bears or contains any poisonous or deleterious substance which may render it~~
41.30 ~~injurious to health; but in case the substance is not an added substance such food shall~~

42.1 ~~not be considered adulterated under this clause if the quantity of such substance in such~~
42.2 ~~food does not ordinarily render it injurious to health; or~~

42.3 ~~(b) If it bears or contains any added poisonous or added deleterious substance, other~~
42.4 ~~than one which is a pesticide chemical in or on a raw agricultural commodity; a food~~
42.5 ~~additive; or a color additive, which is unsafe within the meaning of section 31.122; or~~

42.6 ~~(c) If it is a raw agricultural commodity and it bears or contains a pesticide chemical~~
42.7 ~~which is unsafe within the meaning of section 31.122; or~~

42.8 ~~(d) If it is or it bears or contains any food additive which is unsafe within the~~
42.9 ~~meaning of section 31.122; provided that where a pesticide chemical has been used in or~~
42.10 ~~on a raw agricultural commodity in conformity with an exemption granted or tolerance~~
42.11 ~~prescribed under section 31.122, and such raw agricultural commodity has been subjected~~
42.12 ~~to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of~~
42.13 ~~such pesticide chemical remaining in or on such processed food shall, notwithstanding~~
42.14 ~~the provisions of section 31.122 and this clause, not be deemed unsafe if such residue in~~
42.15 ~~or on the raw agricultural commodity has been removed to the extent possible in good~~
42.16 ~~manufacturing practice, and the concentration of such residue in the processed food~~
42.17 ~~when ready to eat is not greater than the tolerance prescribed for the raw agricultural~~
42.18 ~~commodity; or~~

42.19 ~~(e) If it consists in whole or in part of a diseased, contaminated, filthy, putrid, or~~
42.20 ~~decomposed substance, or if it is otherwise unfit for food; or~~

42.21 ~~(f) If it has been produced, prepared, packed, or held under insanitary conditions~~
42.22 ~~whereby it may have become contaminated with filth, or whereby it may have been~~
42.23 ~~rendered diseased, unwholesome, or injurious to health; or~~

42.24 ~~(g) If it is in whole or in part the product of a diseased animal or of an animal which~~
42.25 ~~has died otherwise than by slaughter, or of an animal that has been fed upon the uncooked~~
42.26 ~~offal from a slaughterhouse; or~~

42.27 ~~(h) If its container is composed in whole or in part of any poisonous or deleterious~~
42.28 ~~substance which may render the contents injurious to health; or~~

42.29 ~~(i) If it has been intentionally subjected to radiation, unless the use of the radiation~~
42.30 ~~was in conformity with a rule or exemption in effect pursuant to section 31.122 or section~~
42.31 ~~409 of the federal act; or~~

42.32 ~~(j) If any valuable constituent has been in whole or in part omitted or abstracted~~
42.33 ~~therefrom; or~~

42.34 ~~(k) If any substance has been substituted wholly or in part therefor; or~~

42.35 ~~(l) If damage or inferiority has been concealed in any manner; or~~

~~(m) If any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength or make it appear better or of greater value than it is; or~~

~~(n) If it is confectionery, and (1) has partially or completely imbedded therein any nonnutritive object; provided, that this clause shall not apply in the case of any nonnutritive object if in the judgment of the commissioner, as provided by rules, such object is of practical functional value to the confectionery product and would not render the product injurious or hazardous to health; or (2) bears or contains any nonnutritive substance; provided, that this clause shall not apply to (i) a confection containing alcohol as defined in section 31.76, or (ii) a safe nonnutritive substance which is in or on confectionery by reason of its use for some practical functional purpose in the manufacture, packaging, or storing of such confectionery if the use of the substance does not promote deception of the consumer or otherwise result in adulteration or misbranding in violation of any provision of the Minnesota Food Law; and provided further, that the commissioner may, for the purpose of avoiding or resolving uncertainty as to the application of this clause, issue rules allowing or prohibiting the use of particular nonnutritive substances; or~~

~~(o) If it is or bears or contains any color additive which is unsafe within the meaning of section 31.122; or~~

~~(p) If it is oleomargarine or margarine or butter and any of the raw material used therein consisted in whole or in part of any filthy, putrid, or decomposed substance, or such oleomargarine or margarine or butter is otherwise unfit for food.~~

Sec. 19. Minnesota Statutes 2010, section 31.123, is amended to read:

31.123 FOOD MISBRANDING.

A food ~~shall be deemed to be~~ is misbranded: if it is covered by section 34A.03, paragraph (a).

~~(a) If its labeling is false or misleading in any particular, or if its labeling, whether on the commodity itself, its container or its package, fails to conform with the requirements of Laws 1974, chapter 84;~~

~~(b) If it is offered for sale under the name of another food;~~

~~(c) If it is an imitation of another food for which a definition and standard of identity have been prescribed by rules as provided by sections 31.10 and 31.102; or if it is an imitation of another food that is not subject to clause (g), unless in either case its label bears in type of uniform size and prominence the word "imitation" and immediately thereafter the name of the food imitated;~~

~~(d) If its container is so made, formed, or filled as to be misleading;~~

44.1 ~~(e) If in package form, unless it bears a label containing (1) the name and place of~~
44.2 ~~business of the manufacturer, packer, or distributor, and (2) an accurate statement of~~
44.3 ~~the net quantity of the contents in terms of weight, measure, or numerical count, which~~
44.4 ~~statement shall be separately and accurately stated in a uniform location upon the principal~~
44.5 ~~display panel of the label; provided, that under this subclause reasonable variations shall~~
44.6 ~~be permitted, and exemptions as to small packages shall be established by rules prescribed~~
44.7 ~~by the commissioner;~~

44.8 ~~(f) If any word, statement, or other information required by or under authority of~~
44.9 ~~the Minnesota Food Law to appear on the label or labeling is not prominently placed~~
44.10 ~~thereon with such conspicuousness (as compared with other words, statements, designs, or~~
44.11 ~~devices, in the labeling) and in such terms as to render it likely to be read and understood~~
44.12 ~~by the ordinary individual under customary conditions of purchase and use;~~

44.13 ~~(g) If it purports to be or is represented as a food for which a definition and standard~~
44.14 ~~of identity have been prescribed by rules as provided by sections 31.10 and 31.102,~~
44.15 ~~unless (1) it conforms to such definition and standard, and (2) its label bears the name~~
44.16 ~~of the food specified in the definition and standard, and, insofar as may be required by~~
44.17 ~~such rules, the common names of optional ingredients (other than spices, flavoring, and~~
44.18 ~~coloring) present in such food;~~

44.19 ~~(h) If it purports to be or is represented as (1) a food for which a standard of quality~~
44.20 ~~has been prescribed by rules as provided by sections 31.10 and 31.102, and its quality falls~~
44.21 ~~below such standard unless its label bears, in such manner and form as such rules specify,~~
44.22 ~~a statement that it falls below such standard, or (2) a food for which a standard or standards~~
44.23 ~~of fill of container have been prescribed by rule as provided by sections 31.10 and 31.102,~~
44.24 ~~and it falls below the standard of fill of container applicable thereto unless its label bears, in~~
44.25 ~~such manner and form as such rules specify, a statement that it falls below such standard;~~

44.26 ~~(i) If it is not subject to the provisions of clause (g), unless it bears labeling clearly~~
44.27 ~~giving (1) the common or usual name of the food, if any there be, and (2) in case it~~
44.28 ~~is fabricated from two or more ingredients, the common or usual name of each such~~
44.29 ~~ingredient, except that spices, flavorings, and colorings, other than those sold as such,~~
44.30 ~~may be designated as spices, flavorings, and colorings, without naming each; provided,~~
44.31 ~~that to the extent that compliance with the requirements of this subclause is impractical~~
44.32 ~~or results in deception or unfair competition, exemptions shall be established by rules~~
44.33 ~~promulgated by the commissioner;~~

44.34 ~~(j) If it purports to be or is represented for special dietary uses, unless its label~~
44.35 ~~bears such information concerning its vitamin, mineral, and other dietary properties as~~

~~the commissioner determines to be, and by rules prescribes as, necessary in order to fully inform purchasers as to its value for such uses;~~

~~(k) If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; provided, that to the extent that compliance with the requirements of this clause is impracticable, exemptions shall be established by rules promulgated by the commissioner. The provisions of this clause and clauses (g) and (i) with respect to artificial coloring do not apply to butter, cheese or ice cream. The provisions with respect to chemical preservatives do not apply to a pesticide chemical when used in or on a raw agricultural commodity which is the product of the soil;~~

~~(l) If it is a raw agricultural commodity which is the product of the soil, bearing or containing a pesticide chemical applied after harvest, unless the shipping container of such commodity bears labeling which declares the presence of such chemical in or on such commodity and the common or usual name and the function of such chemical; provided, however, that no such declaration shall be required while such commodity, having been removed from the shipping container, is being held or displayed for sale at retail out of such container in accordance with the custom of the trade;~~

~~(m) If it is a product intended as an ingredient of another food and when used according to the directions of the purveyor will result in the final food product being adulterated or misbranded;~~

~~(n) If it is a color additive unless its packaging and labeling are in conformity with such packaging and labeling requirements applicable to such color additive prescribed under the provisions of the federal act.~~

Sec. 20. Minnesota Statutes 2010, section 31A.02, subdivision 13, is amended to read:

Subd. 13. **Adulterated.** "Adulterated" means ~~a carcass, part of a carcass, meat, poultry, poultry food product, or meat food product under one or more of the following circumstances:~~ an item is covered by section 34A.02, subdivision 1.

~~(a) if it bears or contains a poisonous or harmful substance which may render it injurious to health; but if the substance is not an added substance, the article is not adulterated if the quantity of the substance in or on the article does not ordinarily make it injurious to health;~~

~~(b) if it bears or contains, by administration of a substance to the live animal or otherwise, an added poisonous or harmful substance, other than (1) a pesticide chemical in or on a raw agricultural commodity; (2) a food additive; or (3) a color additive, which may, in the judgment of the commissioner, make the article unfit for human food;~~

~~(c) if it is, in whole or in part, a raw agricultural commodity that bears or contains a pesticide chemical which is unsafe within the meaning of section 408 of the Federal Food, Drug, and Cosmetic Act;~~

~~(d) if it bears or contains a food additive which is unsafe within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act;~~

~~(e) if it bears or contains a color additive which is unsafe within the meaning of section 706 of the Federal Food, Drug, and Cosmetic Act;~~

~~(f) if it contains a filthy, putrid, or decomposed substance or is for any other reason unfit for human food;~~

~~(g) if it has been prepared, packed, or held under unsanitary conditions so that it may be contaminated with filth or harmful to health;~~

~~(h) if it is wholly or partly the product of an animal which has died otherwise than by slaughter;~~

~~(i) if its container is wholly or partly composed of a poisonous or harmful substance which may make the contents harmful to health;~~

~~(j) if it has been intentionally subjected to radiation, unless the use of the radiation conformed with a regulation or exemption in effect under section 409 of the Federal Food, Drug, and Cosmetic Act;~~

~~(k) if a valuable constituent has been wholly or partly omitted or removed from it; if a substance has been wholly or partly substituted for it; if damage or inferiority has been concealed; or if a substance has been added to it or mixed or packed with it so as to increase its bulk or weight, reduce its quality or strength, or make it appear better or of greater value than it is; or~~

~~(l) if it is margarine containing animal fat and any of the raw material used in it wholly or partly consisted of a filthy, putrid, or decomposed substance.~~

Sec. 21. Minnesota Statutes 2010, section 31A.02, subdivision 14, is amended to read:

Subd. 14. **Misbranded.** "Misbranded" means ~~a carcass, part of a carcass, meat, poultry, poultry food product, or meat food product under one or more of the following circumstances:~~ an item is covered by section 34A.03, paragraph (a).

~~(a) if its labeling is false or misleading;~~

~~(b) if it is offered for sale under the name of another food;~~

~~(c) if it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" followed immediately by the name of the food imitated;~~

~~(d) if its container is made, formed, or filled so as to be misleading;~~

47.1 ~~(e) if its package or other container does not have a label showing (1) the name and~~
47.2 ~~place of business of the manufacturer, packer, or distributor; and (2) an accurate statement~~
47.3 ~~of the quantity of the contents in terms of weight, measure, or numerical count subject~~
47.4 ~~to reasonable variations permitted and exemptions for small packages established in~~
47.5 ~~rules of the commissioner;~~

47.6 ~~(f) if a word, statement, or other information required by or under authority of this~~
47.7 ~~chapter to appear on the label or other labeling is not prominently and conspicuously~~
47.8 ~~placed on the label or labeling in terms that make it likely to be read and understood by the~~
47.9 ~~ordinary individual under customary conditions of purchase and use;~~

47.10 ~~(g) if it is represented as a food for which a definition and standard of identity or~~
47.11 ~~composition has been prescribed by rules of the commissioner under section 31A.07,~~
47.12 ~~unless (1) it conforms to the definition and standard, and (2) its label bears the name of the~~
47.13 ~~food specified in the definition and standard and, if required by the rules, the common~~
47.14 ~~names of optional ingredients, other than spices, flavoring, and coloring, present in the~~
47.15 ~~food;~~

47.16 ~~(h) if it is represented as a food for which a standard of fill of container has been~~
47.17 ~~prescribed by rules of the commissioner under section 31A.07, and it falls below the~~
47.18 ~~applicable standard of fill of container, unless its label bears, in the manner and form the~~
47.19 ~~rules specify, a statement that it falls below the standard;~~

47.20 ~~(i) if it is not subject to paragraph (g), unless its label bears (1) the usual name of~~
47.21 ~~the food, if there is one, and (2) in case it is fabricated from two or more ingredients,~~
47.22 ~~the common or usual name of each ingredient; except that spices, flavorings, and~~
47.23 ~~colorings may, when authorized by the commissioner, be designated as spices, flavorings,~~
47.24 ~~and colorings without naming each. To the extent that compliance with clause (2) is~~
47.25 ~~impracticable, or results in deception or unfair competition, the commissioner shall~~
47.26 ~~establish exemptions by rule;~~

47.27 ~~(j) if it purports to be or is represented for special dietary uses, unless its label bears~~
47.28 ~~the information concerning its vitamin, mineral, and other dietary properties that the~~
47.29 ~~commissioner, after consultation with the Secretary of Agriculture of the United States,~~
47.30 ~~determines by rule to be necessary to inform purchasers of its value for special dietary uses;~~

47.31 ~~(k) if it bears or contains any artificial flavoring, artificial coloring, or chemical~~
47.32 ~~preservative, unless it bears labeling stating that fact;~~

47.33 ~~(l) if it fails to bear, directly or on its container, as the commissioner by rule~~
47.34 ~~prescribes, the inspection legend and other information the commissioner may require by~~
47.35 ~~rule to assure that it will not have false or misleading labeling and that the public will be~~
47.36 ~~told how to keep the article wholesome.~~

Sec. 22. Minnesota Statutes 2010, section 31A.02, subdivision 15, is amended to read:

Subd. 15. **Label.** "Label" ~~means a display of written, printed, or graphic matter on an article's immediate container, not including package liners~~ has the meaning given in section 34A.01, subdivision 6.

Sec. 23. Minnesota Statutes 2010, section 31A.02, subdivision 16, is amended to read:

Subd. 16. **Labeling.** "Labeling" ~~means labels and other written, printed, or graphic matter (1) on an article or its containers or wrappers, or (2) accompanying an article~~ has the meaning given in section 34A.01, subdivision 7.

Sec. 24. Minnesota Statutes 2010, section 31A.23, is amended to read:

31A.23 DETENTION OF ANIMALS OR PRODUCTS.

This section applies to a carcass, part of a carcass, meat, or meat food product of an animal, a product exempted from the definition of a meat food product, or a dead, dying, disabled, or diseased animal. If an authorized representative of the commissioner finds such an article or animal on premises where it is held for purposes of, during, or after distribution in intrastate commerce, and there is reason to believe that it is adulterated or misbranded and is usable as human food, or that it has not been inspected, in violation of sections 31A.01 to 31A.16, the Federal Meat Inspection Act, or the Federal Food, Drug, and Cosmetic Act, or that the article or animal has been or is intended to be distributed in violation of a provision of those laws, it may be detained by the representative for up to 20 days pending action under section ~~31A.24~~ 34A.11, subdivision 2, or notification of federal authorities having jurisdiction over the article or animal. It must not be moved by a person, firm, or corporation from the place at which it is located when detained, until released by the representative. The representative may require all official marks to be removed from the article or animal before it is released unless the commissioner is satisfied that the article or animal is eligible to retain the official marks.

Sec. 25. Minnesota Statutes 2010, section 32.01, subdivision 11, is amended to read:

Subd. 11. **Adulterated.** "Adulterated" ~~has the meaning given it in section 31.01, subdivision 19, and acts amendatory thereof~~ means an item is covered by section 34A.02, subdivision 1.

Sec. 26. Minnesota Statutes 2010, section 32.01, subdivision 12, is amended to read:

Subd. 12. **Misbranded.** "Misbranded" or "misbranding" ~~has the meaning given in section 31.01, subdivision 5, and acts amendatory thereof~~ means an item is covered by section 34A.03, paragraph (a).

Sec. 27. **[34A.01] DEFINITIONS.**

Subdivision 1. **Applicability.** The definitions in this section and chapters 28, 28A, 29, 30, 31, 31A, 32, and 34 apply to this chapter. The definitions in this section apply to chapters 25 and 32.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of agriculture.

Subd. 3. **Federal act.** "Federal act" means the federal Food, Drug, and Cosmetic Act, as amended, United States Code, title 21, sections 301 et seq.

Subd. 4. **Food.** "Food" means every ingredient used for, entering into the consumption of, or used or intended for use in the preparation of food, drink, confectionery, or condiment for humans or other animals, whether simple, mixed, or compound; and articles used as components of these ingredients.

Subd. 5. **Frozen food.** "Frozen food" is food that is processed and preserved by freezing and which is intended to be sold in the frozen state.

Subd. 6. **Label.** "Label" means a display of written, printed, or graphic matter upon or affixed to:

(1) the container of any food, and includes a like display, if required by law or rule, on the outside container or wrapper, if there is one, of the retail package of the food, not including package liners; or

(2) the invoice or delivery slip with which commercial feed is distributed.

Subd. 7. **Labeling.** "Labeling" means labels and other written, printed, or graphic matter:

(1) on food or its containers or wrappers;

(2) accompanying or supporting food; or

(3) a placard in, on, or adjacent to the food.

Subd. 8. **Nonperishable food.** "Nonperishable food" is food with a shelf life of more than 90 days and that is not perishable food, readily perishable food, or frozen food.

Subd. 9. **Perishable food.** "Perishable food" means food including, but not limited to, fresh fruits, fresh vegetables, and other products that need protection from extremes of temperatures in order to avoid decomposition by microbial growth or otherwise.

Subd. 10. **Person.** "Person" means any individual, firm, partnership, cooperative, society, joint stock association, association, company, or corporation and includes any

50.1 officer, employee, agent, trustee, receiver, assignee, or other similar business entity or
50.2 representative of one of those entities.

50.3 Subd. 11. **Readily perishable food.** "Readily perishable food" is food or a food
50.4 ingredient consisting in whole or in part of milk, milk products, eggs, meat, fish, poultry,
50.5 or other food or food ingredient that is capable of supporting growth of infectious or
50.6 toxigenic microorganisms. Readily perishable food requires time and temperature control
50.7 to limit pathogenic microorganism growth or toxin formation.

50.8 Subd. 12. **Sell; sale.** "Sell" and "sale" mean keeping, offering, or exposing for sale,
50.9 use, transporting, transferring, negotiating, soliciting, or exchanging food; having in
50.10 possession with intent to sell, use, transport, negotiate, solicit, or exchange food; storing,
50.11 manufacturing, producing, processing, packing, and holding of food for sale; dispensing or
50.12 giving food; or supplying or applying food in the conduct of any food operation or carrying
50.13 food in aid of traffic in food whether done or permitted in person or through others.

50.14 Sec. 28. **[34A.012] EXCLUSIONS.**

50.15 The following items are not perishable food, readily perishable food, or frozen food:

50.16 (1) packaged pickles;

50.17 (2) jellies, jams, and condiments in sealed containers;

50.18 (3) bakery products such as bread, rolls, buns, donuts, fruit-filled pies, and pastries;

50.19 (4) dehydrated packaged food;

50.20 (5) dry or packaged food with a water activity that precludes development of
50.21 microorganisms; and

50.22 (6) food in unopened hermetically sealed containers that is commercially processed
50.23 to achieve and maintain commercial sterility under conditions of nonrefrigerated storage
50.24 and distribution.

50.25 Sec. 29. **[34A.02] ADULTERATION.**

50.26 Subdivision 1. **Adulterated food.** Food is adulterated if:

50.27 (1) it bears or contains any poisonous or deleterious substance which may render it
50.28 injurious to human or animal health; but if the substance is not an added substance, the
50.29 item is not adulterated under this clause if the quantity of the substance in the item does
50.30 not ordinarily render it injurious to human or animal health;

50.31 (2) it bears or contains any added poisonous, deleterious, or nonnutritive substance,
50.32 other than one which is a pesticide in or on a raw agricultural commodity; a food additive;
50.33 or a color additive, that is unsafe within the meaning of section 31.122 or section 406
50.34 of the federal act;

- 51.1 (3) it bears or contains, by administration of a substance to the live animal or
51.2 otherwise, an added poisonous or harmful substance, other than a pesticide in or on a raw
51.3 agricultural commodity, a food additive, or a color additive, that may, in the judgment of
51.4 the commissioner, make the article unfit for human food;
- 51.5 (4) it is unsafe or bears or contains any food additive that is unsafe within the
51.6 meaning of section 31.122 or section 409 of the federal act;
- 51.7 (5) it is or bears or contains any color additive that is unsafe within the meaning of
51.8 section 31.122 or section 706 of the federal act;
- 51.9 (6) it is a raw agricultural commodity and it bears or contains a pesticide that is
51.10 unsafe within the meaning of section 31.122 or section 408 of the federal act;
- 51.11 (7) it consists in whole or in part of a diseased, contaminated, filthy, putrid, or
51.12 decomposed substance, or if it is otherwise unfit for food;
- 51.13 (8) it has been produced, prepared, packed, or held under unsanitary conditions
51.14 whereby it may have become contaminated with filth, or whereby it may have been
51.15 rendered diseased, unwholesome, or injurious to human or animal health;
- 51.16 (9) it is in whole or in part the product of a diseased animal or of an animal which
51.17 has died otherwise than by slaughter that is unsafe within the meaning of section 402(a)(1)
51.18 or (2) of the federal act, or of an animal that has been fed upon the uncooked offal from a
51.19 slaughterhouse;
- 51.20 (10) its container is wholly or partly composed of any poisonous or deleterious
51.21 substance that may render the contents injurious to human or animal health;
- 51.22 (11) it has been intentionally subjected to radiation, unless the use of the radiation
51.23 was in conformity with a rule, regulation, or exemption in effect pursuant to section
51.24 31.122 or section 409 of the federal act;
- 51.25 (12) any valuable constituent has been in whole or in part omitted or abstracted
51.26 therefrom; if any substance has been substituted wholly or in part therefor; or if damage
51.27 or inferiority has been concealed in any manner. In the case of commercial feed, the
51.28 substituted constituent must be of lesser value in order to be adulterated;
- 51.29 (13) any substance has been added to it or mixed or packed with it so as to increase
51.30 its bulk or weight, reduce its quality or strength, or make it appear better or of greater
51.31 value than it is;
- 51.32 (14) its composition or quality falls below or differs from that which it is purported
51.33 or is represented to possess by its labeling; or
- 51.34 (15) it is confectionery and:
- 51.35 (i) has partially or completely imbedded therein any nonnutritive object; provided,
51.36 that this clause does not apply in the case of any nonnutritive object if in the judgment

of the commissioner, as provided by rules, the object is of practical functional value to the confectionery product and would not render the product injurious or hazardous to human or animal health; or

(ii) bears or contains any nonnutritive substance; provided that this item does not apply to a confection containing alcohol as defined in section 31.76, or a safe nonnutritive substance which is in or on confectionery by reason of its use for some practical functional purpose in the manufacture, packaging, or storing of the confectionery if the use of the substance does not promote deception of the consumer or otherwise result in adulteration or misbranding in violation of this chapter, and provided further that the commissioner may, for the purpose of avoiding or resolving uncertainty as to the application of this clause, issue rules allowing or prohibiting the use of particular nonnutritive substances.

Subd. 2. **Commercial feed or material.** For only commercial feed an item is adulterated if:

(1) it contains viable weed seeds in amounts exceeding limits established by the commissioner by rule or in sections 21.71 to 21.78;

(2) it is, bears, or contains any new animal drug which is unsafe within the meaning of section 512 of the federal act; or

(3) it contains a drug and the methods used in or the facilities or controls used for its manufacture, processing, or packaging do not conform to the current good manufacturing practice rules promulgated by the commissioner to ensure that the drug meets the safety requirements of sections 25.31 to 25.43 and has the identity and strength and meets the quality and purity characteristics that it purports or is represented to possess. In adopting rules under this clause, the commissioner shall adopt the current good manufacturing practice rules for medicated feed premixes and for medicated feeds established under authority of the federal act, unless the commissioner determines that they are not appropriate to the conditions that exist in this state.

Sec. 30. **[34A.03] MISBRANDING.**

(a) Food is misbranded if:

(1) its labeling is false or misleading in any particular, or its labeling, whether on the item itself, its container, or its package, fails to conform with the requirements of this chapter;

(2) it is offered for sale or distributed under the name of another food;

(3) it is an imitation of another food for which a definition and standard of identity have been prescribed by rules as provided by sections 31.10 and 31.102; or if it is an imitation of another food that is not subject to clause (5), unless in either case its label

bears in type of uniform size and prominence the word "imitation" and immediately thereafter the name of the food imitated;

(4) its container is so made, formed, or filled as to be misleading;

(5) it purports to be or is represented as a food for which a definition and standard of identity have been prescribed by rules as provided by sections 31.10, 31.102, and 31A.07, unless it conforms to that definition and standard, and its label bears the name of the food specified in the definition and standard, and insofar as may be required by the rules, the common names of optional ingredients, other than spices, flavoring, and coloring, present in the food;

(6) it purports to be or is represented as:

(i) a food for which a standard of quality has been prescribed by rules as provided by sections 31.10 and 31.102, and its quality falls below that standard unless its label bears in a manner and form the rules specify, a statement that it falls below the standard; or

(ii) a food for which a standard or standards of fill of container have been prescribed by rule as provided by sections 31.10, 31.102, and 31A.07, and it falls below the standard of fill of container applicable thereto unless its label bears, in a manner and form the rules specify, a statement that it falls below the standard;

(7) it is not subject to clause (5), unless it bears labeling clearly giving the common or usual name of the food, if there is one, and in case it is fabricated from two or more ingredients, the common or usual name of each ingredient, except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings, without naming each; provided, that to the extent that compliance with the requirements of this clause is impractical or results in deception or unfair competition, exemptions must be established by rules promulgated by the commissioner;

(8) it purports to be or is represented for special dietary uses, unless its label bears information concerning its vitamin, mineral, and other dietary properties as the commissioner determines to be, and by rules prescribed as, necessary in order to fully inform purchasers as to its value for those uses;

(9) it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; provided that, to the extent that compliance with the requirements of this clause is impracticable, exemptions must be established by rules promulgated by the commissioner. The provisions of this clause and clauses (5) and (7) with respect to artificial coloring do not apply to butter, cheese, or ice cream. The provisions with respect to chemical preservatives do not apply to a pesticide when used in or on a raw agricultural commodity which is the product of the soil;

(10) it is a product intended as an ingredient of another food and when used according to the directions of the purveyor will result in the final food product being adulterated or misbranded;

(11) it is a color additive unless its packaging and labeling are in conformity with such packaging and labeling requirements applicable to the color additive prescribed under the provisions of the federal act;

(12) it is food subject to section 31.101, subdivision 10, or chapter 31A, that fails to bear, directly or on its container, as the commissioner by rule prescribes, the inspection legend and other information the commissioner may require by rule to ensure that it will not have false or misleading labeling, and that the public will be told how to keep the article wholesome; or

(13) its labeling would deceive or mislead the purchaser with respect to its composition or suitability.

(b) Food is also misbranded if it is a raw agricultural commodity which is the product of the soil, bearing or containing a pesticide applied after harvest, unless the shipping container of that commodity bears labeling which declares the presence of the chemical in or on the commodity and the common or usual name and the function of the chemical. No such declaration is required while the commodity, having been removed from the shipping container, is being held or displayed for sale at retail out of the container in accordance with the custom of the trade.

Sec. 31. **[34A.04] ENFORCEMENT.**

Subdivision 1. Enforcement required. (a) The commissioner shall enforce this chapter and chapters 28, 28A, 29, 30, 31, 31A, and 34. The enforcement provisions of this chapter do not apply to chapters 25 and 32. To carry out the enforcement duties under these chapters, the commissioner may, upon presenting appropriate credentials, during regular working hours and at other reasonable times, inspect premises subject to the commissioner's enforcement and licensing authority; require information from persons with information relevant to an inspection; and inspect and copy relevant papers and records, including business records.

(b) The commissioner may administer oaths, take and cause to be taken depositions of witnesses, and issue subpoenas, and may petition the district court in the county in which the premises is located to compel compliance with subpoenas or to permit an inspection.

(c) Violations of chapters 28, 28A, 29, 30, 31, 31A, and 34, or rules adopted under chapters 28, 28A, 29, 30, 31, 31A, and 34 are a violation of this chapter.

(d) Upon the request of the commissioner, county attorneys, sheriffs, and other officers having authority in the enforcement of the general criminal laws shall take action to the extent of their authority necessary or proper for the enforcement of this chapter or standards, stipulations, and agreements of the commissioner.

Subd. 2. **Commissioner's discretion.** If minor violations of this chapter occur or the commissioner believes the public interest will be best served by a suitable notice of warning in writing, this chapter does not require the commissioner to take any additional action.

Subd. 3. **Civil actions.** Civil judicial enforcement actions may be brought by the attorney general in the name of the state on behalf of the commissioner. A county attorney may bring a civil judicial enforcement action upon the request of the commissioner and agreement by the attorney general.

Subd. 4. **Injunction.** The commissioner may apply to a court with jurisdiction for a temporary or permanent injunction to prevent, restrain, or enjoin violations of provisions of this chapter.

Subd. 5. **Criminal actions.** Each county attorney or city attorney to whom the commissioner reports any violation of this chapter shall institute appropriate proceedings in the proper courts without delay and prosecute them in the manner required by law. If the county or city attorney refuses to prosecute, the attorney general, on request of the commissioner, may prosecute.

Sec. 32. **[34A.05] FALSE STATEMENT OR RECORD.**

A person must not knowingly make or offer a false statement, record, or other information as part of:

(1) an application for registration, listing, license, certification, or permit subject to this chapter;

(2) records or reports required subject to this chapter; or

(3) an investigation of a violation of this chapter.

Sec. 33. **[34A.06] ADMINISTRATIVE ACTIONS.**

Subdivision 1. **Administrative enforcement.** (a) The commissioner may enforce this chapter by written warning, administrative meeting, cease and desist, forced sale, detain, embargo, condemnation, citation, corrective action order, seizure, agreement, withdrawal from distribution, or administrative penalty if the commissioner determines that the remedy is in the public interest.

(b) For facilities required to submit a plan review under rules of the commissioner of agriculture, the commissioner may withdraw by written order the approval of a facility or equipment if:

(1) hazards to human life exist; or

(2) there is satisfactory evidence that the person to whom the approval was issued has used fraudulent or deceptive practices to evade or attempt to evade provisions of this chapter.

(c) Any action under this subdivision may be appealed pursuant to section 34A.08.

Subd. 2. License revocation, suspension, and refusal. (a) The commissioner may revoke, suspend, limit, modify, or refuse to grant or renew a registration, listing, permit, license, or certification if a person violates or has violated this chapter within the last three years.

(b) The commissioner may revoke, suspend, limit, modify, or refuse to grant or renew a registration, listing, permit, license, or certification to a person from another state if that person has had a registration, permit, license, or certification denied, revoked, or suspended by another state for an offense reasonably related to the requirements, qualifications, or duties of a registration, permit, license, or certification issued under this chapter.

(c) The commissioner may revoke, suspend, limit, modify, or refuse to grant or renew a registration, listing, permit, license, or certification to a person after receiving satisfactory evidence that the registrant, permittee, licensee, or certificate holder has used fraudulent and deceptive practices in the evasion or attempted evasion of this chapter.

(d) A registration, listing, permit, license, or certification may not be revoked or suspended until the registrant, permittee, licensee, or certificate holder has been given opportunity for a hearing by the commissioner. After receiving notice of revocation or suspension, a registrant, permittee, licensee, registrant, or certificate holder has ten days to request a hearing, or another time period mutually agreed to by both parties. If no request is made within ten days or other agreed-upon time, the registration, listing, permit, license, or certification is revoked or suspended. In the case of a refusal to grant a registration, listing, permit, license, or certification, the registrant, permittee, licensee, registrant, or certificate holder has ten days from notice of refusal to request a hearing. Upon receiving a request for hearing, the department shall proceed pursuant to section 34A.08, subdivision 2.

Sec. 34. [34A.07] ADMINISTRATIVE PENALTIES.

Subdivision 1. Assessment. (a) In determining the amount of the administrative penalty, the commissioner shall consider the economic gain received by the person

allowing or committing the violation, the gravity of the violation in terms of actual or potential damage to human or animal health and the environment, the willfulness of the violation, number of violations, history of past violations, and other factors justice may require, if the additional factors are specifically identified in the inspection report. For a violation after an initial violation, the commissioner shall also consider the similarity of the most recent previous violation and the violation to be penalized, the time elapsed since the last violation, the number of previous violations, and the response of the person to the most recent previous violation identified.

(b) The commissioner may issue an administrative citation assessing an administrative penalty of up to \$1,500 for each violation of this chapter. Each day a violation continues is a separate violation. The citation must describe the nature of the violation, the statute or rule alleged to have been violated, the time for correction, if applicable, and the amount of any proposed fine. The citation must advise the person to notify the commissioner in writing within 20 days, or another time period mutually agreed to by the commissioner and the person subject to the citation, if the person wishes to appeal the citation and that if the person fails to appeal the citation, the citation is the final order and not subject to further review.

(c) An administrative penalty may be assessed if the person subject to a written order does not comply with the order in the time provided in the order.

Subd. 2. **Collection of penalty.** (a) If a person subject to an administrative penalty fails to pay the penalty, which must be part of a final citation by the commissioner, by 30 days after the final order is issued, the commissioner may commence a civil action for double the assessed penalty plus attorney fees and costs.

(b) An administrative penalty may be recovered in a civil action in the name of the state brought in the district court of the county where the violation is alleged to have occurred or the district court where the commissioner has an office.

Sec. 35. [34A.08] APPEAL OF ADMINISTRATIVE ACTION OR PENALTY.

Subdivision 1. **Notice of appeal.** (a) After service of a citation under section 34A.07 or order under section 34A.06, subdivision 1, a person has 20 days from receipt of the citation or order, or another time period mutually agreed to by the commissioner and the person subject to the citation or order, to notify the commissioner in writing that the person intends to contest the citation or order through a hearing. The hearing request must specifically identify the order or citation being contested and state the grounds for contesting it.

(b) If the person fails to notify the commissioner that the person intends to contest the citation or order, the citation or order is final and not subject to further judicial or administrative review.

Subd. 2. **Administrative review.** If a person notifies the commissioner that the person intends to contest a citation or order issued under this chapter, the Office of Administrative Hearings shall conduct a hearing in accordance with the applicable provisions of chapter 14 for hearings in contested cases.

Sec. 36. **[34A.09] CIVIL PENALTIES.**

Subdivision 1. **General penalty.** A person who violates this chapter or an order, standard, stipulation, agreement, citation, or schedule of compliance of the commissioner or impedes, hinders, or otherwise prevents or attempts to prevent performance of a duty by the commissioner in connection with this chapter is subject to a civil penalty of up to \$7,500 per day of violation as determined by the court.

Subd. 2. **Actions to compel performance.** In an action to compel performance of an order of the commissioner to enforce this chapter, the court must require a defendant adjudged responsible to perform the acts within the person's power that are reasonably necessary to accomplish the purposes of the order.

Subd. 3. **Recovery of penalties by civil action.** The civil penalties and payments provided for in this section may be recovered by a civil action brought by the county attorney or the attorney general in the name of the state.

Sec. 37. **[34A.10] CRIMINAL PENALTIES.**

Subdivision 1. **General violation.** Except as provided in subdivisions 2 and 3, a person is guilty of a misdemeanor if the person violates this chapter or an order, standard, citation, stipulation, agreement, or schedule of compliance of the commissioner, or impedes, hinders, or otherwise prevents, or attempts to prevent the commissioner or a duly authorized agent in performance of a duty in connection with this chapter. Unless otherwise specified in this chapter, each separate violation is a separate offense, except that in the case of a violation through continuing failure or neglect to obey this chapter, each day the failure or neglect continues is a separate offense.

Subd. 2. **Violation endangering humans or animals.** A person is guilty of a gross misdemeanor if the person violates this chapter or an order, standard, stipulation, agreement, or schedule of compliance of the commissioner and the violation endangers humans or animals.

Subd. 3. **Violation with knowledge.** A person is guilty of a gross misdemeanor if the person knowingly violates this chapter or an order, standard, stipulation, agreement, or schedule of compliance of the commissioner.

Sec. 38. **[34A.11] EMBARGO, SEIZURE, AND CONDEMNATION.**

Subdivision 1. **Tag, notice, or withdrawal from distribution.** If the commissioner finds probable cause to believe that any food, animal, or consumer commodity is being distributed in violation of this chapter or rules under this chapter, or is adulterated or so misbranded as to be dangerous or fraudulent, the commissioner shall affix to the food, animal, or consumer commodity a tag, withdrawal from distribution order, or other appropriate marking giving notice that the food, animal, or consumer commodity is, or is suspected of being, adulterated, misbranded, or distributed in violation of this chapter, and has been detained or embargoed, and warning all persons not to remove or dispose of the food, animal, or consumer commodity by sale or otherwise until permission for removal or disposal is given by the commissioner or the court. It is unlawful for a person to remove or dispose of a detained or embargoed food, animal, or consumer commodity by sale or otherwise without the commissioner's or a court's permission and each transaction is a separate violation of this subdivision.

Subd. 2. **Seizure.** A carcass; part of a carcass; meat or meat food product of an animal; or dead, dying, disabled, or diseased animal that is being transported in intrastate commerce, or is held for sale in this state after transportation in intrastate commerce, may be proceeded against, seized, and condemned if:

(1) it is or has been prepared, sold, transported, or otherwise distributed, offered, or received for distribution in violation of this chapter;

(2) it is usable as human food and is adulterated or misbranded; or

(3) it is in any other way in violation of this chapter.

The commissioner may act against the article or animal at any time on a complaint in the district court of the judicial district where the article or animal is found.

Subd. 3. **Action for condemnation.** If food or an article or animal, detained or embargoed under subdivision 1 has been found by the commissioner to be adulterated or misbranded or in violation of this chapter, the commissioner shall petition the district court in the county in which the food or animal is detained or embargoed for an order and decree for the condemnation of the food or animal. The commissioner shall release the food or animal when this chapter and rules adopted under this chapter have been complied with or the food or animal is found to be not adulterated or misbranded.

Subd. 4. **Remedies.** If the court finds that a detained or embargoed food or animal is adulterated, misbranded, or in violation of this chapter or rules adopted under this chapter, the following remedies are available:

(1) after entering a decree, the food or animal may be destroyed at the expense of the claimant under the supervision of the commissioner, and all court costs, fees, storage, and other proper expenses, must be assessed against the claimant of the food or animal or the claimant's agent; and

(2) if adulteration or misbranding can be corrected by proper labeling or processing of the food or animal, the court, after entry of the decree and after costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that the food or animal must be properly labeled or processed, has been executed, may by order direct that the food or animal be delivered to the claimant for proper labeling or processing under the supervision of the commissioner. The expense of the supervision must be paid by the claimant. The food or animal must be returned to the claimant and the bond must be discharged on the representation to the court by the commissioner that the food or animal is no longer in violation and that the expenses for the supervision have been paid.

Subd. 5. **Duties of commissioner.** If the commissioner finds in any room, building, vehicle of transportation, or other structure any meat, seafood, poultry, vegetable, fruit, or other perishable articles of food that are unsound, or contain any filthy, decomposed, or putrid substance, or that may be poisonous or deleterious to health or otherwise unsafe, the commissioner shall condemn or destroy the item or in any other manner render the item as unsalable as human food, and no one has any cause of action against the commissioner on account of the commissioner's action.

Subd. 6. **Emergency response.** If the governor declares an emergency order under section 12.31 and if the commissioner finds or has probable cause to believe that livestock, food, or a consumer commodity within a specific area is likely to be adulterated because of the emergency or so misbranded as to be dangerous or fraudulent, or is in violation of section 31.131, subdivision 1, the commissioner may embargo a geographic area that is included in the declared emergency. The commissioner shall provide notice to the public and to those with custody of the product in as thorough a manner as is practicable under the emergency circumstances.

Sec. 39. **[34A.12] POWERS OF THE COMMISSIONER.**

Subdivision 1. **Gathering information.** The commissioner may, for the purposes of this chapter:

(1) gather and compile information concerning and investigate the organization, business, conduct, practices, and management of a person in intrastate commerce and the person's relation to other persons; and

(2) require, by general or special orders, a person, persons, or a class of persons engaged in intrastate commerce to file with the commissioner, in the form the commissioner prescribes, annual and special reports or answers in writing to specific questions, giving the commissioner the information the commissioner requires about the organization, business, conduct, practices, management, and relation to other persons, of the person filing the reports or answers. The reports and answers must be made under oath, or otherwise, as the commissioner prescribes, and filed with the commissioner within a reasonable time the commissioner prescribes, unless additional time is granted by the commissioner.

Subd. 2. Examination of documents for evidence. (a) For purposes of this chapter, the commissioner must at all reasonable times be allowed to examine and copy documentary evidence of a person being investigated or proceeded against. The commissioner may subpoena witnesses and require the production of documentary evidence of a person relating to any matter under investigation. The commissioner may sign subpoenas, administer oaths and affirmations, examine witnesses, and receive evidence.

(b) Attendance of witnesses and the production of documentary evidence may be required at a designated hearing place. In case of disobedience to a subpoena, the commissioner may invoke the aid of the district court to require the attendance and testimony of witnesses and the production of documentary evidence.

(c) The district court, in case of refusal to obey a subpoena issued to a person, may issue an order requiring the person to appear before the commissioner or to produce documentary evidence if ordered, or to give evidence touching the matter in question. Failure to obey the order of the court may be punishable by the court as a contempt.

(d) Upon the application of the attorney general at the request of the commissioner, the district court may order a person to comply with this chapter or an order of the commissioner made under this chapter.

(e) The commissioner may order testimony to be taken by deposition in a proceeding or investigation pending under this chapter at any state of the proceeding or investigation. Depositions may be taken before a person designated by the commissioner and having power to administer oaths. The testimony must be reduced to writing by the person taking the deposition or under the person's direction and must then be signed by the witness. A person may be compelled to appear and depose and to produce documentary evidence

in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the commissioner.

(f) Witnesses summoned before the commissioner may be paid the same fees and mileage that are paid witnesses in the district courts. Witnesses whose depositions are taken and the persons taking them may be entitled to the fees that are paid for those services in the district court.

(g) A person is not excused from attending and testifying or from producing books, papers, schedules of charges, contracts, agreements, or other documentary evidence before the commissioner or in obedience to the subpoena of the commissioner whether the subpoena is signed or issued by the commissioner or the commissioner's agent, or in any cause or proceeding, criminal or otherwise, based upon or growing out of an alleged violation of this chapter because the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture. No person may be prosecuted or subjected to a penalty or forfeiture on account of a matter concerning which the person is compelled, after having claimed a privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that a witness is not exempt from prosecution and punishment for perjury committed in testifying.

Subd. 3. Penalties related to testimony and records. (a) A person who neglects or refuses to attend and testify, to answer a lawful inquiry, or to produce documentary evidence, if it is in the person's power to do so in obedience to the subpoena or lawful requirement of the commissioner, is guilty of a misdemeanor.

(b) A person who willfully:

(1) makes or causes to be made a false entry or statement of fact in a report required under this chapter;

(2) makes or causes to be made a false entry in an account, record, or memorandum kept by a person subject to this chapter;

(3) neglects or fails to make or to cause to be made full and correct entries in the accounts, records, or memoranda, of all facts and transactions relating to the person's business;

(4) leaves the jurisdiction of this state;

(5) mutilates, alters, or by any other means falsifies documentary evidence of a person subject to this chapter; or

(6) refuses to submit to the commissioner, for inspection and copying, any documentary evidence of a person subject to this chapter in the person's possession or control, is guilty of a misdemeanor.

63.1 (c) A person required by this chapter to file an annual or special report who fails to
63.2 do so within the time fixed by the commissioner for filing the report and continues the
63.3 failure for 30 days after notice of failure to file, is guilty of a misdemeanor.

63.4 (d) An officer or employee of this state who makes public information obtained by
63.5 the commissioner without the commissioner's authority, unless directed by a court, is
63.6 guilty of a misdemeanor.

63.7 Sec. 40. **REPEALER.**

63.8 (a) Minnesota Statutes 2010, sections 28.15; 28A.12; 28A.13; 29.28; 31.031;
63.9 31.041; 31.05; 31.14; 31.393; 31.58; 31.592; 31.621, subdivision 5; 31.631, subdivision
63.10 4; 31.633, subdivision 2; 31.681; 31.74, subdivision 3; 31.91; 31A.24; 31A.26; and
63.11 34.113, are repealed.

63.12 (b) Minnesota Rules, parts 1540.0010, subpart 26; 1550.0930, subparts 3, 4, 5, 6,
63.13 and 7; 1550.1040, subparts 3, 4, 5, and 6; and 1550.1260, subparts 6 and 7, are repealed.

APPENDIX
Article locations in S2061-1

ARTICLE 1 AGRICULTURE POLICY Page.Ln 2.7

ARTICLE 2 FOOD ENFORCEMENT Page.Ln 36.5