

SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION

S.F. No. 4073

(SENATE AUTHORS: CHAMBERLAIN and Wiger)

DATE	D-PG	OFFICIAL STATUS
03/05/2020	5263	Introduction and first reading Referred to Finance
03/16/2020	5481a	Comm report: To pass as amended
04/30/2020	5504	Second reading Special Order: Amended Third reading Passed

1.1 A bill for an act

1.2 relating to environment; banning certain uses of trichloroethylene; appropriating

1.3 money to help identify alternative chemicals; proposing coding for new law in

1.4 Minnesota Statutes, chapter 116.

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

1.6 Section 1. [116.385] TRICHLOROETHYLENE; BAN.

1.7 Subdivision 1. Definitions. For the purposes of this section, "trichloroethylene" means

1.8 a chemical with the Chemical Abstract Services Registry Number of 79-01-6.

1.9 Subd. 2. Use restriction. (a) Beginning June 1, 2022, an owner or operator of a facility

1.10 required to have an air emissions permit issued by the Pollution Control Agency may not

1.11 use trichloroethylene at its permitted facility, including in any manufacturing, processing,

1.12 or cleaning processes, except as otherwise provided in this section. Cessation of use must

1.13 be made enforceable in the air emissions permit for the facility or in an enforceable agreement

1.14 by June 1, 2022.

1.15 (b) If additional time is needed to assess replacement chemicals or modifications to

1.16 facility operations under subdivision 3, paragraph (b), then by June 1, 2022, the commissioner

1.17 shall include a schedule of compliance in the facility's permit or enter into an enforceable

1.18 agreement that requires compliance with this section before June 1, 2023.

1.19 Subd. 3. Use notice and restriction. (a) Beginning July 1, 2020, the Pollution Control

1.20 Agency shall notify the owner or operator of a facility with an air emissions permit issued

1.21 by the Pollution Control Agency that the facility is required within 30 days of receipt of the

1.22 notice to inform the Pollution Control Agency, on a form provided by the Pollution Control

1.23 Agency, of whether the facility uses trichloroethylene, including in any manufacturing,

2.1 processing, or cleaning processes. The notice required under this subdivision shall include
2.2 a copy of this section regarding use restrictions commencing on June 1, 2022.

2.3 (b) An owner or operator notified under paragraph (a) that uses trichloroethylene shall,
2.4 within 90 days of receipt of notice, inform the Pollution Control Agency that the owner or
2.5 operator will perform a feasibility study to determine if there is a replacement chemical that
2.6 performs the function for which trichloroethylene is used at the facility that is commercially
2.7 available at a reasonable cost of use, or a commercially viable modification of operation to
2.8 reduce trichloroethylene use. The owner or operator may request the Minnesota Technical
2.9 Assistance Program (MnTAP) to perform such a feasibility study on its behalf. Upon
2.10 completion, the owner or operator shall submit the feasibility study to the commissioner.

2.11 Subd. 4. **Exceptions.** (a) The commissioner of the Pollution Control Agency shall grant
2.12 exceptions to the prohibition in subdivision 2, for any of the following uses where compliance
2.13 with the health-based value and health risk limits for trichloroethylene established by the
2.14 Department of Health as of January 1, 2019, is demonstrated:

2.15 (1) use of trichloroethylene in closed systems so that no trichloroethylene is emitted
2.16 from the facility;

2.17 (2) holding trichloroethylene or products containing trichloroethylene for distribution
2.18 to a third party; and

2.19 (3) a hospital licensed under sections 144.50 to 144.56, or an academic medical facility.

2.20 (b) The commissioner of the Pollution Control Agency may grant exceptions to the
2.21 prohibition in subdivision 2 through the variance process established in Minnesota Rules,
2.22 part 7000.7000, for any of the following uses where compliance with the health-based value
2.23 and health risk limits for trichloroethylene established by the Department of Health as of
2.24 January 1, 2019, is demonstrated:

2.25 (1) a facility that uses trichloroethylene for research and development, or other laboratory
2.26 or experimental purposes; and

2.27 (2) a facility that processes trichloroethylene for waste disposal.

2.28 (c) The commissioner of the Pollution Control Agency may grant an exception to the
2.29 prohibition in subdivision 2 to a facility that has performed a feasibility study under
2.30 subdivision 3, paragraph (b), and that feasibility study concludes there are no replacement
2.31 chemicals or modification of operation that performs the function for which trichloroethylene
2.32 is used at the facility and that is commercially available at a reasonable cost of use, and that
2.33 as a result the facility cannot completely eliminate emissions of trichloroethylene. An

3.1 exemption granted under this paragraph shall be provided through the variance process
3.2 established in Minnesota Rules, part 7000.7000.

3.3 (d) Owners or operators of facilities seeking an exception under this section must submit
3.4 information to the commissioner that specifies the exception that applies and provide all
3.5 information needed to determine applicability.

3.6 Subd. 5. **Application of exceptions.** Nothing in subdivision 4 shall be construed to
3.7 authorize a use of an amount of trichloroethylene that exceeds the levels authorized in a
3.8 stipulation agreement entered into between the Pollution Control Agency and a permittee
3.9 that was in effect on June 1, 2022.

3.10 Subd. 6. **Reimbursement for feasibility study.** The commissioner may reimburse
3.11 MnTAP or owners or operators for the costs associated with a feasibility study under
3.12 subdivision 3, paragraph (b), with funds appropriated for that purpose.

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

3.14 Sec. 2. **APPROPRIATION; FEASIBILITY STUDY REIMBURSEMENTS.**

3.15 \$1,288,000 in fiscal year 2021 is appropriated from the environmental fund to the
3.16 commissioner of the Pollution Control Agency for the costs associated with implementing
3.17 Minnesota Statutes, section 116.385. Of this amount, \$600,000 is for reimbursements
3.18 authorized by the commissioner under Minnesota Statutes, section 116.385, subdivision 6.
3.19 This is a onetime appropriation and is available until June 30, 2023.