

Sec. 9. ANIMAL POPULATION CONTROL PROGRAM.

Subdivision 1. STUDY COMMISSION. An animal population control study commission is established, consisting of seven members as follows: one senator appointed by the senate committee on rules and administration; one representative appointed by the speaker of the house; one member each appointed by the St. Paul and Minneapolis animal control offices; one veterinarian licensed to practice veterinary medicine in Minnesota; and two public members.

The commissioner of health shall appoint the veterinarian and public members of the study commission. The members shall elect a chair.

Subd. 2. DUTIES; REPORT. The study commission established in subdivision 1 shall study the feasibility of a pilot program in the seven-county metropolitan area to reduce the population of unwanted and stray dogs and cats.

The study commission shall report its finding to the speaker of the house and the president of the senate by January 1, 1990.

Presented to the governor May 30, 1989

Signed by the governor June 1, 1989, 11:02 p.m.

CHAPTER 315—H.F.No. 341

An act relating to public safety; proposing the emergency planning and community right-to-know act; requiring reports on hazardous substances and chemicals; creating an emergency response commission; providing penalties; amending Minnesota Statutes 1988, section 609.671, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 299F.

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

Section 1. [299K.01] DEFINITIONS.

Subdivision 1. APPLICATION. The definitions in this section apply to sections 1 to 10.

Subd. 2. COMMISSION. "Commission" means the emergency response commission established in section 3.

Subd. 3. EMERGENCY RESPONSE ORGANIZATION. "Emergency response organization" means a firefighting, law enforcement, emergency management, emergency medical services, health, or local environmental organization, or a hospital.

Subd. 4. FACILITY. "Facility" means the buildings, equipment, structures, and other stationary items that:

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- (1) are located on a single site or on contiguous or adjacent sites; and
- (2) are owned or operated by one person, or are under the sole or common control of one person.

Subd. 5. FEDERAL ACT. "Federal act" means the federal Emergency Planning and Community Right To Know Act, United States Code, title 42, sections 11001 to 11046.

Subd. 6. PERSON. "Person" means any individual, partnership, association, public or private corporation, or other entity including the United States government, any interstate body, the state and any agency, department, or political subdivision of the state.

Sec. 2. [299K.02] OFFICE OF EMERGENCY RESPONSE.

The office of emergency response is established in the department of public safety, consisting of the emergency response commission and its staff, to coordinate state compliance with the federal act.

Sec. 3. [299K.03] EMERGENCY RESPONSE COMMISSION.

Subdivision 1. ESTABLISHMENT. The emergency response commission is established to comply with and administer the federal act.

Subd. 2. AGENCY MEMBERS. The commission consists of the commissioners of the department of public safety, the pollution control agency, the department of health, and the department of agriculture.

Subd. 3. APPOINTED MEMBERS. (a) The governor shall appoint 17 additional members to the commission.

(b) The 17 appointed members must include one representative each of fire chiefs, professional firefighters, volunteer firefighters, fire marshals, law enforcement personnel, emergency medical personnel, health professionals, wastewater treatment operators, labor, and local elected officials, three representatives of community groups or the public, and four representatives from business and industry, at least one of whom must represent small business.

(c) At least four of the appointed members must reside outside the metropolitan area, as defined in section 473.121, subdivision 2.

(d) The appointed members must be appointed, serve, and be compensated in the manner provided in section 15.059.

Subd. 4. ADVISORY COMMITTEES. The commission may establish advisory committees to advise the commission on matters pertaining to the commission's duties.

Subd. 5. DUTIES OF COMMISSION. The commission shall carry out all requirements of a commission under the federal act and may adopt rules to do

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so. The commission shall encourage use of and shall utilize existing emergency planning systems under section 5 whenever practical.

Subd. 6. AGREEMENTS. The commission may cooperate and enter into necessary agreements with other state departments and agencies, political subdivisions of the state, or the federal government to perform its duties.

Subd. 7. COOPERATION. State departments, agencies, and political subdivisions shall cooperate with the commission and its director and shall assist in the performance of the commission's duties.

Sec. 4. [299K.04] REGIONAL REVIEW COMMITTEES.

Subdivision 1. MEMBERSHIP. (a) The commission shall establish emergency planning districts and appoint and supervise a regional review committee for each district. The regional review committee shall serve as the local emergency planning committee under the federal act, except where a local emergency planning committee has been established by one or more political subdivisions.

(b) Each regional review committee must have nine members consisting of:

(1) three representatives of facilities regulated under the federal act;

(2) three representatives of emergency response organizations; and

(3) three representatives of the public including community groups, broadcast and print media, and elected officials.

Subd. 2. COMPENSATION. Regional review committee members shall be compensated in the manner provided in section 15.059.

Subd. 3. DUTIES OF REGIONAL REVIEW COMMITTEES. Regional review committees shall:

(1) review emergency operations plans prepared by political subdivisions within their emergency planning district to determine whether they meet the requirements of section 11003(c) of the federal act;

(2) consult and coordinate with the regional program coordinators of the division of emergency management of the department of public safety and with local and county organizations for civil defense designated under section 12.25;

(3) submit emergency plans to the commission for review and recommendations;

(4) establish procedures for receiving and processing requests from the public for information available under the federal act; and

(5) perform any other duties specified in the federal act.

Sec. 5. [299K.05] LOCAL EMERGENCY PLANS.

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Subdivision 1. PREPARATION. Political subdivisions should prepare emergency plans that adequately address the requirements contained in section 11003 of the federal act. The emergency plan may be a part of a plan prepared by a political subdivision in accordance with chapter 12. County organizations, through the county director designated under section 12.25, shall receive the plans for review, shall coordinate the emergency planning required under the federal act for political subdivisions within the county, and shall submit the plans to the regional office of the division of emergency management. The division of emergency management shall submit the plans to the regional review committee.

Subd. 2. LOCAL EMERGENCY PLANNING COMMITTEES. A political subdivision or two or more political subdivisions that are contiguous may request the commission to establish a local emergency planning committee for the political subdivision or subdivisions. A local emergency planning committee established by the commission shall carry out all requirements specified under sections 11001 to 11046 of the federal act.

Subd. 3. PLANNING ADVISORY COMMITTEE. A political subdivision or two or more political subdivisions that are contiguous may establish, in lieu of a local emergency planning committee, a planning advisory committee to prepare an emergency plan under section 11003 of the federal act.

Sec. 6. [299K.06] PUBLIC INFORMATION DEPOSITORY.

Subdivision 1. COUNTY DESIGNATION OF LIBRARY. Each county shall designate a library in the county for maintaining updated information on the facilities subject to the federal act that are located in the county and a copy of the emergency response plan for the county.

Subd. 2. INFORMATION TO BE PROVIDED. When the commission develops a computerized information system, the commission shall provide updated information on a regular basis to libraries designated under subdivision 1, listing the facilities subject to sections 1 to 10 and noting types of hazards, specific chemicals on site, and amounts of chemicals on site at each facility, and identifying the regional review committee that may be contacted for further information. The commission also shall provide to the libraries a copy of the most recently approved emergency response plan for the county and designate a contact person for public participation in emergency planning.

Sec. 7. [299K.07] NOTIFICATION TO EMERGENCY RESPONSE CENTER.

(a) The notification of the commission required under the federal act shall be made to the state emergency response center. The owner or operator of a facility shall immediately notify the state emergency response center of the release of a reportable quantity of the following materials:

(1) a hazardous substance on the list established under United States Code, title 42, section 9602; or

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(2) an extremely hazardous substance on the list established under United States Code, title 42, section 11002.

(b) This section does not apply to a release that results in exposure to persons solely within the site or sites on which a facility is located or to a release specifically authorized by state law.

Sec. 8. [299K.08] FACILITIES REQUIRED TO COMPLY.

Subdivision 1. GENERAL. Facilities subject to the federal act must comply with the federal act and sections 1 to 10.

Subd. 2. HAZARDOUS CHEMICAL INVENTORY REPORTING. (a) In addition to facilities specified in the federal act, facilities that are operated by employers subject to the occupational health and safety provisions of sections 182.65 to 182.675 shall comply with the hazardous chemical inventory reporting of the federal act.

(b) This section is a designation of additional facilities under sections 11021 and 11022 of the federal act, and the legislative process meets the requirements for public notice and opportunity to comment.

Sec. 9. [299K.09] RULES TO SET FEES.

Subdivision 1. FEES. The commission shall adopt rules setting the following fees:

(1) a material safety data sheet fee to be paid by a facility when it submits material safety data sheets in lieu of a hazardous chemical report form as required under section 11021 of the federal act;

(2) a fee to be paid by a facility when the owner or operator submits its emergency and hazardous chemical inventory form, required under section 11022 of the federal act, for calendar year 1990 and annually afterwards; and

(3) a late fee to be paid by a facility that fails to pay a fee under clause (1) or (2) in a timely manner, not to exceed 200 percent of the original fee.

Subd. 2. FEE STRUCTURE. The fee established under subdivision 1 may not exceed, in the aggregate, the amount necessary to cover the costs for all data management, including administration of fees, by the commission and regional review committees.

Sec. 10. [299K.10] ENFORCEMENT.

Subdivision 1. ENFORCEMENT POWERS OF THE COMMISSION. (a) To carry out its duties, the commission may:

(1) enforce the federal act;

(2) issue, enter into, or enforce orders, schedules of compliance, and stipulation agreements;

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(3) conduct investigations, issue notices, and hold hearings that are necessary or useful to discharge its duties;

(4) examine and copy any books, papers, records, memoranda, or data of a person that is related to data required to be submitted to the commission;

(5) enter public or private property to take an action authorized by this section including obtaining information from a person who has a duty to provide information to the commission; and

(6) issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence relevant to matters involved in a hearing or investigation.

(b) An employee or agent of the commission may examine witnesses and administer oaths in connection with a subpoena. Witnesses must receive the same fees and mileage as in civil actions.

(c) The commission may delegate its authority under this subdivision to state or local governmental agencies or organizations to conduct investigations, examine and copy records, and enter property.

Subd. 2. CIVIL ACTION; COMMISSION. The commission may enforce the federal act through a civil action brought in federal district court under the federal act or in state district court by the attorney general on request of the commission.

Subd. 3. CIVIL ACTION; CITIZENS. A person may commence a civil action against an owner or operator of a facility in state district court that may be brought in federal district court under the federal act.

Subd. 4. CIVIL ACTION; REGIONAL REVIEW AND LOCAL EMERGENCY PLANNING COMMITTEES. A regional review committee or a local emergency planning committee may commence an action against an owner or operator of a facility in state district court for a violation of the federal act that the local emergency planning committee is authorized to commence in federal district court under the federal act.

Subd. 5. INJUNCTIVE RELIEF. In addition to other relief granted, the court may grant injunctive relief to restrain violations of the federal act.

Subd. 6. CIVIL PENALTIES. (a) A violation of the federal act is a violation of state law.

(b) An owner or operator of a facility is liable to the state for civil penalties in the same manner and amount as the owner or operator is liable to the United States under section 11045, subpart (a) and subpart (b), paragraphs (1), (2), and (3), of the federal act.

(c) The commission may enforce the penalties in state district court in the

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same manner as the administrator of the United States Environmental Protection Agency may enforce the civil penalties in federal district court under the federal act.

(d) For purposes of this subdivision, each day of continued violation constitutes a separate violation.

Subd. 7. COSTS AND ATTORNEY FEES. On the motion of a party prevailing in an action under this section, the court may award costs, disbursements, and reasonable attorney and witness fees to the prevailing party.

Subd. 8. VENUE. A civil action authorized by this section may be brought in the district court in Ramsey county, in the district court where the alleged violation occurred, or in the district court where the defendant is located.

Sec. 11. Minnesota Statutes 1988, section 609.671, is amended by adding a subdivision to read:

Subd. 10. FAILURE TO REPORT A RELEASE OF A HAZARDOUS SUBSTANCE OR AN EXTREMELY HAZARDOUS SUBSTANCE. (a) A person is, upon conviction, subject to a fine of up to \$25,000 or imprisonment for up to two years, or both, who:

(1) is required to report the release of a hazardous substance under United States Code, title 42, section 9603, or the release of an extremely hazardous substance under United States Code, title 42, section 11004;

(2) knows or has reason to know that a hazardous substance or an extremely hazardous substance has been released; and

(3) fails to provide immediate notification of the release of a reportable quantity of a hazardous substance or an extremely hazardous substance to the state emergency response center, or a firefighting or law enforcement organization.

(b) For a second or subsequent conviction under this subdivision, the violator is subject to a fine of up to \$50,000 or imprisonment for not more than five years, or both.

(c) For purposes of this subdivision, a "hazardous substance" means a substance on the list established under United States Code, title 42, section 9602.

(d) For purposes of this subdivision, an "extremely hazardous substance" means a substance on the list established under United States Code, title 42, section 11002.

(e) For purposes of this subdivision, a "reportable quantity" means a quantity that must be reported under United States Code, title 42, section 9602 or 11002.

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Sec. 12. INTERIM COMMISSION.

Until the 17 members can be appointed under section 3, subdivision 3, the emergency response commission established through the governor's executive order to administer the provisions of United States Code, title 42, sections 11001 to 11046, shall continue to perform the duties of the emergency response commission.

Sec. 13. INTERIM FEES.

Beginning on the effective date of this section and continuing until the effective date of rules adopted under section 9, the fee under section 9, subdivision 1, clause (1), is \$10 per material safety data sheet but does not apply to material safety data sheets requested by the emergency response commission.

Sec. 14. TOXIC CHEMICAL RELEASE REPORTING STUDY.

The emergency response commission, in cooperation with the pollution control agency, shall conduct a study to determine the need for expanding the toxic chemical release form requirements of United States Code, title 42, section 11023, to other facilities covered under section 8, subdivision 2. The commission shall report the results of the study to the house of representatives and senate committees on environment and natural resources by December 31, 1990. The report must include a list of the types and sizes of facilities recommended to submit toxic chemical release forms and a recommended date for compliance.

Sec. 15. EMERGENCY PLANNING REPORT.

The emergency response commission shall report to the legislature on the effectiveness of emergency planning required under United State Code, title 42, sections 11001 to 11046, throughout the state. The report must address the numbers and composition of local emergency planning committees and planning advisory committees established in the state, and the involvement of citizens in the planning process. The emergency response commission shall submit the report to the house and senate governmental operations committees by December 31, 1990.

Sec. 16. APPROPRIATION.

Subdivision 1. COMMUNITY RIGHT-TO-KNOW PROGRAM. \$585,000 is appropriated from the general fund to the commissioner of public safety for the community right-to-know program. \$313,000 is for fiscal year 1990 and \$272,000 is for fiscal year 1991.

The approved complement of the department of public safety is increased by three positions.

Subd. 2. RED RIVER VALLEY DISASTER RELIEF. \$645,000 is appropriated from the general fund to the commissioner of public safety for disaster relief due to flooding in the Red River valley, to be available until June 30, 1990.

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Sec. 17. EFFECTIVE DATE.

Section 8, subdivision 2, is effective July 1, 1989, but facilities subject to section 8, subdivision 2, are not required to report under United States Code, title 42, section 11021, until October 17, 1989, or under United States Code, title 42, section 11022, until March 1, 1990.

Section 11 is effective August 1, 1989, and applies to crimes committed on or after that date.

Section 16, subdivision 2, is effective the day following final enactment.

Presented to the governor May 30, 1989

Signed by the governor June 1, 1989, 11:20 p.m.

CHAPTER 316—H.F.No. 162

An act relating to insurance; regulating insurance information collection, use, disclosure, access, and correction practices; requiring reasons for adverse underwriting decisions; amending Minnesota Statutes 1988, section 72A.20, subdivision 11; proposing coding for new law in Minnesota Statutes, chapter 72A.

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

Section 1. Minnesota Statutes 1988, section 72A.20, subdivision 11, is amended to read:

Subd. 11. **APPLICATION TO CERTAIN SECTIONS.** Violating any provision of the following sections of this chapter not set forth in this section shall constitute an unfair method of competition and an unfair and deceptive act or practice: sections 72A.12, subdivisions 2, 3, and 4, 72A.16, subdivision 2, 72A.03 and 72A.04, 72A.08, subdivision 1, as modified by ~~section~~ sections 72A.08, subdivision 4, 72A.201, sections 2 to 17, and 65B.13.

Sec. 2. [72A.49] SHORT TITLE.

Sections 2 to 17 may be cited as the "Minnesota insurance fair information reporting act."

Sec. 3. [72A.491] DEFINITIONS.

Subdivision 1. APPLICATION. For the purposes of sections 2 to 17, the following terms have the meanings given them.

Subd. 2. ADVERSE UNDERWRITING DECISION. "Adverse underwriting decision" means any of the following actions with respect to insurance transactions involving insurance coverage that is individually underwritten:

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