

## CHAPTER 607—S.F.No. 1674

*An act relating to agriculture; providing grasshopper control; allowing certain exemptions; requiring certain notices; providing contingent appropriations for grasshopper control, county and district agricultural societies, and vocational technical education; providing for a forestry environmental impact statement; appropriating money; amending Minnesota Statutes 1988, section 18.0225; proposing coding for new law in Minnesota Statutes, chapter 18; repealing Minnesota Statutes 1989 Supplement, section 18.0226.*

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

Section 1. Minnesota Statutes 1988, section 18.0225, is amended to read:

**18.0225 GRASSHOPPER CONTROL PROGRAM.**

(a) The commissioner of agriculture shall develop and implement a grasshopper control program to prevent crop damage in the grasshopper control zone. Within grasshopper control zones the commissioner, ~~landowners, and counties,~~ local weed inspectors, and landowners have the same authorities and duties under chapter 18 for grasshoppers as if grasshoppers are noxious weeds under chapter 18. After consultation and cooperation with the state Minnesota extension service entomologist, the commissioner must develop the program to economically and efficiently control grasshoppers and to minimize adverse environmental impact, including the selection of pesticides and prescription of application rates.

(b) Notwithstanding the provisions of this chapter, the board of a town designated by the commissioner as a grasshopper control zone may appoint a grasshopper control advisory committee of members who are residents of the township. The advisory committee must include:

(1) at least one owner of land enrolled in the conservation reserve program if any land is enrolled and an owner of enrolled land is willing to serve; and

(2) at least one dairy farmer if dairying occurs in the township and a dairy farmer is willing to serve.

If the town board appoints a grasshopper control advisory committee, the board must seek the advice of the advisory committee before the issuance of each order for grasshopper control or the advisory committee may adopt guidelines for issuing grasshopper control orders.

~~(b)~~ (c) The grasshopper control program must utilize proven methods of grasshopper control and the commissioner may make grants for experimental methods of control in selected areas.

(d) Before any grasshopper control measures, including, but not limited to, spraying or the deposit of pelletized controls, are applied on or to streams, lakes, waterways, or public waters, the commissioner shall seek the review and approv-

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al of the commissioner of natural resources. As used in this paragraph, "streams, lakes, waterways, or public waters," does not include farm ditches, drainage ditches, or county ditches.

(e) The commissioner, upon written request from any person or organization, may exempt from grasshopper control measures a parcel of land that the commissioner, in consultation with the commissioner of natural resources, determines to be of particular, unique scientific or natural significance or is particularly sensitive to the use of insecticides or other control methods being used. The commissioner must consider previous pesticide applications to the property to be exempted and agricultural practices conducted on the property. The exemption may be conditional, may apply to all or part of the property requested, and may be revoked by the commissioner at any time. An exemption granted under this paragraph is for mandatory grasshopper control and does not affect liability under other law.

(f) The request for exemption must include at least the following:

- (1) the name and address of the person or organization making the request;
- (2) the acreage and legal description of the parcel;
- (3) a statement of the specific reasons why an exemption is requested; and
- (4) any agreements for grasshopper control and any other information required by the commissioner.

(g) Upon notice of the approval of an exemption, the owner of the exempted property must mail the following notice to adjoining landowners:

"(Name of exempt landowner) has requested and the commissioner of agriculture has exempted (description of land exempted) from mandatory grasshopper control measures due to the scientific or natural significance or sensitivity to insecticides of the property. It is the intent of (landowner's name) not to control grasshoppers on the property. If you have questions about how you may make an agreement for grasshopper control you may contact (exempt landowner's name, address, and phone number).

Cost-sharing may be available for treatment of grasshoppers on your property. For more information contact the commissioner of agriculture.

The exemption does not affect liability under other law."

(h) A decision of the commissioner under paragraph (e) must be in writing and delivered to the person or organization making the request and the clerk of the town in which the property is located. The commissioner, counties, towns, and their agents are not liable for damages from exemptions granted under this section.

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(i) From funds appropriated for this purpose, the commissioner must reimburse a person for the cost of grasshopper control measures in a 20-rod wide buffer area on property adjacent to property exempted from grasshopper control measures under paragraph (e), to the extent funds are available. Reimbursement to a person must be made only upon receipt of a completed application form indicating the need for treatment based on an inspector's determination that the exempted property has grasshoppers in densities greater than the density determined by the commissioner to cause economic or potential economic damage for all affected lands and identifying the location of the treatment. For each application, reimbursement must be 50 percent of cost not to exceed \$4 reimbursement per acre for aerial spraying and \$2.50 reimbursement per acre for ground spraying.

## Sec. 2. [18.0228] CONTROL PROVISIONS.

Subdivision 1. PESTICIDE SELECTION. (a) The commissioner, in consultation with the Minnesota extension service entomologist, shall prepare a list of registered pesticides and their federal label requirements for use in the grasshopper control program. The commissioner shall recommend pesticides and application methods in designated grasshopper control zones that will minimize the adverse impact on foraging bees. The pesticides must economically and efficiently control grasshoppers and minimize adverse environmental impacts. Grasshopper control may only be conducted under this chapter with pesticides used according to their label requirements.

(b) The commissioner shall prescribe methods to determine grasshopper densities and densities causing economic or potential economic damage.

Subd. 2. INDIVIDUAL NOTICES. (a) The individual notices required under this chapter for the grasshopper control program must be in a form prescribed by the commissioner and state at least the following:

- (1) the legal description of the property covered by the notice to control;
- (2) the date the notice is issued;
- (3) the name and work telephone number of the inspector issuing the notice;
- (4) the grasshopper counts found on the property;

(5) the approximate date the grasshoppers on the property will be controlled by the county or municipality if the owner or occupant does not comply with the notice, which must be at least three days after the date the notice was served;

(6) that the costs of the control will be a lien and applied against the property's tax roll; and

(7) that the owner or occupant may contact the inspector about the notice before the time that the county or the municipality will control grasshoppers, which must be at least three days after the date the notice was served.

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(b) The commissioner, a county agricultural inspector, or a local weed inspector issuing a notice under this subdivision shall provide the same number of days for compliance under paragraph (a), clause (5), for property controlled by a private land owner or occupant as for property controlled by a unit of state or local government.

**Subd. 3. EFFECTS ON FORAGING BEES.** (a) The Minnesota extension service shall hold meetings in grasshopper control zone areas explaining grasshopper control methods and procedures to minimize adverse effects on foraging bees.

(b) Not later than May 1 of each year, an owner of honeybee colonies must notify the commissioner as to the number and location of the colonies. Notification under this section must be accomplished by identifying on a map provided by the commissioner the location of colonies. The notice must include the name, address, and telephone number of the owner. If an owner of honeybee colonies relocates the colonies the owner must report the relocation orally, by phone, or in writing to the extension agent, the town clerk, and the commissioner within ten days after the relocation.

(c) The commissioner shall prepare maps of the location of all registered honeybee colonies, including identification of the name, address, and telephone number of the owner. The maps must be updated at least once each 14 days if owners of registered honeybee colonies give notice of relocations.

(d) The commissioner shall provide a list of licensed commercial and non-commercial pesticide applicators, including the applicator's name, business address, and phone number, to the registered beekeepers in designated grasshopper control zones.

(e) The commissioner shall prescribe a system by which owners of honeybee colonies, licensed commercial and noncommercial pesticide applicators, and county extension agents must, and town clerks may, be advised of the location of registered honeybee colonies reported under this section, of the federal pesticide label requirements pertaining to foraging bees, and of penalties for violating label requirements.

(f) The commissioner shall also develop guidelines for a voluntary system to facilitate the exchange of information between owners of registered honeybee colonies and pesticide applicators regarding the pesticide selected for use, the anticipated date and time of application, and the location of honeybee colonies.

(g) In a year in which grasshopper control zones are designated, the commissioner shall report to the chairs of the house and senate agriculture and environment committees on the number of acres treated for grasshopper control, the pesticides recommended for use, the pesticides used, the results of research and application of nonpesticide grasshopper control, the number of acres exempted from grasshopper control, and any evidence of negative environmental impacts of the grasshopper control program.

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Sec. 3. [18.0229] LIABILITY; APPEALS.

Subdivision 1. COUNTIES AND TOWNSHIPS. Counties and townships and their agents are not liable for damages from the grasshopper control program for actions conducted in accordance with sections 18.0223 to 18.0229.

Subd. 2. ACCESS FOR INSPECTION. An inspector may enter any land to inspect grasshopper densities.

Subd. 3. APPEAL TO COUNTY BOARD. A person who is ordered to control grasshoppers under sections 18.0225 to 18.0229 and is charged for grasshopper control may appeal the cost of grasshopper control to the county board of the county where the grasshopper control measures were undertaken within 30 days after being charged. The county board shall determine the amount and approve the charge and filing of a lien against the property if it determines that:

(1) the owner, or occupant if other than the owner, responsible for controlling grasshoppers did not comply with the order of the inspector; and

(2) the grasshopper densities on the property exceeded the densities determined by the commissioner to cause economic or potential economic damage.

Subd. 4. COURT APPEAL OF COSTS; PETITION. (a) A land owner who has appealed the cost of grasshopper control measures under subdivision 3 may petition for judicial review. The petition must be filed within 30 days after the conclusion of the hearing before the county board. The petition must be filed with the court administrator in the county in which the real property where the grasshopper control measures were undertaken is located, together with proof of service of a copy of the petition on the commissioner and the county auditor. The petition must be accompanied by the standard filing fee for civil actions. No responsive pleadings may be required of the commissioner or the county, and no court fees may be charged for the appearance of the commissioner or the county in the matter.

(b) The petition must be captioned in the name of the person making the petition as petitioner and the commissioner of agriculture and the respective county as respondents. The petition must include the petitioner's name, the legal description of the real estate involved, a copy of the notice to control grasshoppers, and the date or dates on which appealed control measures were undertaken.

(c) The petition must state with specificity the grounds upon which the petitioner seeks to avoid the imposition of a lien for the cost of grasshopper control measures.

Subd. 5. HEARING. (a) A hearing under subdivisions 4 to 6 must be held at the earliest practicable date, and in no event later than 90 days following the filing of the petition of objection. The hearing must be before a district judge in the county in which the real property where the grasshopper control measures were undertaken is located, and must be conducted in accordance with the district court rules of civil procedure.

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(b) The court shall either order that a lien representing part or all of the costs for grasshopper control measures be imposed against the real property or that the land owner be relieved of responsibility for payment of grasshopper control measures undertaken.

Subd. 6. FURTHER APPEAL. A party aggrieved by the decision of the reviewing court may appeal the decision as provided in the rules of appellate procedure.

#### Sec. 4. [18.205] PUBLIC UTILITY EASEMENTS.

For property that is subject to a public utility easement, the person controlling the surface of the land other than the holder of the public utility easement is the person responsible for control of grasshoppers under this chapter. For purposes of this section, a "public utility easement" means an easement used for the purpose of transmission, distribution, furnishing at wholesale or retail natural or manufactured gas, or electric or telephone service, by a public utility as defined in section 216B.02, subdivision 4, a cooperative electric association organized under chapter 308A, a telephone company as defined in section 237.01, subdivisions 2 and 3, or a municipality producing or furnishing gas, electric, or telephone service.

#### Sec. 5. FEDERAL COST-SHARE FOR EXEMPT LANDS.

In the event that federal cost-share funds become available for grasshopper control, the commissioner shall attempt to secure a proportionate share for lands exempted under section 18.0225.

#### Sec. 6. APPROPRIATIONS; CONTINGENT ACCOUNT.

(a) \$605,000 is appropriated from the general fund to a special contingency account for grasshopper control activities as provided in this section.

(b) Of this appropriation up to \$20,000 is appropriated to the commissioner of agriculture for a system to prevent adverse effects on foraging bees.

(c) Of the remaining appropriation up to \$30,000 is appropriated to the commissioner of agriculture to provide reimbursement payments to owners of property that is adjacent to property exempted from grasshopper control.

(d) The remaining unencumbered balance is appropriated for up to a 50 percent cost-share for township and county grasshopper control expenses through September 30, 1990.

(e) Of the unencumbered balance of this appropriation remaining on October 1, 1990, up to \$125,000 is appropriated to the commissioner of agriculture as supplemental funding to provide state aid to county and district agricultural societies under Minnesota Statutes, section 38.02 during the fiscal year ending June 30, 1991.

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(f) The unencumbered balance remaining on October 1, 1990, not otherwise appropriated under paragraphs (a) through (e) is appropriated to the state board of vocational technical education for:

(1) instructional staff for farm and small business management, beginner farmer programs, and enterprise classes specific to community needs;

(2) support staff for instructional staff; and

(3) tuition assistance.

(g) The appropriations in this section are available only with the approval of the governor after consultation with the legislative advisory commission as provided in Minnesota Statutes, section 3.30.

#### Sec. 7. APPROPRIATIONS.

Subdivision 1. INTEGRATED PEST MANAGEMENT. \$20,000 is appropriated from the general fund to the commissioner of agriculture to be used for the grasshopper control program using integrated pest management demonstration projects in consultation with the commissioner of natural resources and the Minnesota extension service. The commissioner shall determine the amount to be used for cost-share projects. The commissioners shall pursue any federal funds that may become available for this purpose.

Subd. 2. GENERIC ENVIRONMENTAL IMPACT STATEMENT. \$100,000 is appropriated from the general fund to the state planning agency to conduct a timber harvesting generic environmental impact statement.

#### Sec. 8. REPEALER.

Minnesota Statutes 1989 Supplement, section 18.0226, is repealed.

#### Sec. 9. EFFECTIVE DATE.

This act is effective the day following final enactment. The commissioner of agriculture shall prepare the list and prescribe methods for determining grasshopper densities required in section 2, subdivision 1, not later than May 20, 1990.

Presented to the governor April 28, 1990

Signed by the governor May 8, 1990, 8:46 p.m.

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