Presented to the governor May 30, 1991

Became law without the governor's signature June 4, 1991

CHAPTER 309—H.F.No. 958

An act relating to agriculture; classifying certain private data collected for aquaculture permits; providing for development of aquaculture; imposing a two percent excise tax on sales of aquaculture production equipment; amending Minnesota Statutes 1990, sections 17.49; 18B.26, subdivision 1; 25.33, subdivision 5; 97A.025; 297A.01, by adding a subdivision; 297A.02, subdivision 2; and 500.24, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 13 and 17; repealing Minnesota Statutes 1990, section 17.492.

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

Section 1. **[13.645] AQUACULTURE PERMIT DATA.**

The following data collected and maintained by an agency issuing aquaculture permits under sections 4 to 10 are classified as private or nonpublic: the names and addresses of customers provided in the permit application.

Sec. 2. **[17.108] TROPHIC STATE LABELING.**

Subdivision 1. **CERTIFICATION OF TROPHIC STATE.** The commissioner, in consultation with the commissioners of the pollution control agency and natural resources, shall annually certify the trophic state of the waters used for aquatic farming. Aquatic farming waters maintained in a trophic state equal or better than:

(1) 25 percent of the lakes in this state over 100 acres shall be certified as "pristine waters";

(2) 50 percent of the lakes in this state over 100 acres shall be certified as "pure, clean, or fresh waters"; and

(3) 75 percent of the lakes in this state over 100 acres shall be certified as "natural waters."

Subd. 2. **USE OF TERMS.** A person may only use the terms "natural," "pure," "clean," "fresh," or "pristine" in describing waters used for aquaculture on labeling, advertising, or other material if the waters from which the products were raised are certified accordingly under subdivision 1. The terms may be used in conjunction with other Minnesota grown labeling.

Sec. 3. **[17.46] SHORT TITLE.**

Sections 4 to 16 may be cited as the aquaculture development act.

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Sec. 4. **[17.47] DEFINITIONS.**

Subdivision 1. **SCOPE.** The definitions in this section apply to sections 2 to 16.

Subd. 2. **AQUACULTURE.** "Aquaculture" means the culture of private aquatic life for consumption or sale.

Subd. 3. **AQUATIC FARM.** "Aquatic farm" means a facility used for the purpose of culturing private aquatic life in waters, including but not limited to artificial ponds, vats, tanks, raceways, other indoor or outdoor facilities that an aquatic farmer owns or where an aquatic farmer has exclusive control of, fish farms licensed under section 97C.209, or private fish hatcheries licensed under section 97C.211 for the sole purpose of processing or cultivating aquatic life.

Subd. 4. **AQUATIC FARMER.** "Aquatic farmer" means an individual who practices aquaculture.

Subd. 5. **COMMISSIONER.** "Commissioner" means the commissioner of agriculture.

Subd. 6. **DEPARTMENT.** "Department" means the department of agriculture.

Subd. 7. **PRIVATE AQUATIC LIFE.** "Private aquatic life" means fish, shellfish, mollusks, crustaceans, and any other aquatic animals cultured within an aquatic farm. Private aquatic life is the property of the aquatic farmer.

Sec. 5. Minnesota Statutes 1990, section 17.49, is amended to read:

17.49 **AQUACULTURE PROGRAM AND PROMOTION.**

Subdivision 1. **PROGRAM ESTABLISHED.** The commissioner shall establish and promote a program ~~for the commercial raising of fish in fish farms~~ of aquaculture in consultation with an advisory committee consisting of the University of Minnesota, the commissioner of natural resources, the commissioner of agriculture, the commissioner of trade and economic development, the commissioner of the state planning agency, representatives of the private ~~fish raising~~ aquaculture industry, and the chairs of the environment and natural resources committees of the house of representatives and senate.

Subd. 2. **COORDINATION.** Aquaculture programs in the state must be coordinated through the commissioner of agriculture. The commissioner of agriculture shall direct the development of aquaculture in the state. Aquaculture research, projects, and demonstrations must be reported to the commissioner before state appropriations for the research, projects, and demonstrations are encumbered. The commissioner shall maintain a data base of aquaculture research, demonstrations, and other related information pertaining to aquaculture in the state.

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Subd. 2a. **DEVELOPMENT PROGRAM.** The commissioner may establish a Minnesota aquaculture development and aid program that may support applied research, demonstration, financing, marketing, promotion, broodstock development, and other services.

Subd. 3. **REPORT.** The commissioner shall prepare an annual report on the amount of fish and aquaculture products ~~consumed~~ produced in the state, where the products were produced, the opportunities in the state for aquaculture development, and impediments to Minnesota development of aquaculture.

Sec. 6. **[17.494] AQUACULTURE PERMITS; RULES.**

The commissioner shall act as permit or license coordinator for aquatic farmers and shall assist aquatic farmers to obtain licenses or permits.

By July 1, 1992, a state agency issuing multiple permits or licenses for aquaculture shall consolidate the permits or licenses required for every aquatic farm location. The department of natural resources transportation permits are exempt from this requirement. State agencies shall adopt rules or issue commissioner's orders that establish permit and license requirements, approval timelines, and compliance standards.

Nothing in this section modifies any state agency's regulatory authority over aquaculture production.

Sec. 7. **[17.495] APPEAL PROCEDURES.**

A state agency that denies a license or permit to an aquatic farmer shall provide the aquatic farmer with a written notice specifying the reasons for refusal.

An aquatic farmer may appeal a state agency's denial of the license or permit in a contested case proceeding under chapter 14.

Sec. 8. **[17.496] QUARANTINE FACILITY; RULES.**

By July 1, 1992, the commissioner of natural resources shall adopt rules, in consultation with the commissioner of agriculture and the aquaculture advisory committee, for the construction and operation of a quarantine facility for fish eggs presently requiring quarantine and disposition of fish from the facility. Fish in a quarantine station that are determined to be disease-free under the procedures developed by the commissioner of natural resources may be bought, sold, or transported.

Sec. 9. **[17.497] EXOTIC SPECIES IMPORTATION; RULES.**

The commissioner of natural resources shall establish rules, in consultation with the commissioner of agriculture and the aquaculture advisory committee, for approving or rejecting importation of "exotic" or genetically altered aquatic species to protect the integrity of the natural ecosystem and provide aquatic farmers with information that may affect business decisions.

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Sec. 10. **[17.498] RULES; FINANCIAL ASSURANCE.**

(a) The commissioner of the pollution control agency, after consultation and cooperation with the commissioners of agriculture and natural resources, shall present proposed rules to the pollution control agency board prescribing water quality permit requirements for aquaculture facilities by May 1, 1992. The rules must consider:

(1) best available proven technology, best management practices, and water treatment practices that prevent and minimize degradation of waters of the state considering economic factors, availability, technical feasibility, effectiveness, and environmental impacts;

(2) classes, types, sizes, and categories of aquaculture facilities;

(3) temporary reversible impacts versus long-term impacts on water quality;

(4) effects on drinking water supplies that cause adverse human health concerns; and

(5) aquaculture therapeutics, which shall be regulated by the pollution control agency.

(b) Net pen aquaculture and other aquaculture facilities with similar effects must submit an annual report to the commissioner of the pollution control agency analyzing changes in water quality trends from previous years, documentation of best management practices, documentation of costs to restore the waters used for aquaculture to the trophic state existing before aquatic farming was initiated, and documentation of financial assurance in an amount adequate to pay for restoration costs. The trophic state, which is the productivity of the waters measured by total phosphorus, dissolved oxygen, algae abundance as chlorophyll-a, and secchi disk depth of light penetration, and the condition of the waters measured by raw drinking water parameters, shall be determined to the extent possible before aquatic farming is initiated. The financial assurance may be a trust fund, letter of credit, escrow account, surety bond, or other financial assurance payable to the commissioner for restoration of the waters if the permittee cannot or will not restore the waters after termination of aquatic farming operations or revocation of the permit.

(c) The commissioner of the pollution control agency shall submit a draft of the proposed rules to the legislative water commission by September 1, 1991. By January 15, 1992, the commissioner of the pollution control agency shall submit a report to the legislative water commission about aquaculture facilities permitted by the pollution control agency. The report must include concerns of permittees as well as concerns of the agency about permitted aquaculture facilities and how those concerns will be addressed in the proposed rules.

(d) Information received as part of a permit application or as otherwise requested must be classified according to chapter 13. Information about pro-

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cesses, aquatic farming procedures, feed and therapeutic formulas and rates, and tests on aquatic farming products that have economic value is nonpublic data under chapter 13, if requested by the applicant or permittee.

Sec. 11. Minnesota Statutes 1990, section 18B.26, subdivision 1, is amended to read:

Subdivision 1. **REQUIREMENT.** (a) A person may not use or distribute a pesticide in this state unless it is registered with the commissioner. Aquaculture therapeutics shall be registered and labeled in the same manner as pesticides. Pesticide registrations expire on December 31 of each year and may be renewed on or before that date for the following calendar year.

(b) Registration is not required if a pesticide is shipped from one plant or warehouse to another plant or warehouse operated by the same person and used solely at the plant or warehouse as an ingredient in the formulation of a pesticide that is registered under this chapter.

(c) An unregistered pesticide that was previously registered with the commissioner may be used only with the written permission of the commissioner.

(d) Each pesticide with a unique United States Environmental Protection Agency pesticide registration number or a unique brand name must be registered with the commissioner.

Sec. 12. Minnesota Statutes 1990, section 25.33, subdivision 5, is amended to read:

Subd. 5. "Commercial feed" means all materials except unmixed seed, whole or processed, when not adulterated within the meaning of section 25.37, paragraphs (A), (B), (C), or (D) which are distributed for use as feed or for mixing in feed, including feed for aquatic animals. The commissioner by rule may exempt from this definition, or from specific provisions of sections 25.31 to 25.44, commodities such as hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances when such commodities, compounds or substances are not intermixed with other materials, and are not adulterated within the meaning of section 25.37, paragraphs (A), (B), (C), or (D).

Sec. 13. Minnesota Statutes 1990, section 97A.025, is amended to read:

97A.025 **OWNERSHIP OF WILD ANIMALS.**

The ownership of wild animals of the state is in the state, in its sovereign capacity for the benefit of all the people of the state. A person may not acquire a property right in wild animals, or destroy them, unless authorized under the game and fish laws ~~or~~, sections 84.09 to 84.15, or sections 4 to 10.

Sec. 14. Minnesota Statutes 1990, section 297A.01, is amended by adding a subdivision to read:

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Subd. 20. **AQUACULTURE PRODUCTION EQUIPMENT.** "Aquaculture production equipment" means new or used machinery, equipment, implements, accessories, and contrivances used directly and principally in aquaculture production. Aquaculture production equipment includes: augers and blowers, automatic feed systems, manual feeding equipment, shockers, gill nets, trap nets, seines, box traps, round nets and traps, net pens, dip nets, net washers, floating net supports, floating access walkways, net supports and walkways, growing tanks, holding tanks, troughs, raceways, transport tanks, egg taking equipment, egg hatcheries, egg incubators, egg baskets and troughs, egg graders, egg counting equipment, fish counting equipment, fish graders, fish pumps and loaders, fish elevators, air blowers, air compressors, oxygen generators, oxygen regulators, diffusers and injectors, air supply equipment, oxygenation columns, water coolers and heaters, heat exchangers, water filter systems, water purification systems, waste collection equipment, feed mills, portable scales, feed grinders, feed mixers, feed carts and trucks, power feed wagons, fertilizer spreaders, fertilizer tanks, forage collection equipment, land levelers, loaders, post hole diggers, disc, harrow, plow, and water diversion devices. Repair or replacement parts for aquaculture production equipment shall not be included in the definition of aquaculture production equipment.

Sec. 15. Minnesota Statutes 1990, section 297A.02, subdivision 2, is amended to read:

Subd. 2. **MACHINERY AND EQUIPMENT.** Notwithstanding the provisions of subdivision 1, the rate of the excise tax imposed upon sales of special tooling is four percent and upon sales of farm machinery and aquaculture production equipment is two percent.

Sec. 16. Minnesota Statutes 1990, section 500.24, subdivision 3, is amended to read:

Subd. 3. **FARMING AND OWNERSHIP OF AGRICULTURAL LAND BY CORPORATIONS RESTRICTED.** No corporation, pension or investment fund, or limited partnership shall engage in farming; nor shall any corporation, pension or investment fund, or limited partnership, directly or indirectly, own, acquire, or otherwise obtain an interest, whether legal, beneficial or otherwise, in any title to real estate used for farming or capable of being used for farming in this state. Provided, however, that the restrictions in this subdivision do not apply to corporations or partnerships in clause (b) and do not apply to corporations, limited partnerships, and pension or investment funds that record its name and the particular exception under clauses (a) to ~~(r)~~ (s) under which the agricultural land is owned or farmed, have a conservation plan prepared for the agricultural land, report as required under subdivision 4, and satisfy one of the following conditions under clauses (a) to ~~(r)~~ (s):

(a) A bona fide encumbrance taken for purposes of security;

(b) A family farm corporation, an authorized farm corporation, a family farm partnership, or an authorized farm partnership as defined in subdivision 2 or a general partnership;

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(c) Agricultural land and land capable of being used for farming owned by a corporation as of May 20, 1973, or a pension or investment fund as of May 12, 1981, including the normal expansion of such ownership at a rate not to exceed 20 percent of the amount of land owned as of May 20, 1973, or, in the case of a pension or investment fund, as of May 12, 1981, measured in acres, in any five-year period, and including additional ownership reasonably necessary to meet the requirements of pollution control rules;

(d) Agricultural land operated for research or experimental purposes with the approval of the commissioner of agriculture, provided that any commercial sales from the operation must be incidental to the research or experimental objectives of the corporation. A corporation, limited partnership, or pension or investment fund seeking to operate agricultural land for research or experimental purposes must submit to the commissioner a prospectus or proposal of the intended method of operation, containing information required by the commissioner including a copy of any operational contract with individual participants, prior to initial approval of an operation. A corporation, limited partnership, or pension or investment fund operating agricultural land for research or experimental purposes prior to May 1, 1988, must comply with all requirements of this clause except the requirement for initial approval of the project;

(e) Agricultural land operated by a corporation or limited partnership for the purpose of raising breeding stock, including embryos, for resale to farmers or operated for the purpose of growing seed, wild rice, nursery plants or sod;

(f) Agricultural land and land capable of being used for farming leased by a corporation or limited partnership in an amount, measured in acres, not to exceed the acreage under lease to such corporation as of May 20, 1973, or to the limited partnership as of May 1, 1988, and the additional acreage required for normal expansion at a rate not to exceed 20 percent of the amount of land leased as of May 20, 1973, for a corporation or May 1, 1988, for a limited partnership in any five-year period, and the additional acreage reasonably necessary to meet the requirements of pollution control rules;

(g) Agricultural land when acquired as a gift (either by grant or a devise) by an educational, religious, or charitable nonprofit corporation or by a pension or investment fund or limited partnership; provided that all lands so acquired by a pension or investment fund, and all lands so acquired by a corporation or limited partnership which are not operated for research or experimental purposes, or are not operated for the purpose of raising breeding stock for resale to farmers or operated for the purpose of growing seed, wild rice, nursery plants or sod must be disposed of within ten years after acquiring title thereto;

(h) Agricultural land acquired by a pension or investment fund or a corporation other than a family farm corporation or authorized farm corporation, as defined in subdivision 2, or a limited partnership other than a family farm partnership or authorized farm partnership as defined in subdivision 2, for which the corporation or limited partnership has documented plans to use and subse-

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quently uses the land within six years from the date of purchase for a specific nonfarming purpose, or if the land is zoned nonagricultural, or if the land is located within an incorporated area. A pension or investment fund or a corporation or limited partnership may hold such agricultural land in such acreage as may be necessary to its nonfarm business operation; provided, however, that pending the development of agricultural land for nonfarm purposes, such land may not be used for farming except under lease to a family farm unit, a family farm corporation, an authorized farm corporation, a family farm partnership, or an authorized farm partnership, or except when controlled through ownership, options, leaseholds, or other agreements by a corporation which has entered into an agreement with the United States of America pursuant to the New Community Act of 1968 (Title IV of the Housing and Urban Development Act of 1968, United States Code, title 42, sections 3901 to 3914) as amended, or a subsidiary or assign of such a corporation;

(i) Agricultural lands acquired by a pension or investment fund or a corporation or limited partnership by process of law in the collection of debts, or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgage or otherwise; provided, however, that all lands so acquired be disposed of within ten years after acquiring the title if acquired before May 1, 1988, and five years after acquiring the title if acquired on or after May 1, 1988, acquiring the title thereto, and further provided that the land so acquired shall not be used for farming during the ten-year or five-year period except under a lease to a family farm unit, a family farm corporation, an authorized farm corporation, a family farm partnership, or an authorized farm partnership. The aforementioned ten-year or five-year limitation period shall be deemed a covenant running with the title to the land against any pension or investment fund or corporate or limited partnership grantee or assignee or the successor of such pension or investment fund or corporation or limited partnership. Notwithstanding the five-year divestiture requirement under this clause, a financial institution may continue to own the agricultural land if the agricultural land is leased to the immediately preceding former owner, but must divest of the agricultural land within the ten-year period;

(j) Agricultural land acquired by a corporation regulated under the provisions of Minnesota Statutes 1974, chapter 216B, for purposes described in that chapter or by an electric generation or transmission cooperative for use in its business, provided, however, that such land may not be used for farming except under lease to a family farm unit, a family farm corporation, or a family farm partnership;

(k) Agricultural land, either leased or owned, totaling no more than 2,700 acres, acquired after May 20, 1973, for the purpose of replacing or expanding asparagus growing operations, provided that such corporation had established 2,000 acres of asparagus production;

(l) All agricultural land or land capable of being used for farming which was owned or leased by an authorized farm corporation as defined in Minnesota

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Statutes 1974, section 500.24, subdivision 1, clause (d), but which does not qualify as an authorized farm corporation as defined in subdivision 2, clause (d);

(m) A corporation formed primarily for religious purposes whose sole income is derived from agriculture;

(n) Agricultural land owned or leased by a corporation prior to August 1, 1975, which was exempted from the restriction of this subdivision under the provisions of Laws 1973, chapter 427, including normal expansion of such ownership or leasehold interest to be exercised at a rate not to exceed 20 percent of the amount of land owned or leased on August 1, 1975, in any five-year period and the additional ownership reasonably necessary to meet requirements of pollution control rules;

(o) Agricultural land owned or leased by a corporation prior to August 1, 1978, including normal expansion of such ownership or leasehold interest, to be exercised at a rate not to exceed 20 percent of the amount of land owned or leased on August 1, 1978, and the additional ownership reasonably necessary to meet requirements of pollution control rules, provided that nothing herein shall reduce any exemption contained under the provisions of Laws 1975, chapter 324, section 1, subdivision 2;

(p) An interest in the title to agricultural land acquired by a pension fund or family trust established by the owners of a family farm, authorized farm corporation or family farm corporation, but limited to the farm on which one or more of those owners or shareholders have resided or have been actively engaged in farming as required by subdivision 2, clause (b), (c), or (d);

(q) Agricultural land owned by a nursing home located in a city with a population, according to the state demographer's 1985 estimate, between 900 and 1,000, in a county with a population, according to the state demographer's 1985 estimate, between 18,000 and 19,000, if the land was given to the nursing home as a gift with the expectation that it would not be sold during the donor's lifetime. This exemption is available until July 1, 1995;

(r) The acreage of agricultural land and land capable of being used for farming owned and recorded by an authorized farm corporation as defined in Minnesota Statutes 1986, section 500.24, subdivision 2, paragraph (d), or a limited partnership as of May 1, 1988, including the normal expansion of the ownership at a rate not to exceed 20 percent of the land owned and recorded as of May 1, 1988, measured in acres, in any five-year period, and including additional ownership reasonably necessary to meet the requirements of pollution control rules;

(s) Agricultural land owned or leased as a necessary part of an aquatic farm as defined in section 3, subdivision 3.

Sec. 17. **REPEALER.**

Minnesota Statutes 1990, section 17.492, is repealed.

New language is indicated by underline, deletions by ~~strikeout~~.

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Sec. 18. **EFFECTIVE DATE.**

This act is effective the day following final enactment.

Presented to the governor May 30, 1991

Signed by the governor June 3, 1991, 4:16 p.m.

CHAPTER 310—S.F.No. 804

An act relating to corrections; requiring the county of residence to pay for medical services to juveniles in custody; requiring county boards to pay for medical services for prisoners in jail; requiring children in custody and prisoners to pay for medical services to the extent of their ability to pay; providing for reimbursement of the costs of medical services by health insurance or a health plan; amending Minnesota Statutes 1990, section 641.15; proposing coding for new law in Minnesota Statutes, chapter 260.

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

Section 1. **[260.174] CHILDREN IN CUSTODY; RESPONSIBILITY FOR MEDICAL CARE.**

Subdivision 1. **MEDICAL AID.** If a child is taken into custody as provided in section 260.165 and detained in a local juvenile secure detention facility or shelter care facility, or if a child is sentenced by the juvenile court to a local correctional facility as defined in section 241.021, subdivision 1, paragraph (5), the child's county of residence shall pay the costs of medical services provided to the child during the period of time the child is residing in the facility. The county of residence is entitled to reimbursement from the child or the child's family for payment of medical bills to the extent that the child or the child's family has the ability to pay for the medical services. If there is a disagreement between the county and the child or the child's family concerning the ability to pay or whether the medical services were necessary, the court with jurisdiction over the child shall determine the extent, if any, of the child's or the family's ability to pay for the medical services or whether the services are necessary. If the child is covered by health or medical insurance or a health plan when medical services are provided, the county paying the costs of medical services has a right of subrogation to be reimbursed by the insurance carrier or health plan for all amounts spent by it for medical services to the child that are covered by the insurance policy or health plan, in accordance with the benefits, limitations, exclusions, provider restrictions, and other provisions of the policy or health plan. The county may maintain an action to enforce this subrogation right. The county does not have a right of subrogation against the medical assistance program, the children's health plan, or the general assistance medical care program.

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