

The state is not liable in any manner to any issuer, holder of obligations, or other person for carrying out the duties imposed on it under ~~Laws 1987, chapter 268, article 16, sections 1 to 40~~ this chapter.

Sec. 27. Minnesota Statutes 1990, section 474A.16, is amended to read:

474A.16 EXCLUSIVE METHOD OF ALLOCATION.

~~Laws 1987, chapter 268, article 16, sections 1 to 40 shall be~~ This chapter is the exclusive method for allocating authority to issue obligations for the purposes of complying with the volume limitation of federal tax law.

Sec. 28. Minnesota Statutes 1990, section 474A.17, is amended to read:

474A.17 ADMINISTRATIVE PROCEDURE ACT NOT APPLICABLE.

Chapter 14 shall not apply to actions taken by any state agency or entity under ~~Laws 1987, chapter 268, article 16, sections 1 to 40~~ this chapter.

Sec. 29. **REPEALER.**

Minnesota Statutes 1990, sections 474A.048; and 474A.081, subdivisions 1, 2, and 4, are repealed.

Presented to the governor May 31, 1991

Signed by the governor June 4, 1991, 8:30 p.m.

CHAPTER 347—H.F.No. 694

An act relating to the environment; establishing an environmental enforcement account; establishing a field citation pilot project for unauthorized disposal of solid waste; authorizing background investigations of environmental permit applicants; expanding current authority to impose administrative penalties for air and water pollution and solid waste management violations; clarifying that certain persons who own or have the capacity to influence operation of property are not responsible persons under the environmental response and liability act solely because of ownership or the capacity to influence operation; imposing criminal penalties for knowing violations of standards related to hazardous air pollutants and toxic pollutants in water; providing that certain property is subject to forfeiture in connection with convictions for water pollution and air pollution violations; imposing criminal penalties for unauthorized disposal of solid waste; authorizing prosecution of environmental crimes by the attorney general; providing for environmental restitution as part of a sentence; increasing criminal penalties for false statements on documents related to permits and record keeping; requiring reports; appropriating money; amending Minnesota Statutes 1990, sections 18D.331, subdivision 4; 115.071, by adding a subdivision; 115.072; 115B.03, by adding subdivisions; 115C.05; 116.07, subdivision 4d; 116.072, subdivisions 1, 2, 6, 10, and 11; 609.531, subdivision 1; and 609.671; proposing coding for new law in Minnesota Statutes, chapters 115 and 116.

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

ARTICLE 1

CIVIL ENFORCEMENT

Section 1. CITATION.

Articles 1 and 3 may be cited as the "environmental enforcement act of 1991."

Sec. 2. Minnesota Statutes 1990, section 115.071, is amended by adding a subdivision to read:

Subd. 6. ADMINISTRATIVE PENALTIES. A provision of law that may be enforced under this section may also be enforced under section 116.072.

Sec. 3. Minnesota Statutes 1990, section 115.072, is amended to read:

115.072 RECOVERY OF LITIGATION COSTS AND EXPENSES.

In any action brought by the attorney general, in the name of the state, pursuant to the provisions of this chapter and chapter 116, for civil penalties, injunctive relief, or in an action to compel compliance, if the state shall finally prevail, and if the proven violation was willful, the state, in addition to other penalties provided in this chapter, may be allowed an amount determined by the court to be the reasonable value of all or a part of the litigation expenses incurred by the state. In determining the amount of such litigation expenses to be allowed, the court shall give consideration to the economic circumstances of the defendant.

~~All~~ Amounts recovered under the provisions of this section and section 115.071, subdivisions 3 to 5, shall be paid into the environmental fund in the state treasury to the extent provided in section 4.

Sec. 4. ~~[115.073]~~ ENFORCEMENT FUNDING.

Except as provided in sections 115B.20, subdivision 4, clause (2); 115C.05; and 473.845, subdivision 8, all money recovered by the state under this chapter and chapters 115A and 116, including civil penalties and money paid under an agreement, stipulation, or settlement, excluding money paid for past due fees or taxes, up to the amount appropriated for implementation of this act, must be deposited in the state treasury and credited to the environmental fund.

Sec. 5. ~~[115.075]~~ INFORMATION AND MONITORING.

A person may not:

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(1) make a false material statement, representation, or certification in; omit material information from; or alter, conceal, or fail to file or maintain a notice, application, record, report, plan, manifest, or other document required under section 103F.701 or this chapter or chapter 115A or 116; or

(2) falsify, tamper with, render inaccurate, or fail to install a monitoring device or method required to be maintained or followed for the purpose of compliance with sections 103F.701 to 103F.761 or this chapter or chapter 115A or 116.

Sec. 6. [115.076] **BACKGROUND OF PERMIT APPLICANTS.**

Subdivision 1. AUTHORITY OF COMMISSIONER. The agency may refuse to issue or to authorize the transfer of a hazardous waste facility permit or a solid waste facility permit to construct or operate a commercial waste facility as defined in section 115A.03, subdivision 6, if the agency determines that the permit applicant does not possess sufficient expertise and competence to operate the facility in conformance with the requirements of chapters 115 and 116, or if other circumstances exist that demonstrate that the permit applicant may not operate the facility in conformance with the requirements of chapters 115 and 116. In making this determination, the agency may consider:

(1) the experience of the permit applicant in constructing or operating commercial waste facilities;

(2) the expertise of the permit applicant;

(3) the past record of the permit applicant in operating commercial waste facilities in Minnesota and other states;

(4) any criminal convictions of the permit applicant in state or federal court during the past five years that bear on the likelihood that the permit applicant will operate the facility in conformance with the requirements of chapters 115 and 116; and

(5) in the case of a corporation or business entity, any criminal convictions in state or federal court during the past five years of any of the permit applicant's officers, partners, or facility managers that bear on the likelihood that the facility will be operated in conformance with the requirements of chapters 115 and 116.

Subd. 2. PERMIT APPLICANT. For purposes of this section, a permit applicant includes a natural person, a partnership and its owners, and a corporation and its parent.

Subd. 3. INVESTIGATION. The commissioner may conduct an investigation to assist in making determinations under subdivision 1. The reasonable costs of any investigation must be paid by the permit applicant.

Subd. 4. NOTICE OF PERMIT DENIAL. The agency may not refuse to issue or transfer a permit under this section without first providing the permit

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applicant with the relevant information and with an opportunity to respond by commenting on the information and submitting additional information regarding the circumstances surrounding the conviction, corrective measures to prevent recurrence, the applicant's rehabilitation, and technical and managerial experience. In making a final decision on the permit, the agency shall consider the permit applicant's response prior to making a final decision on the permit.

Subd. 5. HEARING. If the agency proposes to deny a permit under this section, the permit applicant may request a hearing under chapter 14. The permit applicant may request that the hearing be held under Minnesota Rules, parts 1400.8510 to 1400.8612.

Sec. 7. Minnesota Statutes 1990, section 115C.05, is amended to read:

115C.05 CIVIL PENALTY.

The agency may enforce section 115C.03 using the actions and remedies authorized under ~~section~~ sections 115.071, subdivision 3, and 116.072. The civil penalties recovered by the state must be credited to the fund.

Sec. 8. Minnesota Statutes 1990, section 116.07, subdivision 4d, is amended to read:

Subd. 4d. **PERMIT FEES.** The agency may collect permit fees in amounts not greater than those necessary to cover the reasonable costs of reviewing and acting upon applications for agency permits and implementing and enforcing the conditions of the permits pursuant to agency rules. Permit fees shall not include the costs of litigation. The agency shall adopt rules under section 16A.128 establishing the amounts and methods of collection of any permit fees collected under this subdivision. The fee schedule must reflect reasonable and routine permitting, implementation, and enforcement costs. The agency may impose an additional enforcement fee to be collected for a period of up to two years to cover the reasonable costs of implementing and enforcing the conditions of a permit under the rules of the agency. Any money collected under this subdivision shall be deposited in the special revenue account.

Sec. 9. Minnesota Statutes 1990, section 116.072, subdivision 1, is amended to read:

Subdivision 1. **AUTHORITY TO ISSUE PENALTY ORDERS.** The commissioner may issue an order requiring violations to be corrected and administratively assessing monetary penalties for ~~hazardous waste violations under sections 115.061 and 116.07, and Minnesota Rules, chapter 7045 of this chapter and chapters 115, 115A, and 115D, any rules adopted under those chapters, and any standards, limitations, or conditions established in an agency permit; and for failure to respond to a request for information under section 115B.17, subdivision 3.~~ The order must be issued as provided in this section.

Sec. 10. Minnesota Statutes 1990, section 116.072, subdivision 2, is amended to read:

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Subd. 2. **AMOUNT OF PENALTY; CONSIDERATIONS.** (a) The commissioner may issue an order assessing a penalty up to \$10,000 for all violations identified during an inspection or other compliance review.

(b) In determining the amount of a penalty the commissioner may consider:

- (1) the willfulness of the violation;
- (2) the gravity of the violation, including damage to humans, animals, air, water, land, or other natural resources of the state;
- (3) the history of past violations;
- (4) the number of violations;
- (5) the economic benefit gained by the person by allowing or committing the violation; and
- (6) other factors as justice may require, if the commissioner specifically identifies the additional factors in the commissioner's order.

(c) For a violation after an initial violation, the commissioner shall, in determining the amount of a penalty, consider the factors in paragraph (b) and the:

- (1) similarity of the most recent previous violation and the violation to be penalized;
- (2) time elapsed since the last violation;
- (3) number of previous violations; and
- (4) response of the person to the most recent previous violation identified.

Sec. 11. Minnesota Statutes 1990, section 116.072, subdivision 6, is amended to read:

Subd. 6. **EXPEDITED ADMINISTRATIVE HEARING.** (a) Within 30 days after receiving an order or within 20 days after receiving notice that the commissioner has determined that a violation has not been corrected or appropriate steps have not been taken, the person subject to an order under this section may request an expedited hearing, utilizing the procedures of Minnesota Rules, parts 1400.8510 to 1400.8612, to review the commissioner's action. The hearing request must specifically state the reasons for seeking review of the order. The person to whom the order is directed and the ~~director~~ commissioner are the parties to the expedited hearing. The commissioner must notify the person to whom the order is directed of the time and place of the hearing at least 20 days before the hearing. The expedited hearing must be held within 30 days after a request for hearing has been filed with the commissioner unless the parties agree to a later date.

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(b) All written arguments must be submitted within ten days following the close of the hearing. The hearing shall be conducted under ~~the conference contested case rules of the office of administrative hearings~~ Minnesota Rules, parts 1400.8510 to 1400.8612, as modified by this subdivision. The office of administrative hearings may, in consultation with the agency, adopt rules specifically applicable to cases under this section.

(c) The administrative law judge shall issue a report making recommendations about the commissioner's action to the commissioner within 30 days following the close of the record. The administrative law judge may not recommend a change in the amount of the proposed penalty unless the administrative law judge determines that, based on the factors in subdivision 2, the amount of the penalty is unreasonable.

(d) If the administrative law judge makes a finding that the hearing was requested solely for purposes of delay or that the hearing request was frivolous, the commissioner may add to the amount of the penalty the costs charged to the agency by the office of administrative hearings for the hearing.

(e) If a hearing has been held, the commissioner may not issue a final order until at least five days after receipt of the report of the administrative law judge. The person to whom an order is issued may, within those five days, comment to the commissioner on the recommendations and the commissioner will consider the comments. The final order may be appealed in the manner provided in sections 14.63 to 14.69.

(f) If a hearing has been held and a final order issued by the commissioner, the penalty shall be paid by 30 days after the date the final order is received unless review of the final order is requested under sections 14.63 to 14.69. If review is not requested or the order is reviewed and upheld, the amount due is the penalty, together with interest accruing from 31 days after the original order was received at the rate established in section 549.09.

Sec. 12. Minnesota Statutes 1990, section 116.072, subdivision 10, is amended to read:

Subd. 10. **REVOCATION AND SUSPENSION OF PERMIT.** If a person fails to pay a penalty owed under this section, the agency has grounds to revoke or refuse to reissue or renew a ~~hazardous waste~~ permit issued by the agency.

Sec. 13. Minnesota Statutes 1990, section 116.072, subdivision 11, is amended to read:

Subd. 11. **CUMULATIVE REMEDY.** The authority of the agency to issue a corrective order assessing penalties is in addition to other remedies available under statutory or common law, except that the state may not seek civil penalties under any other provision of law for the violations covered by the administrative penalty order. The payment of a penalty does not preclude the use of other enforcement provisions, under which penalties are not assessed, in connection with the violation for which the penalty was assessed.

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Sec. 14. PLAN FOR USE OF ADMINISTRATIVE PENALTY ORDERS.

The commissioner of the pollution control agency shall prepare a plan for using the administrative penalty authority in Minnesota Statutes, section 116.072. The commissioner shall provide a 30-day period for public comment on the plan. The plan must be submitted to the agency for approval by October 1, 1991.

Sec. 15. FIELD CITATION PILOT PROJECT.

Subdivision 1. AUTHORITY TO ISSUE. Pollution control agency staff designated by the commissioner and department of natural resources conservation officers may issue citations to a person who disposes of solid waste as defined in Minnesota Statutes, section 116.06, subdivision 10, at a location not authorized by law for the disposal of solid waste without permission of the owner of the property.

Subd. 2. PENALTY AMOUNT. The citation must impose the following penalty amounts:

(1) \$100 per major appliance, as defined in Minnesota Statutes, section 115A.03, subdivision 17a, up to a maximum of \$2,000;

(2) \$25 per waste tire, as defined in Minnesota Statutes, section 115A.90, subdivision 11, unless utilized in an agricultural pursuit, up to a maximum of \$2,000;

(3) \$25 per lead acid battery governed by Minnesota Statutes, section 115A.915, up to a maximum of \$2,000;

(4) \$1 per pound of other solid waste or \$20 per cubic foot up to a maximum of \$2,000; and

(5) up to \$200 for any amount of waste that escapes from a vehicle used for the transportation of solid waste if, after receiving actual notice that waste has escaped the vehicle, the person or company transporting the waste fails to collect the waste.

Subd. 3. APPEALS. Citations may be appealed under the procedures in Minnesota Statutes, section 116.072, subdivision 6, if the person requests a hearing by notifying the commissioner within 15 days after receipt of the citation. If a hearing is not requested within the 15-day period, the citation becomes a final order not subject to further review.

Subd. 4. ENFORCEMENT OF FIELD CITATIONS. Field citations may be enforced under Minnesota Statutes, section 116.072, subdivisions 9 and 10.

Subd. 5. CUMULATIVE REMEDY. The authority of conservation officers to issue field citations is in addition to other remedies available under statutory or common law, except that the state may not seek penalties under any other provision of law for the incident subject to the citation.

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Subd. 6. STUDY OF FIELD CITATION PILOT PROGRAM. The pollution control agency, in consultation with the department of natural resources and the attorney general, shall prepare a study on the effectiveness and limitations of the field citation pilot program. The study must make recommendations about the continued use of field citations. The study must be submitted to the legislative commission on waste management by November 15, 1992.

Sec. 16. STUDY OF THE ROLE OF LOCAL GOVERNMENTAL UNITS IN ENVIRONMENTAL PROGRAMS.

The pollution control agency shall conduct a study of the role that local governmental units should play in enforcing the requirements of state environmental programs within the jurisdiction of the pollution control agency. The study must involve representatives of the attorney general, local governmental units, environmental organizations, and businesses. Public meetings must be held in at least four locations in the state prior to the completion of the study. The study must identify which environmental programs, or parts of programs, could be enforced by local government units; criteria for approving local enforcement programs; resources needed to support local enforcement programs; sources of funding to ensure adequate resources are available; the ability of local governmental units to enforce the laws; and the training and testing needs of local governmental units to support enforcement. If the study concludes that additional elements of the state's environmental programs should be enforced by local governmental units, the study report must include a recommended strategy for involving local governmental units in the enforcement of program elements. The strategy must consider methods of maintaining consistent enforcement throughout the state of environmental program elements that may be enforced by local governmental units and methods of avoiding duplicative enforcement activities. The study must be submitted to the committees on environment and natural resources of the legislature by October 1, 1992.

Sec. 17. REPORT TO THE LEGISLATURE.

The pollution control agency shall monitor the use of the new enforcement authority provided in the 1991 legislative session and the use of the money appropriated to the agency in article 3, section 5, and, after consulting with the attorney general, report the results to the committees on environment and natural resources of the legislature by November 15, 1992. The report must also contain recommendations on establishing a permanent system for reporting progress in achieving compliance with environmental laws to the legislature and to the public.

Sec. 18. INSTRUCTION TO REVISOR.

In Minnesota Statutes 1992 and subsequent editions, the revisor of statutes shall, in each of the following sections, before "115.071" delete "section" and insert "sections" and after "115.071" insert "and 116.072":

115A.906, subdivision 2;

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115A.915;

115A.916;

115A.9561;

116.07, subdivision 4i;

116.83, subdivision 2; and

473.845, subdivision 8.

Sec. 19. **REPEALER.**

Section 15 is repealed.

Sec. 20. **EFFECTIVE DATE.**

Section 19 is effective July 1, 1993.

ARTICLE 2

HAZARDOUS WASTE LIABILITY

Section 1. Minnesota Statutes 1990, section 115B.03, is amended by adding a subdivision to read:

Subd. 6. MORTGAGES. (a) A mortgagee is not a responsible person under this section solely because the mortgagee becomes an owner of real property through foreclosure of the mortgage or by receipt of the deed to the mortgaged property in lieu of foreclosure.

(b) A mortgagee of real property where a facility is located or a holder of a security interest in facility assets or inventory is not an operator of the facility for the purpose of this section solely because the mortgagee or holder has a capacity to influence the operation of the facility to protect its security interest in the real property or assets.

Sec. 2. Minnesota Statutes 1990, section 115B.03, is amended by adding a subdivision to read:

Subd. 7. CONTRACT FOR DEED VENDORS. A contract for deed vendor who is otherwise not a responsible party for a release or a threatened release of a hazardous substance from a facility is not a responsible person under this section solely as a result of a termination of the contract for deed under section 559.21.

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ARTICLE 3

CRIMINAL ENFORCEMENT

Section 1. Minnesota Statutes 1990, section 18D.331, subdivision 4, is amended to read:

Subd. 4. **DISPOSAL THAT BECOMES HAZARDOUS WASTE.** A person who knowingly; ~~or with reason to know;~~ disposes of an agricultural chemical ~~so that the product becomes in violation of this chapter, chapter 18B or 18C, or a standard, special order, stipulation agreement, or schedule of compliance of the commissioner and the agricultural chemical is hazardous waste is subject to the penalties in section 445.074~~ 609.671, subdivision 4.

Sec. 2. [116.91] **CITIZEN REPORTS OF ENVIRONMENTAL VIOLATIONS.**

The agency shall maintain and publicize a toll-free number to enable citizens to report information about potential environmental violations. The agency may establish a program to pay awards from funds raised from private sources to persons who provide information that leads to the conviction for an environmental crime.

Sec. 3. Minnesota Statutes 1990, section 609.531, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** For the purpose of sections 609.531 to 609.5317, the following terms have the meanings given them.

(a) "Conveyance device" means a device used for transportation and includes, but is not limited to, a motor vehicle, trailer, snowmobile, airplane, and vessel and any equipment attached to it. The term "conveyance device" does not include property which is, in fact, itself stolen or taken in violation of the law.

(b) "Weapon used" means a weapon used in the furtherance of a crime and defined as a dangerous weapon under section 609.02, subdivision 6.

(c) "Property" means property as defined in section 609.52, subdivision 1, clause (1).

(d) "Contraband" means property which is illegal to possess under Minnesota law.

(e) "Appropriate agency" means the bureau of criminal apprehension, the Minnesota state patrol, a county sheriff's department, the suburban Hennepin regional park district park rangers, or a city or airport police department.

(f) "Designated offense" includes:

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(1) for weapons used: any violation of this chapter;

(2) for all other purposes: a felony violation of, or a felony-level attempt or conspiracy to violate, section 609.185; 609.19; 609.195; 609.21; 609.221; 609.222; 609.223; 609.2231; 609.24; 609.245; 609.25; 609.255; 609.322; 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1, clauses (a) to (f); 609.344, subdivision 1, clauses (a) to (e), and (h) to (j); 609.345, subdivision 1, clauses (a) to (e), and (h) to (j); 609.42; 609.425; 609.466; 609.485; 609.487; 609.52; 609.525; 609.53; 609.54; 609.551; 609.561; 609.562; 609.563; 609.582; 609.59; 609.595; 609.631; 609.671, subdivisions 3, 4, ~~and 5~~, 8, and 12; 609.687; 609.821; 609.825; 609.86; 609.88; 609.89; 237.73; 617.246; or a gross misdemeanor or felony violation of section 609.891.

(g) "Controlled substance" has the meaning given in section 152.01, subdivision 4.

Sec. 4. Minnesota Statutes 1990, section 609.671, is amended to read:

609.671 ENVIRONMENT; CRIMINAL PENALTIES.

Subdivision 1. **DEFINITIONS.** The definitions in this subdivision apply to this section.

(a) "Agency" means the pollution control agency.

(b) "Deliver" or "delivery" means the transfer of possession of hazardous waste, with or without consideration.

(c) "Dispose" or "disposal" has the meaning given it in section 115A.03, subdivision 9.

(d) "Hazardous air pollutant" means an air pollutant listed under United States Code, title 42, section 7412(b).

(e) "Hazardous waste" means any waste identified as hazardous under the authority of section 116.07, subdivision 4, except for those wastes exempted under Minnesota Rules, part 7045.0120, wastes generated under Minnesota Rules, part 7045.0213 or 7045.0304, and household appliances.

(e) (f) "Permit" means a permit issued by the pollution control agency ~~or interim status for a treatment, storage, or disposal facility under chapter 115 or 116 or the rules promulgated under those chapters including interim status~~ for hazardous waste ~~that qualifies under the agency rules facilities.~~

(g) "Solid waste" has the meaning given in section 116.06, subdivision 10.

(h) "Toxic pollutant" means a toxic pollutant on the list established under United States Code, title 33, section 1317.

Subd. 2. **PROOF OF KNOWING STATE OF MIND DEFINITION OF KNOWING.** (a) ~~Knowledge possessed by a person other than the defendant but not by the defendant may not be attributed to the defendant. In proving a defendant's actual knowledge, circumstantial evidence may be used, including~~

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evidence that the defendant took affirmative steps to shield the defendant from relevant information:

(b) Proof of a defendant's reason to know may not consist solely of the fact that the defendant held a certain job or position of management responsibility. If evidence of the defendant's job or position is offered, it must be corroborated by evidence of defendant's reason to know. Corroborating evidence must include evidence that the defendant had information regarding the offense for which the defendant is charged; that the information pertained to hazardous waste management practices directly under the defendant's control or within the defendant's supervisory responsibilities; and that the information would cause a reasonable and prudent person in the defendant's position to learn the actual facts (a) For purposes of this section, an act is committed knowingly if it is done voluntarily and is not the result of negligence, mistake, accident, or circumstances that are beyond the control of the defendant. Whether an act was knowing may be inferred from the person's conduct, from the person's familiarity with the subject matter in question, or from all of the facts and circumstances connected with the case. Knowledge may also be established by evidence that the person took affirmative steps to shield the person from relevant information. Proof of knowledge does not require that a person knew a particular act or failure to act was a violation of law or that the person had specific knowledge of the regulatory limits or testing procedures involved in a case.

(b) Knowledge of a corporate official may be established under paragraph (a) or by proof that the person is a responsible corporate official. To prove that a person is a responsible corporate official, it must be shown that:

- (1) the person is an official of the corporation, not merely an employee;
- (2) the person has direct control of or supervisory responsibility for the activities related to the alleged violation, but not solely that the person held a certain job or position in a corporation; and
- (3) the person had information regarding the offense for which the defendant is charged that would lead a reasonable and prudent person in the defendant's position to learn the actual facts.

(c) Knowledge of a corporation may be established by showing that an illegal act was performed by an agent acting on behalf of the corporation within the scope of employment and in furtherance of the corporation's business interest, unless a high managerial person with direct supervisory authority over the agent demonstrated due diligence to prevent the crime's commission.

Subd. 3. **HAZARDOUS WASTE; KNOWING ENDANGERMENT.** (a) A person is guilty of a felony if the person:

- (1) knowingly, or with reason to know, transports, treats, stores, or disposes of hazardous waste in violation of commits an act described in subdivision 4 or, 5, 8, paragraph (a), or 12; and

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(2) at the time of the violation knowingly places; ~~or has reason to know that the person's conduct places;~~ another person in imminent danger of death, great bodily harm, or substantial bodily harm.

(b) A person convicted under this subdivision may be sentenced to imprisonment for not more than ten years, or to ~~pay~~ payment of a fine of not more than \$100,000, or both, except that a defendant that is an organization may be sentenced to ~~pay~~ payment of a fine of not more than \$1,000,000.

Subd. 4. **HAZARDOUS WASTE; UNLAWFUL DISPOSAL OR ABANDONMENT.** A person who knowingly; ~~or with reason to know;~~ disposes of ~~or abandons~~ hazardous waste or arranges for the disposal of hazardous waste at a location other than one authorized by the pollution control agency or the United States Environmental Protection Agency, or in violation of any material term or condition of a hazardous waste facility permit, is guilty of a felony and may be sentenced to imprisonment for not more than five years or to ~~pay~~ payment of a fine of not more than \$50,000, or both.

Subd. 5. **HAZARDOUS WASTE; UNLAWFUL TREATMENT, STORAGE, TRANSPORTATION, OR DELIVERY; ~~FALSE STATEMENTS.~~** (a) A person is guilty of a felony who knowingly; ~~or with reason to know;~~ does any of the following:

(1) delivers hazardous waste to any person other than a person who is authorized to receive the waste under rules adopted under section 116.07, subdivision 4, or under United States Code, title 42, sections ~~9604~~ 6921 to ~~9675~~ 6938;

(2) treats or stores hazardous waste without a permit if a permit is required, or in violation of a material term or condition of a permit held by the person, unless:

(i) the person notifies the agency prior to the time a permit would be required that the person will be treating or storing waste without a permit; or

(ii) for a violation of a material term or condition of a permit, the person immediately notifies the agency issuing the permit of the circumstances of the violation as soon as the person becomes aware of the violation;

(3) transports hazardous waste to any location other than a facility that is authorized to receive, treat, store, or dispose of the hazardous waste under rules adopted under section 116.07, subdivision 4, or under United States Code, title 42, sections ~~9604~~ 6921 to ~~9675~~ 6938;

(4) transports hazardous waste without a manifest as required by the rules under sections 116.07, subdivision 4, and 221.172; or

(5) transports hazardous waste without a license required for the transportation of hazardous waste by chapter 221;

~~(6) makes a false material statement or representation; or a material omis-~~

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sion; in an application for a permit or license required by chapter 116 or 221 to treat, transport, store, or dispose of hazardous waste; or

(7) makes a false material statement or representation; or a material omission; in or on a label, manifest, record, report, or other document filed, maintained, or used for the purpose of compliance with chapter 116 or 221 in connection with the generation, transportation, disposal, treatment, or storage of hazardous waste.

(b) A person convicted under this subdivision may be sentenced to imprisonment for not more than three years, or to pay payment of a fine of not more than \$25,000, or both. A person convicted for a second or subsequent offense may be sentenced to imprisonment for not more than five years, or to pay payment of a fine of not more than \$50,000, or both.

Subd. 6. **NEGLIGENT VIOLATION AS GROSS MISDEMEANOR.** A person who commits any of the acts set forth in subdivision 4 ~~or~~, 5, or 12 as a result of the person's gross negligence is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year, or to pay payment of a fine of not more than \$15,000, or both.

Subd. 7. **AGGREGATION PROSECUTION.** When two or more offenses in violation of ~~subdivision 4~~ this section are committed by the same person in two or more counties within a two-year period, ~~the offenses may be aggregated and~~ the accused may be prosecuted in any county in which one of the offenses was committed.

Subd. 8. **WATER POLLUTION.** (a) A person is guilty of a felony who knowingly:

(1) causes the violation of an effluent standard or limitation for a toxic pollutant in a national pollutant discharge elimination system permit or state disposal system permit;

(2) introduces into a sewer system or into a publicly owned treatment works a hazardous substance that the person knew or reasonably should have known is likely to cause personal injury or property damage; or

(3) except in compliance with all applicable federal, state, and local requirements and permits, introduces into a sewer system or into a publicly owned treatment works a hazardous substance that causes the treatment works to violate an effluent limitation or condition of the treatment works' national pollutant discharge elimination system permit.

(b) For purposes of paragraph (a), "hazardous substance" means a substance on the list established under United States Code, title 33, section 1321(b).

(c) A person convicted under paragraph (a) may be sentenced to imprisonment for not more than three years, or to payment of a fine of not more than \$50,000 per day of violation, or both.

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(d) A person is guilty of a gross misdemeanor crime who willfully commits any of the following acts knowingly:

(1) violates any effluent standard or limitation, or any water quality standard adopted by the agency;

(2) violates any material term or condition of a national pollutant discharge elimination system permit or any term or condition of the state disposal system permit;

(3) fails to ~~permit or~~ carry out any recording, reporting, monitoring, sampling, or information entry, access, copying, or other inspection or investigation gathering requirement provided for under chapter 115 or; with respect to pollution of the waters of the state, chapter 116; or

(4) fails to ~~comply with any file a~~ discharge monitoring report or other document required for compliance with a national pollutant discharge elimination system filing requirement or state disposal system permit.

~~(b)~~ (e) A person convicted under ~~this subdivision~~ paragraph (d) may be sentenced to imprisonment for not more than one year, or to pay payment of a fine of not less than \$2,500 and not more than ~~\$40,000~~ \$25,000 per day of violation, or both. A person convicted for a second or subsequent offense may be sentenced to imprisonment for not more than two years, or to pay payment of a fine of not more than \$50,000 per day of violation, or both.

Subd. 9. **INFORMATION AND MONITORING FALSE STATEMENTS; TAMPERING.** (a) ~~Except as provided in subdivision 5, paragraph (a), clauses (6) and (7);~~ A person is guilty of a gross misdemeanor felony who knowingly:

(1) makes any material false material statement, representation, or certification in ~~any; omits material information from; or alters, conceals, or fails to file or maintain a notice,~~ application, record, report, plan, manifest, permit, license, or other document ~~filed, maintained, or used for the purpose of compliance with required under sections 103F.701 to 103F.761; or; chapter 115 or; with respect to pollution of the waters of the state, chapter 116; or the hazardous waste transportation requirements of chapter 221; or~~

(2) falsifies, tampers with, ~~or renders inaccurate, or fails to install~~ any monitoring device or method required to be maintained or used followed for the purpose of compliance with sections 103F.701 to 103F.761; or chapter 115 or; with respect to pollution of the waters of the state, chapter 116.

(b) A person convicted under this subdivision may be sentenced to imprisonment for not more than ~~six months~~ two years, or to pay payment of a fine of not more than ~~\$20,000 per day of violation~~ \$10,000, or both.

Subd. 10. **FAILURE TO REPORT A RELEASE OF A HAZARDOUS SUBSTANCE OR AN EXTREMELY HAZARDOUS SUBSTANCE.** (a) A per-

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son 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.

Subd. 11. **INFECTIOUS WASTE.** A person who knowingly, ~~or with reason to know,~~ disposes of or arranges for the disposal of infectious waste as defined in section 116.76 at a location or in a manner that is prohibited by section 116.78 is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year, or to payment of a fine of not more than \$10,000, or both. A person convicted a second or subsequent time under this subdivision is guilty of a felony and may be sentenced to imprisonment for not more than two years, or to payment of a fine of not more than \$25,000, or both.

Subd. 12. **AIR POLLUTION.** (a) A person is guilty of a felony who knowingly:

(1) causes a violation of a national emission standard for a hazardous air pollutant adopted under United States Code, title 42, section 7412; or

(2) causes a violation of an emission standard, limitation, or operational limitation for a hazardous air pollutant established in a permit issued by the pollution control agency.

(b) A person convicted under this subdivision may be sentenced to impris-

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onment for not more than three years, or to payment of a fine of not more than \$50,000 per day of violation, or both.

Subd. 13. SOLID WASTE DISPOSAL. (a) A person is guilty of a gross misdemeanor who:

(1) knowingly disposes of solid waste at, transports solid waste to, or arranges for disposal of solid waste at a location that does not have a required permit for the disposal of solid waste; and

(2) does so in exchange for or in expectation of money or other consideration.

(b) A person convicted under this subdivision may be sentenced to imprisonment for not more than one year, or to payment of a fine of not more than \$15,000, or both.

Subd. 14. DEFENSE. Except for intentional violations, a person is not guilty of a crime for air quality violations under subdivision 6 or 12, or for water quality violations under subdivision 8, if the person notified the pollution control agency of the violation as soon as the person discovered the violation and took steps to promptly remedy the violation.

Sec. 5. APPROPRIATIONS.

Subdivision 1. POLLUTION CONTROL AGENCY. (a) \$890,000 is appropriated from the environmental fund to the pollution control agency for administration of articles 1 and 2. \$460,000 is for fiscal year 1992 and \$430,000 is for fiscal year 1993.

(b) \$238,000 is appropriated from the environmental fund to the attorney general for costs incurred under articles 1 and 2. \$119,000 is for fiscal year 1992 and \$119,000 is for fiscal year 1993.

Subd. 2. DEPARTMENT OF NATURAL RESOURCES. \$200,000 is appropriated from the environmental fund to the commissioner of natural resources for implementation of the field citation pilot project under article 1, section 15. \$100,000 is for fiscal year 1992 and \$100,000 is for fiscal year 1993.

Sec. 6. EFFECTIVE DATE.

Sections 1, 3, and 4 are effective August 1, 1991, and apply to crimes committed on or after that date.

Presented to the governor May 31, 1991

Signed by the governor June 4, 1991, 8:34 p.m.

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