

parental rights if the court determines good cause exists. In determining whether to compel disclosure, the court shall weigh the public interest and need for disclosure against the effect on the victim, the treatment relationship, and the treatment services if disclosure occurs. Nothing in this clause exempts sexual assault counselors from compliance with the provisions of sections 626.556 and 626.557.

“Sexual assault counselor” for the purpose of this section means a person who has undergone at least 40 hours of crisis counseling training and works under the direction of a supervisor in a crisis center, whose primary purpose is to render advice, counseling, or assistance to victims of sexual assault.

(*) (l) A person cannot be examined as to any communication or document, including worknotes, made or used in the course of or because of mediation pursuant to an agreement to mediate. This does not apply to the parties in the dispute in an application to a court by a party to have a mediated settlement agreement set aside or reformed. A communication or document otherwise not privileged does not become privileged because of this paragraph. This paragraph is not intended to limit the privilege accorded to communication during mediation by the common law.

(*) (m) A child under ten years of age is a competent witness unless the court finds that the child lacks the capacity to remember or to relate truthfully facts respecting which the child is examined. A child describing any act or event may use language appropriate for a child of that age.

Sec. 14. APPROPRIATION.

\$217,000 is appropriated from the state government special revenue fund to the commissioner of human services for the purposes of sections 1 to 13. The complement of the department of human services is increased by four positions.

Sec. 15. EFFECTIVE DATE.

Sections 2 and 3 are effective the day following final enactment.

Sections 1 and 4 to 14 are effective July 1, 1993.

Presented to the governor April 17, 1992

Signed by the governor April 27, 1992, 2:06 p.m.

CHAPTER 560—H.F.No. 2147

An act relating to the environment; banning placement of mercury in solid waste; regulating the sale and use of mercury; requiring recycling of mercury in certain products; requiring a report on fluorescent and high intensity discharge lamps; amending Minnesota Statutes

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1991 Supplement, section 115A.9561, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 115A; and 116.

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

Section 1. **[115A.932] MERCURY PROHIBITION.**

Subdivision 1. PROHIBITIONS. (a) A person may not place mercury or a thermostat, thermometer, electric switch, appliance, or medical or scientific instrument from which the mercury has not been removed for reuse or recycling:

- (1) in solid waste; or
- (2) in a wastewater disposal system.

(b) A person may not knowingly place mercury or a thermostat, thermometer, electric switch, appliance, or medical or scientific instrument from which the mercury has not been removed for reuse or recycling:

- (1) in a solid waste processing facility; or
- (2) in a solid waste disposal facility, as defined in section 115.01, subdivision 8.

Subd. 2. ENFORCEMENT. (a) Except as provided in paragraph (b), a violation of subdivision 1 is subject to enforcement under sections 115.071 and 116.072.

(b) A violation of subdivision 1 by a generator of household hazardous waste, as defined in section 115A.96, is not subject to enforcement under section 115.071, subdivision 3.

(c) An administrative penalty imposed under section 116.072 for a violation of subdivision 1 by a generator of household hazardous waste, as defined in section 115A.96, may not exceed \$700.

Sec. 2. Minnesota Statutes 1991 Supplement, section 115A.9561, subdivision 2, is amended to read:

Subd. 2. **RECYCLING REQUIRED.** Major appliances must be recycled or reused. Each county shall ensure that its residents have the opportunity to recycle used major appliances. For the purposes of this section, recycling includes:

- (1) the removal of capacitors that may contain PCBs;
- (2) the removal of ballasts that may contain PCBs;
- (3) the removal of chlorofluorocarbon refrigerant gas; and
- (4) the recycling or reuse of the metals, including mercury.

Sec. 3. **[116.92] MERCURY EMISSIONS REDUCTION.**

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Subdivision 1. SALES. A person may not sell mercury to another person in this state without providing a material safety data sheet, as defined in United States Code, title 42, section 11049, and requiring the purchaser to sign a statement that the purchaser:

(1) will use the mercury only for a medical, dental, instructional, research, or manufacturing purpose; and

(2) understands the toxicity of mercury and will appropriately store and use it and will not place, or allow anyone under the purchaser's control to place, the mercury in the solid waste stream or in a wastewater disposal system, as defined in section 115.01, subdivision 8.

Subd. 2. USE OF MERCURY. A person who uses mercury in any application may not place, or deliver the mercury to another person who places residues, particles, scrapings, or other materials that contain mercury in solid waste or wastewater, except for traces of materials that may inadvertently pass through a filtration system during a dental procedure.

Subd. 3. LABELING; PRODUCTS CONTAINING MERCURY. A manufacturer or wholesaler may not sell and a retailer may not knowingly sell any of the following items in this state that contain mercury unless the item is labeled in a manner to clearly inform a purchaser or consumer that mercury is present in the item and that the item may not be placed in the garbage until the mercury is removed and reused, recycled, or otherwise managed to ensure that it does not become part of solid waste or wastewater:

(1) a thermostat or thermometer;

(2) an electric switch, individually or as part of another product, other than a motor vehicle;

(3) an appliance; and

(4) a medical or scientific instrument.

Subd. 4. REMOVAL FROM SERVICE; PRODUCTS CONTAINING MERCURY. (a) When an item listed in subdivision 3 is removed from service the mercury in the item must be reused, recycled, or otherwise managed to ensure compliance with section 1.

(b) A person who is in the business of replacing or repairing an item listed in subdivision 3 in households shall ensure, or deliver the item to a facility that will ensure, that the mercury contained in an item that is replaced or repaired is reused or recycled or otherwise managed in compliance with section 1.

Subd. 5. THERMOSTATS. A manufacturer of thermostats that contain mercury or that may replace thermostats that contain mercury shall, in addition to the requirements of subdivision 3, provide incentives for and sufficient information to purchasers and consumers of the thermostats for the purchasers or

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consumers to ensure that mercury in thermostats being removed from service is reused or recycled or otherwise managed in compliance with section 1. A manufacturer that has complied with this subdivision is not liable for improper disposal by purchasers or consumers of thermostats.

Subd. 6. THERMOMETERS. A medical facility may not routinely distribute thermometers containing mercury.

Subd. 7. FLUORESCENT AND HIGH INTENSITY DISCHARGE LAMPS; LARGE USE APPLICATIONS. (a) A person who sells fluorescent or high intensity discharge lamps that contain mercury to the owner or manager of an industrial, commercial, office, or multiunit residential building, or to any person who replaces or removes from service outdoor lamps that contain mercury, shall clearly inform the purchaser in writing on the invoice for the lamps, or in a separate writing, that the lamps contain mercury, a hazardous substance that is regulated by federal or state law. This paragraph does not apply to a person who incidentally sells fluorescent or high intensity discharge lamps at retail to the specified purchasers.

(b) A person who contracts with the owner or manager of an industrial, commercial, office, or multiunit residential building, or with a person responsible for outdoor lighting, to remove from service fluorescent or high intensity discharge lamps that contain mercury shall clearly inform, in writing, the person for whom the work is being done that the lamps being removed from service contain mercury and what the contractor's arrangements are for the management of the mercury in the removed lamps.

Subd. 8. BAN; TOYS OR GAMES. A person may not sell for resale or at retail in this state a toy or game that contains mercury.

Subd. 9. ENFORCEMENT; GENERATORS OF HOUSEHOLD HAZARDOUS WASTE. (a) A violation of subdivision 2 or 4, paragraph (a), by a generator of household hazardous waste, as defined in section 115A.96, is not subject to enforcement under section 115.071, subdivision 3.

(b) An administrative penalty imposed under section 116.072 for a violation of subdivision 2 or 4, paragraph (a), by a generator of household hazardous waste, as defined in section 115A.96, may not exceed \$700.

Sec. 4. FLUORESCENT AND HIGH INTENSITY DISCHARGE LAMPS; REPORT.

The office of waste management, in consultation with the pollution control agency and manufacturers of fluorescent or high intensity discharge lamps that contain mercury, shall study and report to the legislative commission on waste management by January 1, 1993, with recommendations for fully implementing, by January 1, 1996, a system for ensuring that the toxic materials contained in lamps that are replaced are reused, recycled, or otherwise managed to ensure they are not placed in the solid waste stream or a wastewater disposal system, as

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defined in Minnesota Statutes, section 115.01, subdivision 8. The director of the office of waste management shall submit a preliminary report to the commission by October 1, 1992.

Sec. 5. **EFFECTIVE DATES.**

Section 3, subdivisions 1, 3, and 5, are effective January 1, 1993, and subdivision 3 applies to items manufactured on and after that date. Section 3, subdivision 4, paragraph (b), is effective July 1, 1993.

Presented to the governor April 17, 1992

Signed by the governor April 29, 1992, 8:10 a.m.

CHAPTER 561—H.F.No. 2280

An act relating to state lands; changing provisions relating to withdrawal of certain lands from sale or exchange; authorizing the private sale of tax-forfeited lands in St. Louis, Hubbard, Itasca, and Chisago counties; amending Minnesota Statutes 1991 Supplement, section 103F.535, subdivision 1; repealing Minnesota Statutes 1990, section 103F.535, subdivisions 2, 3, and 4.

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

Section 1. Minnesota Statutes 1991 Supplement, section 103F.535, subdivision 1, is amended to read:

Subdivision 1. **RESERVATION OF MARGINAL LAND AND WETLANDS.** (a) ~~Notwithstanding any other law, Marginal land and wetlands are withdrawn from sale by the state or exchange unless use of the marginal land or wetland is restricted by a conservation easement as provided in this section;~~

(1) notice of the existence of the nonforested marginal land or wetlands, in a form prescribed by the board of water and soil resources, is provided to prospective purchasers; and

(2) the deed contains a restrictive covenant, in a form prescribed by the board of water and soil resources, that precludes enrollment of the land in a state-funded program providing compensation for conservation of marginal land or wetlands.

(b) This section does not apply to transfers of land by the board of water and soil resources to correct errors in legal descriptions under section 103F.515, subdivision 8, or to transfers by the commissioner of natural resources for:

(1) land that is currently in nonagricultural commercial use if a ~~conservation easement~~ restrictive covenant would interfere with the commercial use;

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