

CHAPTER 328—S.F.No. 869

An act relating to natural resources; providing for the prevention and suppression of wildfires in forest areas; providing penalties; amending Minnesota Statutes 1992, sections 88.01, subdivisions 2, 6, 8, 15, 23, and by adding subdivisions; 88.02; 88.03; 88.04; 88.041; 88.05; 88.06; 88.065; 88.067; 88.08; 88.09, subdivision 2; 88.10; 88.11, subdivision 2; 88.12; 88.14; 88.15; 88.16; 88.17, subdivision 1, and by adding a subdivision; 88.18; 88.22; and 88.76; proposing coding for new law in Minnesota Statutes, chapter 88; repealing Minnesota Statutes 1992, sections 88.17, subdivision 2; and 88.19; and Laws 1992, chapter 556, sections 10 and 11; and Minnesota Rules, parts 7005.0705; 7005.0715; 7005.0725; 7005.0735; 7005.0745; 7005.0755; 7005.0765; 7005.0766; 7005.0767; 7005.0775; 7005.0785; 7005.0795; 7005.0796; 7005.0805; and 7005.0815.

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

Section 1. Minnesota Statutes 1992, section 88.01, subdivision 2, is amended to read:

Subd. 2. **DIVISION.** "Division" or "the division" means the division of ~~lands~~ and forestry in the department of natural resources.

Sec. 2. Minnesota Statutes 1992, section 88.01, subdivision 6, is amended to read:

Subd. 6. **FOREST WILDFIRE AREAS.** Every county now or hereafter having within its boundaries any tract or area of 1,000, or more, contiguous acres of ~~standing or growing timber or of unbroken prairie land or of cutover timber land not cleared or otherwise denuded of combustible or inflammable growth trees, brush, grasslands, or other vegetative material where the potential for wildfire exists,~~ is hereby declared to be a forest area; and every other county ~~is hereby declared not to be such forest wildfire area.~~

Sec. 3. Minnesota Statutes 1992, section 88.01, subdivision 8, is amended to read:

Subd. 8. **BACKFIRE.** "Backfire" means a fire intentionally started ahead of, or in the path of, an approaching ~~forest or prairie fire wildfire~~ for the purpose of burning back toward ~~that forest or prairie fire~~ the wildfire so that when the two fires meet both will die for lack of fuel.

Sec. 4. Minnesota Statutes 1992, section 88.01, subdivision 15, is amended to read:

Subd. 15. **IMPROVEMENT.** "Improvement" includes any act or thing done, or which may be done, and any construction made or structure erected or which may be made or erected, and any removal from any land of trees, brush, stumps, or other debris, which reasonably tend to prevent or abate ~~forest fires~~ wildfires.

Sec. 5. Minnesota Statutes 1992, section 88.01, subdivision 23, is amended to read:

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Subd. 23. **OPEN FIRE.** "Open fire" or "open burning" means a fire burning in matter, whether concentrated or dispersed, which is not contained within a fully enclosed firebox, structure or vehicle and from which the products of combustion are emitted directly to the open atmosphere without passing through a stack, duct or chimney.

Sec. 6. Minnesota Statutes 1992, section 88.01, is amended by adding a subdivision to read:

Subd. 24. WILDFIRE. "Wildfire" means a fire requiring suppression action, burning any forest, brush, grassland, cropland, or any other vegetative material.

Sec. 7. Minnesota Statutes 1992, section 88.01, is amended by adding a subdivision to read:

Subd. 25. CAMPFIRE. "Campfire" means a fire set for cooking, warming, or ceremonial purposes, which is not more than three feet in diameter by three feet high, and has had the ground five feet from the base of the fire cleared of all combustible material.

Sec. 8. Minnesota Statutes 1992, section 88.01, is amended by adding a subdivision to read:

Subd. 26. SNOW-COVERED. "Snow-covered" means that the ground has a continuous, unbroken cover of snow, to a depth of three inches or more, surrounding the immediate area of the fire sufficient to keep the fire from spreading.

Sec. 9. Minnesota Statutes 1992, section 88.02, is amended to read:

88.02 CITATION, ~~FORESTRY~~ WILDFIRE ACT.

Sections 88.02 to ~~88.21~~ 88.22 may be cited as the ~~forestry~~ wildfire act.

Sec. 10. Minnesota Statutes 1992, section 88.03, is amended to read:

88.03 CODIFICATION.

Sections 88.03 to ~~88.21~~ 88.22 shall be deemed and construed as a codification, revision, and expansion of, and as supplementary to, and taking the place of, the laws which existed at the time of the passage of Laws 1925, chapter 407, relating to forestry and to ~~forest and prairie fires~~ wildfires, including Laws 1911, chapter 125, and acts amendatory thereof and supplemental thereto; Laws 1913, chapter 159; Laws 1915, chapter 325; Extra Session Laws 1919, chapters 32 and 33, but without abridging or destroying any rights, obligations, liabilities, or penalties from, or under, any of such laws prior to the taking effect of Laws 1925, chapter 407. Sections 88.03 to ~~88.21~~ 88.22 shall apply only to all the ~~forest wild-~~ fire areas of this state. In the ~~prosecution~~ prosecution of any civil or criminal prosecution action commenced under sections 88.03 to 88.22, or proceeding thereunder, it shall not be necessary to prove that any county ~~comes within the purview~~

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thereof is included in a wildfire area, but the contrary may be proven by any party to such action or proceeding.

Sec. 11. Minnesota Statutes 1992, section 88.04, is amended to read:

88.04 FIREBREAKS; PREVENTION OF FIRES.

Subdivision 1. The commissioner shall cooperate with the state highway authorities and with the supervising officers of the various towns and cities in the construction of firebreaks along section lines and public highways.

Subd. 2. All cities in the state situated in any ~~forest~~ wildfire area are hereby authorized to clear off all combustible material and debris and create at least two good and sufficient firebreaks of not less than ten feet in width each, which shall completely encircle such municipalities at a distance of not less than 20 rods apart, between which backfires may be set or a stand made to fight ~~forest fires~~ wildfires in cases of emergency.

Subd. 3. All towns and cities shall take necessary precautions to prevent the starting and spreading of ~~forest or prairie fires~~ wildfires and to extinguish them. They may levy a tax not more than 0.08059 percent of taxable market value annually. The tax in any municipality shall not exceed \$3,000 in any year. The tax when collected shall be known as the fire fund and kept separate from all other funds and used only to pay all necessary and incidental expenses incurred in enforcing the provisions of sections 88.03 to ~~88.21~~ 88.22. Up to \$500 shall be expended in any one year from any such fire fund for the support of any municipal fire department. No municipality shall make any levy for its fire fund at any time when the fund contains \$5,000 or more, including cash on hand and uncollected taxes that are not delinquent.

Subd. 4. In all towns constituted within any of the ~~forest~~ wildfire protection districts which may be established by the commissioner, the respective town and city officers and employees shall cooperate with, and be under the general supervision and direction of, the commissioner.

Sec. 12. Minnesota Statutes 1992, section 88.041, is amended to read:

88.041 INTERSTATE FOREST FIRE WILDFIRE PREVENTION AND SUPPRESSION AGREEMENTS.

The commissioner may enter into agreements with other states, the Canadian or provincial governments to cooperatively prevent and suppress ~~forest fires~~ wildfires.

Sec. 13. Minnesota Statutes 1992, section 88.05, is amended to read:

88.05 ROADSIDES, CLEARING; FIREBREAKS.

All highways, roads, and trails within ~~forest~~ wildfire areas are declared to be established firebreaks and for that purpose the state, through the department of

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natural resources, is authorized to clean up all dead and down timber, all underbrush, rotting logs, stumps, and all other ~~inflammable~~ combustible refuse and debris along each side of these highways, roads, and trails for a distance of 200 feet on each side from the center thereof, all of this material to be burned or disposed of under the supervision of a ~~forestry~~ forest officer in such manner as not to injure the growing timber.

All dead and usable timber taken out of these roadsides shall be piled for the immediate removal thereof by the owners of the land from which the same was removed.

Sec. 14. Minnesota Statutes 1992, section 88.06, is amended to read:

88.06 DEAD OR DOWN TIMBER; REMOVAL.

The commissioner may permit, under the commissioner's direct supervision and control, any civilian conservation corps, works progress administration, or other state or federal relief agency actually engaged in the improvement and conservation of state trust fund lands within the boundaries of any state forest to clean up and remove all dead or down timber, underbrush, rotting logs, stumps, and all other ~~inflammable~~ combustible refuse and debris which is deemed to be a fire hazard, or the removal of any trees in forest stand improvement and cultural operations which is advisable in the interest of good forest management; and to use so much of these cuttings for firewood and other forest development needs while these camps are thus actively engaged in the improvement and care of these forests.

Sec. 15. Minnesota Statutes 1992, section 88.065, is amended to read:

88.065 EQUIPMENT FURNISHED.

Subject to applicable provisions of state laws respecting purchases, the commissioner of natural resources may purchase for and furnish to any governmental subdivisions of the state authorized to engage in ~~forest fire~~ wildfire prevention or suppression materials or equipment therefor, and may transport, repair, and renovate ~~forest fire~~ wildfire prevention and suppression materials and equipment for governmental subdivisions of the state. The commissioner may use any funds available for the purchase of ~~forest fire~~ wildfire prevention or suppression equipment or for its repair, transportation, and renovation under federal grants, if permitted by the terms thereof, or under state appropriations, unless otherwise expressly provided. Except as otherwise authorized or permitted by federal or state laws or regulations, the governmental subdivision receiving any such materials or services shall reimburse the state for the cost. All moneys received in reimbursement shall be credited to the fund from which the purchase, transportation, repair, or renovation was made, and are hereby reappropriated annually and shall be available for the same purpose as the original appropriation.

Sec. 16. Minnesota Statutes 1992, section 88.067, is amended to read:

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88.067 TRAINING OF LOCAL FIRE DEPARTMENTS.

The commissioner may make grants for training of ~~volunteer~~ fire departments in techniques of fire control that will enable them to assist the state more effectively in controlling ~~forest fires~~ wildfires. The commissioner may require a local match for any grant. Training shall be provided to the extent practicable in coordination with other public agencies with training and educational responsibilities.

Sec. 17. Minnesota Statutes 1992, section 88.08, is amended to read:

88.08 ~~FOREST FIRE~~ WILDFIRE PROTECTION DISTRICTS.

The commissioner may create and establish ~~forest fire~~ wildfire protection districts, including all lands of both state and private ownership, upon which there is a probability of ~~forest and brush fires~~ wildfires starting, and establish forest officers over these districts. All such ~~forest protection~~ wildfire districts heretofore established and now in existence are hereby continued until and unless hereafter abolished by the commissioner.

Sec. 18. Minnesota Statutes 1992, section 88.09, subdivision 2, is amended to read:

Subd. 2. **PURCHASE, LEASE, OR CONDEMNATION.** The commissioner may on behalf of the state, where no suitable state lands are available, purchase, lease or acquire easements on small tracts or parcels of lands, not exceeding 40 acres in area, ~~or costing more than \$1500 for any single tract~~, to be used as locations for fire lookout towers, warehouses, or other buildings of any kind, or as locations for firebreaks, or for any other use which the commissioner may deem suitable; also acquire by condemnation any tract of land, not exceeding 40 acres, for these purposes; also acquire, by gift, purchase, or condemnation, any easement or right of way that may be necessary to provide access to any tract of land so acquired.

Sec. 19. Minnesota Statutes 1992, section 88.10, is amended to read:

88.10 ~~FIGHTING FOREST FIRES~~ WILDFIRES, PERFORMANCE OF DUTY, AUTHORITY OF STATE FOREST OFFICERS.

Subdivision 1. Under the direction of the commissioner, forest officers are charged with preventing and extinguishing ~~forest fires~~ wildfires in their respective districts and the performance of such other duties as may be required by the commissioner. They may arrest without warrant any person found violating any provisions of sections 88.03 to 88.22, take the person before a court of competent jurisdiction in the county charging the person so arrested, and the person so charged shall be arraigned and given a hearing on the complaint. The forest officers shall not be liable in civil action for trespass committed in the discharge of their duties. All authorized state forest officers, ~~including rangers, guards, township~~ fire wardens, conservation officers, smoke chasers, fire supervisors or indi-

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viduals legally employed as firefighters, may in the performance of their duties of fire fighting go onto the property of any person, company, or corporation and in so doing may set backfires, dig or plow trenches, cut timber for clearing fire lines, dig water holes, remove fence wires to provide access to the fire or carry on all other customary activities necessary for the fighting of ~~forest, prairie or brush fires~~ wildfires without incurring a liability to anyone, except for damages arising out of willful or gross negligence.

Subd. 2. Any forest officer may serve any warrant for the arrest of any person violating any provision of sections 88.03 to 88.22 ~~and for that purpose all forest officers are hereby vested with the same powers as constables or other similar officers of the courts issuing such warrants.~~

Sec. 20. Minnesota Statutes 1992, section 88.11, subdivision 2, is amended to read:

Subd. 2. Any able-bodied person so summoned who refuses or neglects or otherwise fails to assist in extinguishing such fire or who fails to make all reasonable efforts to that end, until released by the summoning state employee, shall be guilty of a misdemeanor ~~and punished by a fine of not less than \$10 and not more than \$50 and the costs of prosecution, or by imprisonment in the county jail for not less than 10, nor more than 30, days.~~ The forest officer shall have power to commandeer, for the time being, equipment, tools, appliances, or other property in the possession of any person either summoned to assist in extinguishing the fire or in the vicinity thereof, and to use, and to require the persons summoned to use, the commandeered property in the fighting and extinguishing of the fire. The owner of any property so commandeered shall be promptly paid just compensation for the use thereof and all damages done to the commandeered property while in this use by the forest officer from any money available for these expenses under sections 88.03 to ~~88.21~~ 88.22.

Sec. 21. Minnesota Statutes 1992, section 88.12, is amended to read:

88.12 COMPENSATION OF FIGHTERS OF FOREST FIRES WILD-FIRES; EMERGENCY EXPENSES.

Subdivision 1. **LIMITATION.** The compensation and expenses of persons temporarily employed in emergencies in suppression or control of ~~forest fires~~ wildfires shall be fixed by the commissioner of natural resources or an authorized agent and paid as provided by law. Such compensation shall not exceed the maximum rate for comparable labor established as provided by law or rules, but shall not be subject to any minimum rate so established. The commissioner is authorized to draw and expend from money appropriated for the purposes of sections 88.03 to ~~88.21~~ 88.22 a reasonable sum; ~~not to exceed \$5,000 at any one time;~~ and through forestry officers or other authorized agent be used in paying emergency expenses, including just compensation for services rendered by persons summoned and for private property used, damaged, or appropriated under sections 88.03 to ~~88.21~~ 88.22. The commissioner of finance is authorized to draw a warrant for this sum when duly approved by the commissioner. The

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commissioner or agent in charge shall take proper subvouchers or receipts from all persons to whom these moneys are paid, and after these subvouchers have been approved they shall be filed with the commissioner of finance. Authorized funds as herein provided at any time shall be deposited, subject to withdrawal or disbursement by check or otherwise for the purposes herein prescribed, in a bank authorized and bonded to receive state deposits; and the bond of this bank to the state shall cover and include this deposit.

Subd. 2. CONTRACTS FOR SERVICES FOR FORESTRY OR FIRE WILDFIRE PREVENTION WORK; COMMISSIONS TO PERSONS EMPLOYED. The commissioner is hereby authorized and empowered to contract for or accept the services of any and all persons whose aid is available, temporarily or otherwise, in forestry or fire wildfire prevention work, either gratuitously or for compensation not in excess of the limits provided by law with respect to the employment of labor by the commissioner. The commissioner may issue a commission, or other written evidence of authority, to any such person whose services are so arranged for; and may thereby empower such person to act, temporarily or otherwise, as fire warden, or in any other capacity, with such powers and duties as may be specified in the commission or other written evidence of authority, but not in excess of the powers conferred by law on forest officers.

Sec. 22. Minnesota Statutes 1992, section 88.14, is amended to read:

88.14 DISPOSAL OF SLASHINGS AND DEBRIS.

Subdivision 1. Where and whenever in the judgment of the commissioner or any forest officer there is or may be danger of starting and spreading of fires wildfires from slashings and debris from the cutting of timber of any kind and for any purpose, or from any accumulation of sawdust, shavings, chips, bark, edgings, slabs, or other ~~inflammable~~ combustible refuse from the manufacture of lumber or other timber products the commissioner, or forest officer, shall order the person by or for whom the timber or timber products have been or are being cut or manufactured to dispose of such slashings, debris, or refuse as the state employee may direct. Where conditions do not permit the burning of the slashings, debris, or refuse over the entire area so covered, the commissioner may require such person to dispose of the same in such a way as to establish a safe fire line around the area requiring such protection, the fire line to be of a width and character satisfactory to the commissioner, or otherwise to dispose of the same so as to eliminate the fire wildfires hazard therefrom.

Subd. 2. When any person who has been directed by the commissioner, or forest officers to dispose of such slashings, debris, or refuse fails to comply with these directions the person shall be deemed guilty of a misdemeanor; ~~and, on conviction thereof, punished by a fine of not less than \$25, and not exceeding \$100, and costs of prosecution; or by imprisonment in the county jail for not less than ten and not exceeding 90 days, and each day during which the failure to comply with the requirements of the commissioner continues shall be deemed a separate and distinct violation of sections 88.02 to 88.21; but any number of~~

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these offenses may be prosecuted as separate counts of one charge or information.

Subd. 3. When any such slashings, debris, or refuse are not disposed of or are left unattended for a period exceeding 30 days, contrary to the instructions of the commissioner, or forest officer, the commissioner, or any forest officer or fire warden, may go upon the premises with as many workers as may be necessary and burn or otherwise dispose of the same and the expense thereof shall be a lien upon the land on which they are situated and upon all contiguous lands of the same owner, and also upon all logs and other timber products cut or manufactured upon all these lands. This lien shall have the same effect and may be enforced in the same manner as a judgment in favor of the state for money. An itemized statement verified by the oath of the commissioner, or forest officer, of the amount of the costs and expenses incurred in burning or otherwise disposing of these slashings, debris, or refuse shall be filed, within 90 days from the time the disposal thereof is completed, in the office of the county recorder of county in which the timber or timber products were cut or manufactured; and the amount of the lien shall be a valid claim that may be collected in a civil action from the person who cut or manufactured the wood, timber, or timber products from which the slashings, debris, or refuse were produced. Any moneys so collected shall be paid into the state treasury and credited to the general fund.

Subd. 4. Any person who cuts or fells trees or bushes of any kind in clearing land for any roadbed or right-of-way for any railroad, highway, or trail shall, in the manner and at the time as above prescribed, ~~burn the slashings and~~ properly dispose of all combustible material; except fuel and merchantable timber, which shall be promptly removed.

Subd. 5. Any person who cuts or fells trees or bushes of any kind in clearing land for any purpose is hereby prohibited from setting fire to any slashings, brush, roots, or excavated stumps or other combustible material on such land and letting the fire run; but the same must be disposed of pursuant to the rules or directions of the commissioner.

Subd. 6. Any contractor who enters into a contract for the construction of a public road or other work, which involves the cutting or grubbing of woods, standing timber, or brush, shall ~~pile in the middle of the right of way all the slashings and debris so cut or grubbed therefrom and burn and~~ properly dispose of such slashings and debris without damage to adjoining timber or woods; which burning shall be done in a manner and at a time satisfactory to the commissioner. The foregoing provisions shall not prevent the leaving of such trees along roads as will be useful for ornamental and shade purposes and which will not interfere with travel.

Subd. 7. Every contract made by or on behalf of any municipality or political subdivision of this state which involves the cutting of any timber on the right of way of a public highway shall provide in terms for compliance with the foregoing provisions, but the failure to include this provision in the contract shall not relieve the contractor from the duty to ~~burn and~~ dispose of these slashings.

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Subd. 8. In all cases not herein provided for, where timber is cut in, upon, or adjoining any forest land and no specific directions are given by the commissioner, or forest officer, for the disposal of slashings and debris resulting therefrom, all such slashings and debris within 200 feet of any adjoining timber land or any public highway, railroad, portage, or lake shore, shall ~~nevertheless be piled in separate and compact piles ready for burning, which piling shall be done~~ be properly disposed of by the person by or for whom the timber was cut ~~within 15 days after such timber was cut and such person shall thereafter make such further disposition of such slashings and debris as the commissioner, or forest officer, may direct.~~

Subd. 9. No sawdust, shavings, chips, bark, edgings, slabs, or other ~~inflammable~~ combustible refuse ~~from the manufacture of lumber or other timber products that the commissioner or an agent of the commissioner determines to be a wildfire hazard~~ shall be made or deposited upon any public highway, portage, railroad, or lake shore, or within 100 feet thereof.

Sec. 23. Minnesota Statutes 1992, section 88.15, is amended to read:

88.15 CAMP FIRES ~~CAMPFIRES.~~

Subdivision 1. **EXTINGUISHMENT.** Any ~~road overseer or assistant of a road overseer or other local officer having charge of any highway, or any state trooper, forest officer, conservation officer, or other peace officer~~ who finds that any person has left a ~~camp fire~~ campfire burning in the officer's district shall take measures to extinguish the same fire and take prompt measures to prosecute action against the person who so left the fire or persons responsible for leaving the campfire burning.

Subd. 2. **NOT TO BE LEFT BURNING.** Every person who ~~when the ground is not covered with snow~~ starts a fire in the vicinity of forest or prairie land ~~campfire~~ shall exercise every reasonable precaution to prevent the fire ~~campfire~~ from spreading and shall before lighting the ~~same campfire~~ clear the ground of all branches, brushwood, dry leaves, and other combustible material within a radius of five feet from the fire, and keep the fire under immediate personal supervision and control at all times, and ~~carefully extinguish the fire before quitting the place~~ base of the campfire. The person lighting the campfire shall remain with the campfire at all times and shall before leaving the site completely extinguish the campfire.

Sec. 24. Minnesota Statutes 1992, section 88.16, is amended to read:

88.16 STARTING FIRES; CAMPFIRES; INCINERATORS; BURNING BAN BURNERS; FAILURE TO REPORT A FIRE.

Subdivision 1. Except as provided in subdivision 2, and section 88.17, it shall be unlawful, ~~when the ground is not snow covered, in any place where there are standing or growing native coniferous trees, or in areas of ground from which natural coniferous trees have been cut, or where there are slashings of such trees, or native brush, timber, slashings thereof, or excavated stumps, or~~

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where there is peat or peat roots excavated or growing, to start or have any open fire without the written permission of the commissioner or other authorized, a forest officer, or an authorized fire warden.

Subd. 2. No permit is required for the following open fires:

(a) A cooking or warming fire contained in a fireplace, firing, charcoal grill, portable gas or liquid fueled camp stove or other similar container or device designed for the purpose of cooking or heating, or if the area within a radius of five feet of the fire is reasonably clear of all combustible material. A fire started when the ground is snow-covered.

(b) The burning of grass, leaves, rubbish, garbage, branches, and similar combustible material in an approved incinerator. An approved incinerator shall be constructed of fire resistant material, have a capacity of at least three bushels, be maintained with a minimum burning capacity of at least two bushels, and have a cover which is closed when in use and openings in the top or sides of one inch maximum diameter. No combustible material shall be nearer than three feet to the burner or incinerator when in use. A campfire.

(c) A fire contained in a charcoal grill, camp stove, or other device designed for the purpose of cooking or heating.

(d) A fire to burn dried vegetative materials and other materials allowed by Minnesota statutes or official state rules and regulations in a burner of a design which has been approved by the commissioner and with which there is no combustible material within five feet of the base of the burner and is in use only between the hours of 6:00 p.m. and 8:00 a.m. of the following day, when the ground is not snow-covered.

Subd. 3. The occupant of any premises property upon which any unauthorized fire is burning in the vicinity of forest lands, whether the fire was started by the occupant or otherwise, shall promptly report the fire to the commissioner, or to the nearest forest officer or fire warden nearest forestry office, fire department, or other proper authority. Failure to make this report shall be deemed a violation of sections 88.03 to 88.22 a misdemeanor and the occupant of the premises shall be deemed prima facie guilty of negligence if the unreported fire spreads from the premises to the property or causes damage, loss, or injury of the state or any person to another person, that person's property, or the state.

Sec. 25. Minnesota Statutes 1992, section 88.17, subdivision 1, is amended to read:

Subdivision 1. Permission A permit to set start a fire to any grass, stubble, peat, brush, raking of leaves, rubbish, garbage, branches, slashings or woods for the purpose of cleanup, clearing and improving land or preventing other fire shall burn vegetative materials and other materials allowed by Minnesota Statutes or official state rules and regulations may be given whenever the same may be safely burned, upon such reasonable conditions and restrictions as the commissioner may prescribe, to prevent same from spreading and getting beyond

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control by the commissioner or the commissioner's agent. This permission shall be in the form of a written permit signed by a ~~regular~~ fire warden, authorized Minnesota pollution control agent, or some other suitable person to be designated authorized by the forest officer, ~~as or town fire warden, these permits to be on forms furnished by the commissioner. Any person setting any fire or burning anything under such permit shall keep and shall set the time and conditions by which the fire may be started and burned. The permit shall also specifically list the materials that may be burned. The permittee must have the permit in immediate possession while so engaged on their person and shall produce and exhibit the permit for inspection when requested to any do so by a forest officer, when requested to do so.~~ town fire warden, conservation officer, or other peace officer. The permittee shall remain with the fire at all times and before leaving the site shall completely extinguish the fire. A person shall not start or cause a fire to be started on any land that is not owned or under their legal control without the written permission of the owner, lessee, or an agent of the owner or lessee of the land. Violating or exceeding the permit conditions shall constitute a misdemeanor and shall be cause for the permit to be revoked.

Sec. 26. Minnesota Statutes 1992, section 88.17, is amended by adding a subdivision to read:

Subd. 3. SPECIAL PERMITS. The following special permits are required at all times, including when the ground is snow-covered:

(a) FIRE TRAINING. A permit to start a fire for the instruction and training of firefighters, including liquid fuels training, may be given by the commissioner or agent of the commissioner. Except for owners or operators conducting fire training in specialized industrial settings pursuant to applicable federal, state, or local standards, owners or operators conducting open burning for the purpose of instruction and training of firefighters with regard to structures must follow the techniques described in a document entitled: Structural Burn Training Procedures for the Minnesota Technical College System.

(b) PERMANENT TREE AND BRUSH OPEN BURNING SITES. A permit for the operation of a permanent tree and brush burning site, may be given by the commissioner or agent of the commissioner. Applicants for a permanent open burning site permit shall submit a complete application on a form provided by the commissioner. Existing permanent tree and brush open burning sites must submit for a permit within 90 days of the passage of this statute for a burning permit. New site applications must be submitted at least 90 days before the date of the proposed operation of the permanent open burning site. The application must be submitted to the commissioner and must contain:

(1) the name, address, and telephone number of all owners of the site proposed for use as the permanent open burning site;

(2) if the operator for the proposed permanent open burning site is different from the owner, the name, address, and telephone number of the operator;

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(3) a general description of the materials to be burned, including the source and estimated quantity; and

(4) a topographic or similarly detailed map of the site and surrounding area within a one mile circumference showing all structures that might be affected by the operation of the site.

Only trees, tree trimmings, or brush that cannot be disposed of by an alternative method such as chipping, composting, or other method, shall be permitted to be burned at a permanent open burning site. A permanent tree and brush open burning site must be located so as not to create a nuisance or endanger water quality.

Sec. 27. [88.171] OPEN BURNING PROHIBITIONS.

Subdivision 1. CONTINUAL. Open burning prohibitions specified in this section are in effect at all times of the year.

Subd. 2. PROHIBITED MATERIALS. No person shall conduct, cause, or permit open burning of oils, rubber, plastics, chemically treated materials, or other materials which produce excessive or noxious smoke including, but not limited to, tires, railroad ties, chemically treated lumber, composite shingles, tar paper, insulation, composition board, sheetrock, wiring, paint, or paint filters.

Subd. 3. HAZARDOUS WASTES. No person shall conduct, cause, or permit open burning of hazardous waste as defined in section 116.06, subdivision 11, and applicable commissioner's rules.

Subd. 4. INDUSTRIAL SOLID WASTE. No person shall conduct, cause, or permit open burning of solid waste generated from an industrial or manufacturing process or from a service or commercial structure.

Subd. 5. DEMOLITION DEBRIS. No person shall conduct, cause, or permit open burning of burnable building material generated from demolition of commercial or institutional structures. A farm building is not a commercial structure.

Subd. 6. SALVAGE OPERATIONS. No person shall conduct, cause, or permit salvage operations by open burning.

Subd. 7. MOTOR VEHICLES. No person shall conduct, cause, or permit the processing of motor vehicles by open burning.

Subd. 8. GARBAGE. (a) No person shall conduct, cause, or permit open burning of discarded material resulting from the handling, processing, storage, preparation, serving, or consumption of food, unless specifically allowed under section 17.135.

(b) A county may allow a resident to conduct open burning of material described in paragraph (a) that is generated from the resident's household if the county board by resolution determines that regularly scheduled pickup of the material is not reasonably available to the resident.

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Subd. 9. BURNING BAN. No person shall conduct, cause, or permit open burning during a burning ban put into effect by a local authority, county, or a state department or agency.

Subd. 10. SMOLDERING FIRES. Fires must not be allowed to smolder with no flame present, except when conducted for the purpose of managing forests, prairies, or wildlife habitats.

Sec. 28. Minnesota Statutes 1992, section 88.18, is amended to read:

88.18 FIRE WARDENS.

The commissioner may appoint ~~supervisors, constables, and clerks of towns, mayors of cities, and presidents or presiding officers of city councils~~ local government officials, authorized Minnesota pollution control agents, fire chiefs, or other responsible persons to be fire wardens ~~for~~ in their respective districts; ~~and they shall do all things reasonably necessary to protect the property of such municipalities from fire and to extinguish the same.~~

Sec. 29. [88.195] PENALTIES.

Subdivision 1. FAILURE TO EXTINGUISH A FIRE. Any person who starts and fails to control or extinguish the fire, whether on owned property or on the property of another, before the fire endangers or causes damage to the property of another person or the state is guilty of a misdemeanor.

Subd. 2. FAILURE TO CONTROL A PERMIT FIRE. Any person who has a burning permit and fails to keep the permitted fire contained within the area described on the burning permit or who fails to keep the fire restricted to the materials specifically listed on the burning permit is guilty of a misdemeanor.

Subd. 3. CARELESS OR NEGLIGENT ACTS. Any person who carelessly or negligently starts a fire that endangers or causes damage to the property of another person or the state is guilty of a misdemeanor.

Subd. 4. CARELESS OR NEGLIGENT ACTS. Any person who participates in an act involving careless or negligent use of motor vehicles, other internal combustion engines, firearms with tracers or combustible wads, fireworks, smoking materials, electric fences, torches, flares, or other burning or smoldering substances whereby a fire is started and is not immediately extinguished before the fire endangers or causes damage to the property of another person or the state is guilty of a misdemeanor.

Subd. 5. INTERNAL COMBUSTION ENGINES. Any person who operates a vehicle in a wildfire area when the ground is not snow-covered with an open exhaust cut-out, without a muffler, without a catalytic converter if required, or without a spark arrestor on the exhaust pipe; or any person who operates a tractor, chainsaw, or other internal combustion engine not equipped to prevent fires is guilty of a misdemeanor.

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

Sec. 30. Minnesota Statutes 1992, section 88.22, is amended to read:

88.22 FOREST FIRE WILDFIRE PREVENTION; CLOSING FOREST ROADS AND TRAILS; PROHIBITING OPEN FIRES AND SMOKING; REGULATING PRIVATE AND PUBLIC DUMPING AREAS PROHIBITIONS, BANNING; PENALTIES.

Subdivision 1. (a) ROAD CLOSURE. When the commissioner of natural resources shall determine that conditions conducive to ~~forest fire~~ wildfire hazards exist in the ~~forest~~ wildfire areas of the state and that the presence of persons in the ~~forest~~ wildfire areas tends to aggravate ~~forest fire~~ wildfire hazards, render forest trails impassable by driving thereon during wet seasons and hampers the effective enforcement of state timber trespass and game laws, the commissioner may by written order, close any road or trail leading into any land used for any conservation purposes, to all modes of travel except that considered essential such as residents traveling to and from their homes or in other cases to be determined by the authorized forest officers assigned to guard the area.

(b) BURNING BAN. The commissioner may also, upon such determination, by written order, suspend the issuance of permits for open fires, revoke or suspend the operation of a permit previously issued and, to the extent the commissioner deems necessary, prohibit the building of all or some kinds of open fires in all or any part of a ~~forest~~ wildfire area regardless of whether a permit is otherwise required; and the commissioner also may, by written order, prohibit smoking except at places of habitation or automobiles or other enclosed vehicles properly equipped with an efficient ash tray.

Subd. 2. The commissioner may close any public or private dumping area, by posting such area as closed to dumping, whenever the commissioner deems it necessary for the prevention of ~~forest fires~~ wildfires. Thereafter no person shall deposit refuse of any kind within or adjacent to such closed area, or along the road leading thereto.

The commissioner shall establish such minimum standards governing public and private dumping areas as the commissioner deems necessary for the prevention of ~~forest fires~~ wildfires.

Subd. 3. Any violations of this section ~~shall constitute~~ is a misdemeanor.

Sec. 31. Minnesota Statutes 1992, section 88.76, is amended to read:

88.76 REWARDS.

Upon conviction of any person for violating any of the provisions of sections 88.03 to 88.22, the director may pay, from any money placed at the director's disposal under those sections, a reward of not more than ~~\$100~~ \$1,000 to the person or persons giving the information leading to such conviction.

Sec. 32. **REPEALER.**

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

(a) Minnesota Statutes 1992, sections 88.17, subdivision 2; and 88.19; and Laws 1992, chapter 556, sections 10 and 11, are repealed.

(b) Minnesota Rules, parts 7005.0705; 7005.0715; 7005.0725; 7005.0735; 7005.0745; 7005.0755; 7005.0765; 7005.0766; 7005.0767; 7005.0775; 7005.0785; 7005.0795; 7005.0796; 7005.0805; and 7005.0815, are repealed.

Presented to the governor May 17, 1993

Signed by the governor May 20, 1993, 2:10 p.m.

CHAPTER 329—H.F.No. 1325

An act relating to housing; modifying the definition of dwelling for smoke detection devices; regulating claims; amending Minnesota Statutes 1992, section 299F.362, subdivision 1, and by adding a subdivision.

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

Section 1. Minnesota Statutes 1992, section 299F.362, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** For the purposes of this section, the following definitions shall apply:

(a) "Apartment house" is any building, or portion thereof, which is designed, built, rented, leased, let, or hired out to be occupied, or which is occupied as the home or residence of three or more families living independently of each other and doing their own cooking in the building, and shall include buildings containing three or more flats or apartments.

(b) "Dwelling" is any building ~~constructed, remodeled, rented, or offered for rent after January 1, 1980,~~ or any portion thereof, which is not an apartment house, lodging house, or a hotel and which contains one or two "dwelling units" which are, or are intended or designed to be, occupied for living purposes.

(c) "Dwelling unit" is a single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation, or a single unit used by one or more persons for sleeping and sanitation pursuant to a work practice or labor agreement.

(d) "Hotel" is any building, or portion thereof, containing six or more guest rooms intended or designed to be used, or which are used, rented, or hired out to be occupied, or which are occupied for sleeping purposes by guests.

(e) "Lodging house" is any building, or portion thereof, containing not more

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