

Sec. 2. **EFFECTIVE DATES.**

Section 1 is effective January 1, 1995.

Presented to the governor April 29, 1994

Signed by the governor May 2, 1994, 1:47 p.m.

CHAPTER 548—H.F.No. 2010

An act relating to the environment; requiring a person who arranges for management of solid waste in an environmentally inferior manner to indemnify generators of the waste and, for a landfill, set aside a fund to pay for contamination from the landfill; proposing coding for new law in Minnesota Statutes, chapter 115A.

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

Section 1. [115A.47] SOLID WASTE MANAGEMENT; USE OF ENVIRONMENTALLY INFERIOR FACILITIES.

Subdivision 1. LEGISLATIVE FINDINGS. The legislature finds that:

(1) public health and the environment are threatened when persons who arrange for management of solid waste choose to manage the waste in an environmentally inferior manner;

(2) historical state and local efforts to protect public health and the environment and to take responsibility for waste generated by their citizens, as encouraged under the federal Resource Conservation and Recovery Act and required under this chapter and chapter 473, are undermined when persons choose to manage waste in an environmentally inferior manner;

(3) a person who arranges for management of solid waste in an environmentally inferior manner, places generators at additional risk of liability for contamination that is likely to occur from environmentally inferior facilities and practices;

(4) as provided in section 115A.02, land disposal is the least environmentally preferred solid waste management practice, and solid waste disposal facilities that do not meet the standards for new facilities in Code of Federal Regulations, title 40, chapters 257 and 258, are environmentally inferior to facilities that do meet these standards;

(5) under federal law, land disposal facilities are not required to provide financial assurance for response costs to clean up contamination until the contamination occurs and under state rules have not been required to provide financial assurance for the total amount of potential response costs;

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

(6) the partial financial assurance for response costs at land disposal facilities located in the state that is required under present state rules amounts to an average of \$2.80 per cubic yard or \$9.25 per ton of waste managed at a disposal facility that does not meet the standards for new facilities in Code of Federal Regulations, title 40, chapters 257 and 258, and 60 cents per cubic yard or \$2 per ton of waste managed at a disposal facility that does meet those standards;

(7) the potential defense costs for response actions under the federal Comprehensive Environmental Response, Compensation and Liability Act, United States Code, title 42, sections 9601 to 9675, amount to approximately 130 percent of the actual costs to respond to contamination; and

(8) it is not in the public interest, in a county that has developed a comprehensive solid waste management plan under this chapter or chapter 458D or 473 and is implementing that plan, that a solid waste generator continue to accrue liability for contamination from a waste management facility or method that is environmentally inferior to a facility or method chosen by the county for management of the waste generated in the county.

Subd. 2. DEFINITIONS. (a) The definitions in sections 115A.03 and 115B.02 and this subdivision apply to this section.

(b) "Arrange for management" means an activity undertaken by a person that determines the ultimate disposition of solid waste that is under the control of the person, including delivery of the waste to a transfer station for transport to another solid waste management facility. Knowledge of the destination of waste by a generator is by itself insufficient for arranging for management unless the generator knows that the destination is an environmentally inferior facility as defined in this section, has the ability to redirect the waste to an environmentally superior facility and ensure its delivery to that facility, and chooses not to redirect the waste.

(c) "County" means a county or the Western Lake Superior Sanitary District established in chapter 458D.

(d) "Environmentally inferior" means a solid waste management method that is lower on the list of preferred waste management methods in section 115A.02 than a solid waste management method chosen by a county or, as applied to a facility, means a waste management facility that utilizes a waste management method that is lower on the list of preferred waste management methods than the waste management method chosen by a county. In addition, as applied to disposal facilities, a facility that does not meet the standards for new facilities in Code of Federal Regulations, title 40, chapters 257 and 258, is environmentally inferior to a facility that does meet these standards.

(e) "Inferior disposal facility" means a solid waste disposal facility that does not meet the standards for a new facility in Code of Federal Regulations, title 40, chapters 257 and 258.

New language is indicated by underline, deletions by strikeout.

(f) “Superior disposal facility” means a solid waste disposal facility that meets the standards for a new facility in Code of Federal Regulations, title 40, chapters 257 and 258.

(g) “Waste management method chosen by a county” means:

(1) a waste management method that is mandated for waste generated in the county by section 115A.415, 473.848, 473.849, or other state law, or by county ordinance based on the county solid waste management plan developed, adopted, and approved under section 115A.46 or 458D.05 or the county solid waste management master plan developed, adopted, and approved under section 473.803; or

(2) a waste management facility or facilities, developed under the county solid waste management plan or master plan, to which solid waste generated in a county is directed by an ordinance developed, adopted, and approved under sections 115A.80 to 115A.893.

Subd. 3. INDEMNIFICATION; FINANCIAL ASSURANCE FOR LAND DISPOSAL. (a) A person who arranges for management of solid waste at a facility that uses a primary waste management method that is environmentally inferior to the primary waste management method chosen by the county in which the waste is generated:

(1) shall indemnify and hold harmless each solid waste generator whose waste is under the control of the person who arranges for management for all costs that may be assessed against the generator for response to a release from the facility of a hazardous substance or pollutant or contaminant under chapter 115B or United States Code, title 42, sections 9601 to 9675; and

(2) shall defend each generator indemnified under clause (1) against any action to recover response costs related to that facility.

(b) When the environmentally inferior facility chosen by the person who arranges for management is a disposal facility, the person shall also provide to the commissioner proof of the person’s financial capability to provide for response and defense costs. For the purpose of this paragraph, “proof of financial capability” means a trust fund into which the person must pay:

(1) \$6.45 per cubic yard or \$21.25 per ton of waste delivered to an inferior disposal facility or to an intermediate facility that transfers waste to an inferior disposal facility; or

(2) \$1.38 per cubic yard or \$4.60 per ton of waste delivered to a superior disposal facility or to an intermediate facility that transfers waste to a superior disposal facility.

(c) A person required to provide proof of financial capability under paragraph (b) shall make payments into a trust fund on a monthly basis for use of the environmentally inferior facility or for use of intermediate facilities that transfer waste to the facility. A person that arranges for management of solid

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

waste at more than one environmentally inferior facility that is a disposal facility may establish a single trust fund with separate accounting for each facility.

(d) The trustee of a trust required in paragraph (b) must be an entity that has the authority to act as a trustee and whose trust operations are regulated under state or federal law.

(e) Until 30 years after closure of the facility, money in a trust fund established under paragraphs (b) and (c) may be spent only on approval of the commissioner for response and defense costs as provided in paragraph (a).

(f) A person subject to this subdivision shall provide a quarterly report to the commissioner that includes:

(1) the number of cubic yards or tons of waste for which the person arranged for management at an environmentally inferior facility during each quarter;

(2) the amount paid or to be paid into the trust fund each quarter;

(3) any request for use of money in the trust fund; and

(4) any other information necessary for the commissioner to adequately monitor and audit the trust fund or the need for payment from it.

(g) The requirements of this section that apply to an environmentally inferior facility also apply to a transfer station from which waste is primarily transferred to the facility.

(h) A person required to make payments to a trust fund under this subdivision shall pay to the commissioner a fee of 30 cents per cubic yard or \$1 per ton of waste delivered to the environmentally inferior facility. Proceeds of the fee must be credited to the environmental fund and are annually appropriated to the commissioner for implementation of this section.

Subd. 4. RULES. The commissioner shall adopt rules to implement this section.

Subd. 5. RECORD KEEPING. A hauler of solid waste shall keep records at its central record keeping location regarding the date, amount of solid waste by cubic yard or ton, and facility to which each load of solid waste is delivered for disposal by the hauler. The hauler shall keep the records for two years and, when reasonable notice has been given, shall make the records available to the commissioner for inspection. Records inspected by the commissioner under this section are nonpublic data as defined in section 13.02, subdivision 9, and may be used solely for the purpose of enforcing this section.

Subd. 6. ENFORCEMENT. The commissioner may enforce this section under section 116.072.

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

Subd. 7. EFFECT. This section has no effect on the operation of an ordinance adopted under sections 115A.80 to 115A.893. Nothing in this section authorizes a person to arrange for the management of solid waste that is subject to a designation ordinance at a facility other than the designated facility or facilities.

Sec. 2. EFFECTIVE DATE.

(a) Except as provided in paragraph (b), section 1 is effective February 1, 1995, or when the rules adopted under section 1, subdivision 4, are effective, whichever is sooner.

(b) Section 1, subdivision 4, is effective the day following final enactment.

Presented to the governor May 2, 1994

Signed by the governor May 4, 1994, 3:14 p.m.

CHAPTER 549—S.F.No. 2210

An act relating to health; Ramsey Health Care, Inc.; authorizing the public corporation to incorporate as a nonprofit corporation; terminating its status as a public corporation; providing for the care of the indigent of Ramsey county and other counties; providing for certain of its powers and duties; repealing Minnesota Statutes 1992, sections 246A.01; 246A.02; 246A.03; 246A.04; 246A.05; 246A.06; 246A.07; 246A.08; 246A.09; 246A.10; 246A.11; 246A.12; 246A.13; 246A.14; 246A.15; 246A.16; 246A.17; 246A.18; 246A.19; 246A.20; 246A.21; 246A.22; 246A.23; 246A.24; 246A.25; 246A.26; and 246A.27.

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

Section 1. [383A.90] DEFINITIONS.

Subdivision 1. SCOPE. In sections 1 and 2, the definitions in this section apply.

Subd. 2. PUBLIC CORPORATION. The "public corporation" means Ramsey Health Care, Inc., established by Minnesota Statutes, section 246A.02.

Subd. 3. NONPROFIT CORPORATION. The "nonprofit corporation" means the entity formed in accordance with section 2, subdivision 1.

Sec. 2. [383A.91] INCORPORATION AS NONPROFIT CORPORATION.

Subdivision 1. INCORPORATION. The board of directors of the public corporation may incorporate as a nonprofit corporation under Minnesota Statutes, chapter 317A. Upon so incorporating, the nonprofit corporation that results ceases to be a public corporation.

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