

Signed by the governor May 10, 1994, 5:40 p.m.

CHAPTER 617—H.F.No. 2158

*An act relating to pollution; requiring that certain towns, cities, and counties have ordinances complying with pollution control agency rules regarding individual sewage treatment systems; requiring the agency to license sewage treatment professionals; requiring rulemaking; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 115.*

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

Section 1. [115.55] INDIVIDUAL SEWAGE TREATMENT SYSTEMS.

Subdivision 1. DEFINITIONS. (a) The definitions in this subdivision apply to this section and section 2.

(b) “Advisory committee” means the advisory committee on individual sewage treatment systems established under the individual sewage treatment system rules.

(c) “Applicable requirements” means:

(1) local ordinances that comply with the individual sewage treatment system rules, as required in subdivision 2; or

(2) in areas not subject to the ordinances described in clause (1), the individual sewage treatment system rules.

(d) “City” means a statutory or home rule charter city.

(e) “Commissioner” means the commissioner of the pollution control agency.

(f) “Dwelling” means a building or place used or intended to be used by human occupants as a single-family or two-family unit.

(g) “Individual sewage treatment system” or “system” means a sewage treatment system, or part thereof, serving a dwelling, other establishment, or group thereof, that uses subsurface soil treatment and disposal.

(h) “Individual sewage treatment system professional” means an inspector, installer, site evaluator or designer, or pumper.

(i) “Individual sewage treatment system rules” means rules adopted by the agency that establish minimum standards and criteria for the design, location, installation, use, and maintenance of individual sewage treatment systems.

(j) “Inspector” means a person who inspects individual sewage treatment systems for compliance with the applicable requirements.

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(k) "Installer" means a person who constructs or repairs individual sewage treatment systems.

(l) "Local unit of government" means a township, city, or county.

(m) "Pumper" means a person who maintains components of individual sewage treatment systems including, but not limited to, septic, aerobic, and holding tanks.

(n) "Seasonal dwelling" means a dwelling that is occupied or used for less than 180 days per year and less than 120 consecutive days.

(o) "Site evaluator or designer" means a person who:

(1) investigates soils and site characteristics to determine suitability, limitations, and sizing requirements; and

(2) designs individual sewage treatment systems.

Subd. 2. LOCAL ORDINANCES. (a) Any ordinance adopted by a local unit of government to regulate individual sewage treatment systems must be in compliance with the individual sewage treatment system rules by January 1, 1996.

(b) A copy of each ordinance adopted under this subdivision must be submitted to the commissioner upon adoption.

Subd. 3. RULES. (a) The agency shall adopt rules containing minimum standards and criteria for the design, location, installation, use, and maintenance of individual sewage treatment systems. The rules must include:

(1) how the agency will ensure compliance under subdivision 2;

(2) how local units of government shall enforce ordinances under subdivision 2, including requirements for permits and inspection programs;

(3) how the advisory committee will participate in review and implementation of the rules;

(4) provisions for alternative systems;

(5) provisions for handling and disposal of effluent;

(6) provisions for system abandonment;

(7) provisions allowing local units of government to adopt alternative standards and criteria, provided that:

(i) the alternative standards and criteria may not apply to new construction or replacement of systems, as defined by the agency; and

(ii) the commissioner must certify that the alternative standards and criteria adequately protect public health and the environment; and

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(8) procedures for variances, including the consideration of variances based on cost and variances that take into account proximity of a system to other systems.

(b) The agency shall consult with the advisory committee before adopting rules under this subdivision.

Subd. 4. COMPLIANCE WITH RULES REQUIRED; ENFORCEMENT.

(a) A person who designs, installs, alters, repairs, maintains, pumps, or inspects all or part of an individual sewage treatment system shall comply with the applicable requirements.

(b) Local units of government may enforce, under section 115.071, subdivisions 3 and 4, ordinances that are applicable requirements.

Subd. 5. INSPECTION. (a) Except as provided in paragraph (b), after December 31, 1995, a local unit of government may not issue a building permit or variance for new construction or replacement of a system, as defined by agency rule, or for the addition of a bedroom or bathroom on property served by a system unless the system is in compliance with the applicable requirements, as evidenced by a certificate of compliance issued by a licensed inspector or site evaluator or designer.

(b) In areas that are not subject to ordinances adopted under subdivision 2, a compliance inspection under this subdivision is required only for new construction or replacement of a system, as defined by agency rule.

(c) If a system inspected under this subdivision is not in compliance with the applicable requirements, the inspector or site evaluator or designer must issue a notice of noncompliance to the property owner and must provide a copy of the notice to the local unit of government to which application for the building permit or variance was made. If the inspector or site evaluator or designer finds that the system presents an imminent threat to public health or safety, the inspector or site evaluator or designer must include a statement to this effect in the notice and the property owner must upgrade, replace, or discontinue use of the system within ten months of receipt of the notice.

Subd. 6. DISCLOSURE OF INDIVIDUAL SEWAGE TREATMENT SYSTEM TO BUYER. After August 31, 1994, before signing an agreement to sell or transfer real property, the seller must disclose in writing to the buyer information about the status and location of individual sewage treatment systems on the property or serving the property. The disclosure must be made by delivering to the buyer either a statement by the seller that there is no individual sewage treatment system on or serving the property or a disclosure statement describing the system and indicating the legal description of the property, the county in which the property is located, and a map drawn from available information showing the location of the system on the property to the extent practicable. In the disclosure statement the seller must indicate whether the individual sewage treatment system is in use and, to the seller's knowledge, in compliance with applicable sewage treatment laws and rules. Unless the buyer and seller

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agree to the contrary in writing before the closing of the sale, a seller who fails to disclose the existence or known status of an individual sewage treatment system at the time of sale, and who knew or had reason to know of the existence or known status of the system, is liable to the buyer for costs relating to bringing the system into compliance with the individual sewage treatment system rules and for reasonable attorney fees for collection of costs from the seller. An action under this subdivision must be commenced within two years after the date on which the buyer closed the purchase of the real property where the system is located.

Subd. 7. LOCAL ORDINANCE MAY BE MORE RESTRICTIVE. (a) A local unit of government may adopt and enforce ordinances or rules affecting individual sewage treatment systems that are more restrictive than the agency's rules.

(b) If standards are adopted that are more restrictive than the agency's rules, the local unit of government must submit the more restrictive standards to the commissioner along with an explanation of the more restrictive provisions.

## Sec. 2. [115.56] MANDATORY LICENSING PROGRAM.

Subdivision 1. RULES. (a) Pursuant to section 115.03, subdivision 1, by January 1, 1996, the agency shall adopt rules containing standards of licensure applicable to all individual sewage treatment system professionals.

The rules must include but are not limited to:

(1) training requirements that include both classroom and fieldwork components;

(2) examination content requirements and testing procedures;

(3) continuing education requirements;

(4) equivalent experience provisions;

(5) bonding and insurance requirements;

(6) schedules for submitting fees; and

(7) license revocation and suspension and other enforcement requirements.

(b) The agency shall consult with the advisory committee before proposing any rules under this subdivision.

Subd. 2. LICENSE REQUIRED. (a) Except as provided in paragraph (b), after March 31, 1996, a person may not design, install, maintain, pump, or inspect an individual sewage treatment system without a license issued by the commissioner.

(b) A license is not required for a person who complies with the applicable requirements if the person is:

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(1) a qualified employee of state or local government who has passed the examination described in paragraph (d) or a similar examination;

(2) an individual who constructs an individual sewage treatment system on land that is owned or leased by the individual and functions solely as the individual's dwelling or seasonal dwelling; or

(3) an individual who performs labor or services for a person licensed under this section in connection with the design, installation, maintenance, pumping, or inspection of an individual sewage treatment system at the direction and under the personal supervision of a person licensed under this section.

A person constructing an individual sewage treatment system under clause (2) must consult with a site evaluator or designer before beginning construction. In addition, the system must be inspected before being covered and a compliance report must be provided to the local unit of government after the inspection.

(c) The commissioner, in conjunction with the University of Minnesota extension service or another higher education institution, shall ensure adequate training exists for individual sewage treatment system professionals.

(d) The commissioner shall conduct examinations to test the knowledge of applicants for licensing and shall issue documentation of licensing.

(e) Licenses may be issued only upon successful completion of the required examination and submission of proof of sufficient experience, proof of general liability insurance, and a corporate surety bond in the amount of at least \$10,000.

(f) Notwithstanding paragraph (e), the examination and proof of experience are not required for an individual sewage treatment system professional who, on the effective date of the rules adopted under subdivision 1, holds a certification attained by examination and experience under a voluntary certification program administered by the agency.

(g) Local units of government may not require additional local licenses for individual sewage treatment system professionals.

Subd. 3. ENFORCEMENT. (a) The commissioner may deny, suspend, or revoke a license, or use any lesser remedy against an individual sewage treatment system professional, for any of the following reasons:

(1) failure to meet the requirements for a license;

(2) incompetence, negligence, or inappropriate conduct in the performance of the duties of an individual sewage treatment system professional;

(3) failure to comply with applicable requirements; or

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(4) submission of false or misleading information or credentials in order to obtain or renew a license.

(b) Upon receiving a signed written complaint that alleges the existence of a ground for enforcement action against a person under paragraph (a), the commissioner shall initiate an investigation. Revocation, suspension, or other enforcement action may not be taken before written notice is given to the person and an opportunity is provided for a contested case hearing complying with the provisions of chapter 14.

Subd. 4. LICENSE FEE. The fee for a license required under subdivision 2 is \$100 per year. Revenue from the fees must be credited to the environmental fund.

### Sec. 3. APPROPRIATION.

(a) \$120,000 is appropriated from the environmental fund to the commissioner of the pollution control agency for the purposes of sections 1 and 2 to be available for the biennium ending June 30, 1995.

(b) Amounts spent by the commissioner of the pollution control agency from the appropriation in paragraph (a) must be reimbursed to the environmental fund no later than June 30, 1997.

### Sec. 4. EFFECTIVE DATE.

Sections 1 and 2 are effective the day following final enactment.

Presented to the governor May 6, 1994

Signed by the governor May 10, 1994, 4:47 p.m.

## CHAPTER 618—H.F.No. 2028

*An act relating to privacy; classifying data; providing for sharing of certain data; clarifying treatment of not public data at an open meeting; permitting the commissioner of health to conduct fetal, infant, and maternal death studies; providing for release of certain information on juvenile offenders to schools and victims; limiting release of juvenile records; providing for the preparation of an information policy training plan; providing for the release of commitment information for firearm background checks; limiting release of personal information on videotape consumers; limiting liability for 911 systems; providing for a social worker witness privilege; changing exceptions and other conditions of the open meeting law; appropriating money; amending Minnesota Statutes 1992, sections 13.03, subdivision 4, and by adding a subdivision; 13.05, subdivision 4; 13.32, by adding a subdivision; 13.38, by adding a subdivision; 13.39, subdivision 2, and by adding a subdivision; 13.41, subdivision 2; 13.57; 13.71, by adding subdivisions; 13.82, by adding a subdivision; 13.84, subdivision 5a; 13.99, subdivisions 7, 39, 45, 53, 60, 71, 79, and by adding subdivisions; 144.581, subdivision*

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