

CHAPTER 470—S.F.No. 1861

An act relating to the environment; modifying provisions relating to the management of waste; modifying the authority of legislative commissions; appropriating money; requiring rulemaking; amending Minnesota Statutes 1994, sections 115A.03, subdivision 21, and by adding subdivisions; 115A.50; 115A.916; 115A.919, by adding a subdivision; 115A.923, subdivision 1a; 115A.93, subdivision 3; 115A.9301, by adding a subdivision; 115A.965, subdivision 3; 115A.9651, subdivision 1; 115D.09; 458D.07, subdivision 4; Minnesota Statutes 1995 Supplement, sections 115A.554; 115A.965, subdivision 1; 115A.981, subdivision 3; 116.07, subdivision 10; and 297A.45, subdivisions 2 and 3; Laws 1995, chapter 87, section 1; proposing coding for new law in Minnesota Statutes, chapters 3; and 115A; repealing Minnesota Statutes 1994, sections 115A.154; 115A.156; 115A.48, subdivisions 2 and 5; 115A.53; 115A.913, subdivision 5; 115A.9162; and 115A.991; Minnesota Statutes 1995 Supplement, sections 115A.0715; 115A.072, subdivision 3; 115A.55, subdivision 3; and 115D.05.

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

Section 1. [3.3056] COMMITTEES; TASK FORCES.

A legislative commission may appoint legislators to a committee, subcommittee, or task force to assist and advise the commission in carrying out its duties. With the consent of the speaker of the house of representatives and the subcommittee on committees of the senate, a commission may appoint legislators who are not members of the commission to the committee, subcommittee, or task force. The legislative commission must pay for any expenses of the committee, subcommittee, or task force out of funds appropriated to the legislative commission.

Sec. 2. Minnesota Statutes 1994, section 115A.03, subdivision 21, is amended to read:

Subd. 21. **MIXED MUNICIPAL SOLID WASTE.** (a) “Mixed municipal solid waste” means garbage, refuse, and other solid waste from residential, commercial, industrial, and community activities that the generator of the waste aggregates for collection, but except as provided in paragraph (b).

(b) Mixed municipal solid waste does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, tires, lead acid batteries, motor and vehicle fluids and filters, and other materials collected, processed, and disposed of as separate waste streams, but does include source-separated compostable materials.

Sec. 3. Minnesota Statutes 1994, section 115A.03, is amended by adding a subdivision to read:

Subd. 26a. **RESOURCE CONSERVATION.** “Resource conservation” means the reduction in the use of water, energy, and raw materials.

Sec. 4. Minnesota Statutes 1994, section 115A.03, is amended by adding a subdivision to read:

Subd. 32c. **SOURCE-SEPARATED COMPOSTABLE MATERIALS.** “Source-separated compostable materials” means mixed municipal solid waste that:

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(1) is separated at the source by waste generators for the purpose of preparing it for use as compost;

(2) is collected separately from other mixed municipal solid wastes;

(3) is comprised of food wastes, fish and animal waste, plant materials, diapers, sanitary products, and paper that is not recyclable because the director has determined that no other person is willing to accept the paper for recycling; and

(4) is delivered to a facility to undergo controlled microbial degradation to yield a humus-like product meeting the agency's class I or class II, or equivalent, compost standards and where process residues do not exceed 15 percent by weight of the total material delivered to the facility.

Sec. 5. Minnesota Statutes 1994, section 115A.03, is amended by adding a subdivision to read:

Subd. 32d. **SOURCE-SEPARATED RECYCLABLE MATERIALS.** "Source-separated recyclable materials" means recyclable materials, including commingled recyclable materials, that are separated by the generator.

Sec. 6. [115A.0716] ENVIRONMENTAL ASSISTANCE GRANT AND LOAN PROGRAM.

Subdivision 1. GRANTS. (a) The director may make grants to any person for the purpose of researching, developing, and implementing projects or practices related to collection, processing, recycling, reuse, resource recovery, source reduction, and prevention of waste, hazardous substances, toxic pollutants, and problem materials; the development or implementation of pollution prevention projects or practices; the collection, recovery, processing, purchasing, or market development of recyclable materials or compost; resource conservation; and for environmental education.

(b) In making grants, the office may give priority to projects or practices that have broad application in the state and are consistent with the policies established under sections 115A.02 and 115D.02.

(c) The director shall adopt rules to administer the grant program.

(d) For the purposes of this section:

(1) "pollution prevention" has the meaning given it in section 115D.03;

(2) "toxic pollutant" has the meaning given it in section 115D.03; and

(3) "hazardous substance" has the meaning given it in section 115D.03.

Subd. 2. LOANS. (a) The director may make loans, or participate in loans, for capital costs or improvements related to any of the activities listed in subdivision 1.

(b) The director may work with financial institutions or other financial assistance providers in participating in loans under this section. The director may contract with financial institutions or other financial assistance providers for loan processing and/or administration.

(c) The director may also make grants, as authorized in subdivision 1, to enable persons to receive loans from financial institutions or to reduce interest payments for those loans.

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(d) In making loans, the office may give priority to projects or practices that have broad application in the state and are consistent with the policies established under sections 115A.02 and 115D.02.

(e) The director shall adopt rules to administer the loan program.

Sec. 7. Minnesota Statutes 1994, section 115A.50, is amended to read:

115A.50 ELIGIBLE RECIPIENTS.

Eligible recipients for assistance under the program shall be limited to cities, counties, solid waste management districts established pursuant to sections 115A.62 to 115A.72, and sanitary districts. Eligible recipients may apply for assistance under sections 115A.0716 and 115A.52 and ~~115A.53~~ on behalf of other persons.

Sec. 8. Minnesota Statutes 1995 Supplement, section 115A.554, is amended to read:

115A.554 AUTHORITY OF SANITARY DISTRICTS.

A sanitary district has the authorities and duties of counties within the district's boundary for purposes of sections 115A.0716; 115A.46, ~~subdivision~~ subdivisions 4 and 5; 115A.48; 115A.551; 115A.552; ~~115A.553~~; 115A.919; 115A.929; ~~115A.93~~; ~~115A.96~~, subdivision 6; 115A.961; ~~115A.991~~; 116.072; 375.18, subdivision 14; 400.08, except subdivision 4, paragraph (b); 400.16; and 400.161.

Sec. 9. Minnesota Statutes 1994, section 115A.916, is amended to read:

115A.916 MOTOR AND VEHICLE FLUIDS AND FILTERS; PROHIBITIONS.

(a) A person may not knowingly place motor oil, brake fluid, power steering fluid, transmission fluid, motor oil filters, or motor vehicle antifreeze:

(1) in solid waste or in a solid waste management facility other than a recycling facility or a household hazardous waste collection facility;

(2) in or on the land, unless approved by the agency; or

(3) in or on the waters of the state or in a stormwater or wastewater collection or treatment system.

(b) For the purposes of this section, "antifreeze" does not include small amounts of antifreeze contained in water used to flush the cooling system of a vehicle after the antifreeze has been drained and does not include deicer that has been used on the exterior of a vehicle.

(c) For businesses that purchase or use an annual average of over 150 gallons of motor vehicle antifreeze per month for on-site installation in motor vehicles, this section does not apply to antifreeze placed in a wastewater collection system that includes a publicly or privately owned treatment works that is permitted by the agency until December 31, 1996. For businesses that purchase or use an annual average of 150 gallons or less of motor vehicle antifreeze per month for on-site installation in motor vehicles, this section does not apply to antifreeze placed in a wastewater collection system that includes a publicly owned treatment works that is permitted by the agency until December 31, 1997.

(d) Notwithstanding paragraph (a), motor oil filters and portions of motor oil filters may be processed at a permitted mixed municipal solid waste resource recovery facility that directly burns the waste if:

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(1) the facility is subject to an industrial waste management plan that addresses management of motor oil filters and the owner or operator of the facility can demonstrate to the satisfaction of the commissioner that the facility is in compliance with that plan;

(2) the facility recovers ferrous metal after incineration for recycling as part of its operation; and

(3) the motor oil filters are collected separately from mixed municipal solid waste and are not combined with it except for the purpose of incinerating the waste.

Sec. 10. Minnesota Statutes 1994, section 115A.919, is amended by adding a subdivision to read:

Subd. 2a. JOINT POWERS AGREEMENT. If a facility is owned by a joint powers board, total fees in excess of \$1 per cubic yard or equivalent may not be imposed or revenue expended under subdivision 1 or 2 without the approval of the board.

Sec. 11. Minnesota Statutes 1994, section 115A.923, subdivision 1a, is amended to read:

Subd. 1a. PAYMENT OF THE GREATER MINNESOTA LANDFILL CLEANUP FEE. The operator of a disposal facility in greater Minnesota shall remit the fees collected under subdivision 1 to the county or sanitary district where the facility is located, except that the operator of a facility that is owned by a statutory or home rule city shall remit the fees to the city that owns the facility and the operator of a facility that is owned by a joint powers board shall remit the fees to the board. The county, city, joint powers board, or sanitary district may use the revenue from the fees only for the purposes specified in section 115A.919.

Sec. 12. Minnesota Statutes 1994, section 115A.93, subdivision 3, is amended to read:

Subd. 3. LICENSE REQUIREMENTS; PRICING BASED ON VOLUME OR WEIGHT. (a) A licensing authority shall require licensees to impose charges for collection of mixed municipal solid waste that increase with the volume or weight of the waste collected.

(b) A licensing authority may impose requirements that are consistent with the county's solid waste policies as a condition of receiving and maintaining a license.

(c) A licensing authority shall prohibit mixed municipal solid waste collectors from imposing a greater charge on residents who recycle than on residents who do not recycle.

(d) The director may exempt a licensing authority from the requirements of paragraph (a) if the county within which the authority is located has an approved solid waste management plan that concludes that variable rate pricing is not appropriate for that jurisdiction because it is inconsistent with other incentives and mechanisms implemented within the jurisdiction that are more effective in attaining the goals of this chapter to discourage on-site disposal, littering, and illegal dumping.

(e) In the interim between revisions to the county solid waste management plan, the director may exempt a licensing authority from the requirements of paragraph (a) if the director makes the determination otherwise made by the plan in paragraph (d) and finds that the licensing authority:

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(1) operates or contracts for the operation of a residential recycling program that collects more categories of recyclable materials than required in section 115A.552;

(2) has a residential participation rate in its recycling programs of at least 70 percent or in excess of the participation rate for the county in which it is located, whichever is greater; and

(3) is located in a county that has exceeded the recycling goals in section 115A.551.

An exemption granted by the director in the interim between revisions to the county solid waste management plan is only effective until the county solid waste management plan is revised.

Sec. 13. Minnesota Statutes 1994, section 115A.9301, is amended by adding a subdivision to read:

Subd. 4. **EXEMPTION.** (a) The director may exempt a local government unit from the requirements of subdivision 1 if the county within which the local government unit is located has an approved solid waste management plan that concludes that variable rate pricing is not appropriate for that jurisdiction because it is inconsistent with other incentives and mechanisms implemented within the jurisdiction that are more effective in attaining the goals of this chapter to discourage on-site disposal, littering, and illegal dumping.

(b) In the interim between revisions to the county solid waste management plan, the director may exempt a local government unit from the requirements of subdivision 1 if the director makes the determination otherwise made by the plan in paragraph (a) and finds that the local government unit:

(1) operates or contracts for the operation of a residential recycling program that collects more categories of recyclable materials than required in section 115A.552;

(2) has a residential participation rate in its recycling programs of at least 70 percent or in excess of the participation rate for the county in which it is located, whichever is greater; and

(3) is located in a county that has exceeded the recycling goals in section 115A.551.

An exemption granted by the director in the interim between revisions to the county solid waste management plan is only effective until the county solid waste management plan is revised.

Sec. 14. Minnesota Statutes 1995 Supplement, section 115A.965, subdivision 1, is amended to read:

Subdivision 1. **PACKAGING.** (a) As soon as feasible but not later than August 1, 1993, no manufacturer or distributor may sell or offer for sale or for promotional purposes in this state packaging or a product that is contained in packaging if the packaging itself, or any inks, dyes, pigments, adhesives, stabilizers, or any other additives to the packaging contain any lead, cadmium, mercury, or hexavalent chromium that has been intentionally introduced as an element during manufacture or distribution of the packaging. ~~Intentional introduction does not include the incidental presence of any of the prohibited elements.~~

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(b) For the purposes of this section:

(1) "distributor" means a person who imports packaging or causes packaging to be imported into the state; it does not include a person involved solely in delivering packages on behalf of a third party; and

(2) until August 15, 1996, "packaging" does not include steel strapping containing a total concentration level of lead, cadmium, mercury, and hexavalent chromium, added together, of less than 100 parts per million by weight. "intentional introduction" means the act of deliberately using a regulated metal in the formulation of a package where its continued presence is desired in the final package to provide a specific characteristic, appearance, or quality. It does not include:

(i) the use of a regulated metal as a processing agent or intermediate to impart certain chemical or physical changes during manufacturing, where the incidental retention of a residue of the metal in the final package is neither desired nor deliberate if the final package is in compliance with subdivision 2;

(ii) the use of recycled materials as feedstock for the manufacture of new packaging materials, where some portion of the recycled materials may contain amounts of a regulated metal if the new package is in compliance with subdivision 2; or

(iii) the incidental presence of any of the regulated metals.

Sec. 15. Minnesota Statutes 1994, section 115A.965, subdivision 3, is amended to read:

Subd. 3. **EXEMPTIONS.** (a) Until January 1, 2000, the following packaging is exempt from the requirements of subdivisions 1 and 2:

(1) packaging that has been delivered to a manufacturer or distributor prior to August 1, 1993, or packaging that contains a code or other indication of the date of manufacture and that was manufactured prior to August 1, 1993; and

(2) until August 1, 1997, packaging that would not exceed the total toxics concentration levels under subdivision 2 but for the addition in the packaging of materials that have fulfilled their intended use and have been discarded by consumers; and

(2) packages that are reused but exceed the total toxics concentration levels in subdivision 2, provided that:

(i) the product being conveyed by the package is regulated under federal or state health or safety requirements;

(ii) transportation of the packaged product is regulated under federal or state transportation requirements; and

(iii) disposal of the package is performed according to federal or state radioactive or hazardous waste disposal requirements.

(b) Until January 1, 2000, packages that have a controlled distribution and reuse, but exceed the total toxics concentration levels in subdivision 2 and do not meet the requirements of paragraph (a), may be exempted from subdivisions 1 and 2 if the manufacturers or distributors of the packages petition for and receive approval from the commissioner. In granting approval, the commissioner shall work with the Coalition of Northeastern

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Governors Toxics in Packaging Clearinghouse and base the decision on satisfactory demonstrations that the environmental benefit of the controlled distribution and reuse is significantly greater compared to the same package manufactured in compliance with the total toxics concentration levels in subdivision 2, and on plans proposed by the manufacturer that include each of the following elements:

- (1) a means of identifying the packaging in a permanent and visible manner;
- (2) a method of regulatory and financial accountability so that a specified percentage of the packaging manufactured and distributed to other persons is not discarded by those persons after use but are returned to the manufacturer or the manufacturer's designee;
- (3) a system of inventory and record maintenance to account for the packaging placed in, and removed from, service;
- (4) a means of transforming packaging that is no longer reusable into recycled materials for manufacturing or into manufacturing wastes which are subject to existing federal or state laws or regulations governing such manufacturing wastes that ensure that these wastes do not enter the industrial or mixed municipal solid waste stream; and
- (5) a system of annually reporting to the commissioner changes to the system and changes in designees.

(b) (c) Packaging to which lead, cadmium, mercury, or hexavalent chromium has been intentionally introduced in the manufacturing process may be exempted from the requirements of subdivisions 1 and 2 by the commissioner of the pollution control agency if:

- (1) the use of the toxic element in the packaging is required by federal or state health or safety laws; or
- (2) there is no feasible alternative for the packaging because the toxic element used is essential to the protection, safe handling, or function of the contents of the package.

The commissioner may grant an exemption under this paragraph for a period not to exceed two years upon application by the packaging manufacturer that includes documentation showing that the criteria for an exemption are met. Exemptions granted by the commissioner may be renewed upon reapplication every two years.

Sec. 16. Minnesota Statutes 1994, section 115A.9651, subdivision 1, is amended to read:

Subdivision 1. **PROHIBITION.** (a) Except as provided in paragraph (d), no person may distribute for sale or use in this state any ink, dye, pigment, paint, or fungicide manufactured after September 1, 1994, into which lead, cadmium, mercury, or hexavalent chromium has been intentionally introduced.

(b) For the purposes of this subdivision, "intentionally introduce" means to deliberately use a metal listed in paragraph (a) as an element during manufacture or distribution of an item listed in paragraph (a). Intentional introduction does not include the incidental presence of any of the prohibited elements.

(c) The concentration of a listed metal in an item listed in paragraph (a) may not exceed 100 parts per million.

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(d) The use of lead in substances utilized in marking road, street, highway, and bridge pavements is exempt from this subdivision until July 1, 1998.

Sec. 17. Minnesota Statutes 1995 Supplement, section 115A.981, subdivision 3, is amended to read:

Subd. 3. **REPORT.** (a) The commissioner shall report to the legislative commission on waste management senate and house of representatives environment and natural resource committees, the finance division of the senate committee on environment and natural resources, and the house of representatives committee on environment and natural resources finance by July December 1 of each odd-numbered year on the economic status and outlook of the state's solid waste management sector including an estimate of the extent to which prices for solid waste management paid by consumers reflect costs related to environmental and public health protection, including a discussion of how prices are publicly and privately subsidized and how identified costs of waste management are not reflected in the prices.

(b) In preparing the report, the commissioner shall:

(1) consult with the director; local government units; solid waste collectors, transporters, and processors; owners and operators of solid waste facilities; and other interested persons;

(2) consider and analyze information received under subdivision 2 and information available under section 115A.929; and

(3) analyze information gathered and comments received relating to the most recent solid waste management policy report prepared under section 115A.411.

The commissioner shall also recommend any legislation necessary to ensure adequate and reliable information needed for preparation of the report.

(c) The report must also include:

(1) statewide and facility by facility estimates of the total potential costs and liabilities associated with solid waste disposal facilities for closure and postclosure care, response costs under chapter 115B, and any other potential costs, liabilities, or financial responsibilities;

(2) statewide and facility by facility requirements for proof of financial responsibility under section 116.07, subdivision 4h, and how each facility is meeting those requirements.

Sec. 18. Minnesota Statutes 1994, section 115D.09, is amended to read:

115D.09 CONFIDENTIALITY.

Information and techniques developed under section 115D.04, the reduction information and techniques under section ~~115D.05~~ 115A.0716, and the progress reports required under section 115D.08 are public data under chapter 13. The plans required under section 115D.07 are nonpublic data under chapter 13.

Sec. 19. Minnesota Statutes 1995 Supplement, section 116.07, subdivision 10, is amended to read:

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Subd. 10. **SOLID WASTE GENERATOR ASSESSMENTS.** (a) For the purposes of this subdivision:

(1) "assessed waste" means mixed municipal solid waste as defined in section 115A.03, subdivision 21, infectious waste as defined in section 116.76, subdivision 12, pathological waste as defined in section 116.76, subdivision 14, industrial waste as defined in section 115A.03, subdivision 13a, and construction debris as defined in section 115A.03, subdivision 7; provided that all types of assessed waste listed in this clause do not include:

(i) materials that are separated for recycling by the generator and that are collected separately from other waste and delivered to a waste facility for the purpose of recycling and recycled;

(ii) materials that are separated for recycling by the generator, collected and delivered to a waste facility that recycles at least 85 percent of its waste, and are collected with mixed municipal solid waste that is segregated in leakproof bags, provided that the mixed municipal solid waste does not exceed five percent of the total weight of the materials delivered to the facility and is ultimately delivered to a facility designated under sections 115A.80 to 115A.893; and

it also does not include (iii) waste generated outside of Minnesota;

(2) "noncompacted cubic yard" means a loose cubic yard of assessed waste;

(3) "nonresidential customer" means:

(i) an owner or operator of a business, including a home operated business, industry, church, nursing home, nonprofit organization, school, or any other commercial or institutional enterprise;

(ii) an owner of a building or site containing multiple residences, including a townhome or manufactured home park, where no resident has separate trash pickup, and no resident is separately assessed for such service; and

(iii) any other generator of assessed waste that is not a residential customer as defined in clause (6);

(4) "periodic waste collection" means each time a waste container is emptied by the person that collects the assessed waste;

(5) "person that collects assessed waste" means each person that is required to pay sales tax on solid waste collection services under section 297A.45, or would pay sales tax under that section if the assessed waste was mixed municipal solid waste; and

(6) "residential customer" means:

(i) a detached single family residence that generates only household mixed municipal solid waste; and

(ii) a person residing in a building or at a site containing multiple residences, including a townhome or a manufactured home park, where each resident either (A) is separately assessed for waste collection or (B) has separate waste collection for each resident, even if the resident pays to the owner or an association a monthly maintenance fee which includes the expense of waste collection, and the owner or association pays the waste collector for waste collection in one lump sum.

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(b) A person that collects assessed waste shall collect and remit to the commissioner of revenue a solid waste generator assessment from each of the person's customers as provided in paragraphs (c) and (d). A waste management facility that accepts assessed waste shall collect and remit to the commissioner of revenue the solid waste assessment as provided in paragraph (e).

(c) Except as provided in paragraph (f), the amount of the assessment for each residential customer is \$2 per year. Each person that collects assessed waste shall collect the assessment annually from each residential customer that is receiving mixed municipal solid waste collection service on July 1 of each year and shall remit the amount actually collected along with the person's first remittance of the sales tax on solid waste collection services, described in section 297A.45, made after October 1 of each year. For buildings or sites that contain multiple residences that are not separately billed for collection services, the person who collects assessed waste shall collect the assessment for all the residences from the person who is billed for the collection service. Any amount of the assessment that is received by the person that collects assessed waste after October 1 of each year must be remitted along with the person's next remittance of sales tax after receipt of the assessment.

(d)(1) Except as provided in clause (2), the amount of the assessment for each nonresidential customer is 60 cents per noncompacted cubic yard of periodic waste collection capacity purchased by the customer, based on the size of the container for the assessed waste. For a residential customer that generates assessed waste that is not mixed municipal solid waste, the amount of the assessment is 60 cents per noncompacted cubic yard of collection capacity purchased for the waste that is not mixed municipal solid waste, based on the size of the container for the waste. If the capacity purchased is for compacted cubic yards of mixed municipal solid waste, the noncompacted capacity purchased is based on the compaction ratio of 3:1. The commissioner of revenue, after consultation with the commissioner of the pollution control agency, shall determine, and may publish by notice, compaction rates for other types of waste where they exist and conversion schedules for waste that is managed by measurements other than cubic yards. Each person that collects assessed waste shall collect the assessment from each nonresidential customer as part of each statement for payment of waste collection charges and shall remit the amount actually collected along with the next remittance of sales tax after receipt of the assessment.

(2) The assessment for nonresidential customers for the mixed municipal solid waste that is collected with source-separated recyclable materials as described in paragraph (a), clause (1), item (ii), is three-tenths of a cent per gallon. The customer must pay by purchasing specific collection bags or stickers that include the cost of the collection service and assessment.

(e) A person who transports assessed waste generated by that person or by another person without compensation shall pay an assessment of 60 cents per noncompacted cubic yard or the equivalent to the operator of the waste management facility to which the waste is delivered. The operator shall remit the assessments actually collected under this paragraph to the commissioner of revenue. This subdivision does not apply to a person who transports industrial waste generated by that person to a facility owned and operated by that person.

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(f) The amount of the assessment for each residential customer that is subject to a mixed municipal solid waste collection service for which the customer pays, based on the volume of waste collected, by purchasing specific collection bags or stickers from the waste collector, municipality, or other vendor is either:

(1) determined by a method developed by the waste collector or municipality and approved by the commissioner of revenue, which yields the equivalent of approximately a \$2 annual assessment per household; or

(2) three cents per each 35 gallon unit or less. If the per unit fee method under this clause is used, it is the responsibility of the waste collector or the municipality who is selling the bags or stickers to remit the amount of the assessment to the department of revenue, according to a payment schedule provided by the commissioner of revenue. The collection service and assessment under this clause shall be included in the price of the bag or sticker.

(g) The commissioner of revenue shall redesign sales tax forms for persons that collect assessed waste to accommodate payment of the assessment. The amounts remitted under this subdivision must be deposited in the state treasury and credited to the solid waste fund established in section 115B.42.

(h) For persons that collect assessed waste and operators of waste management facilities who are required to collect the solid waste generator assessments under this subdivision, and persons who are required to remit the assessment under paragraph (f), and who do not collect and remit the sales tax on solid waste collection services under section 297A.45, the commissioner of revenue shall determine when and in what manner the persons and operators must remit the assessment amounts actually collected.

(i) For the purposes of this subdivision, the requirement to "collect" the solid waste generator assessment under paragraph (b) means that the person to whom the requirement applies shall:

(i) include the amount of the assessment in the appropriate statement of charges for waste collection services and in any action to enforce payment on delinquent accounts;

(ii) accurately account for assessments received;

(iii) indicate to generators that payment of the assessment by the waste generator is required by law and inform generators, using information supplied by the commissioner of the agency, of the purposes for which revenue from the assessment will be spent; and

(iv) cooperate fully with the commissioner of revenue to identify generators of assessed waste who fail to remit payment of the assessment.

(j) The audit, penalty, enforcement, and administrative provisions applicable to taxes imposed under chapter 297A apply to the assessments imposed under this subdivision.

(k) If less than \$25,000,000 is projected to be available for new encumbrances in any fiscal year after fiscal year 1996 from all existing dedicated revenue sources for landfill cleanup and reimbursement costs under sections 115B.39 to 115B.46, by April 1 before the next fiscal year in which the shortfall is projected the commissioner of the agency shall certify to the commissioner of revenue the amount of the shortfall. To provide for

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the shortfall, the commissioner of revenue shall increase the assessment under paragraphs (d) and (e) by an amount sufficient to generate revenue equal to the amount of the shortfall effective the following July 1 and shall provide notice of the increased assessment by May 1 following certification to persons who are required to collect and remit the solid waste generator assessments under this subdivision.

Sec. 20. Minnesota Statutes 1995 Supplement, section 297A.45, subdivision 2, is amended to read:

Subd. 2. **APPLICATION.** The taxes imposed by sections 297A.02 and 297A.021 apply to all public and private mixed municipal solid waste management services.

Notwithstanding section 297A.25, subdivision 11, a political subdivision that purchases waste management services on behalf of its citizens shall pay the taxes.

If a political subdivision provides a waste management service to its residents at a cost in excess of the total direct charge to the residents for the service, the political subdivision shall pay the taxes based on its cost of providing the service in excess of the direct charges.

A person who transports mixed municipal solid waste generated by that person or by another person without compensation shall pay the taxes at the waste facility based on the disposal charge or tipping fee.

A person who segregates mixed municipal waste from recyclable materials as described in subdivision 3, paragraph (a), clause (2), shall pay the taxes by purchasing specific collection bags or stickers. The collection service and taxes must be included in the price of the bag or sticker.

Sec. 21. Minnesota Statutes 1995 Supplement, section 297A.45, subdivision 3, is amended to read:

Subd. 3. **EXEMPTIONS.** (a) The cost of a service or the portion of a service to collect and manage recyclable materials ~~separated from mixed municipal solid waste by the waste generator~~ is exempt from the taxes imposed in sections 297A.02 and 297A.021 if:

(1) the recyclable materials are separated from mixed municipal solid waste by the waste generator; or

(2) the recyclable materials are separated from mixed municipal solid waste by the generator, collected and delivered to a waste facility that recycles at least 85 percent of its waste, and are collected with mixed municipal solid waste that is segregated in leakproof bags, provided that the mixed municipal solid waste does not exceed five percent of the total weight of the materials delivered to the facility and is ultimately delivered to a facility designated under sections 115A.80 to 115A.893.

(b) The amount of a surcharge or fee imposed under section 115A.919, 115A.921, 115A.923, or 473.843 is exempt from the taxes imposed in sections 297A.02 and 297A.021.

(c) Waste from a recycling facility that separates or processes recyclable materials and that reduces the volume of the waste by at least 85 percent is exempt from the taxes imposed in sections 297A.02 and 297A.021. To qualify for the exemption under this paragraph, the waste exempted must be managed separately from other solid waste.

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(d) The following costs are exempt from the taxes imposed in sections 297A.02 and 297A.021:

- (1) costs of providing educational materials and other information to residents;
- (2) costs of managing solid waste other than mixed municipal solid waste, including household hazardous waste; and
- (3) costs of court litigation and associated damages.

(e) The cost of a waste management service is exempt from the taxes imposed in sections 297A.02 and 297A.021 to the extent that the cost was previously subject to the tax.

(f) Through December 31, 2002, the gross receipts from the sales of source-separated compostable waste management services are exempt from the tax imposed in section 297A.02 if the waste is delivered to a facility exempted as described in this paragraph. To initially qualify for an exemption, a facility must apply for an exemption in its application for a new or amended solid waste permit to the pollution control agency. The first time a facility applies to the agency, it must certify in its application that it will comply with the criteria in clauses (1) to (5), and the commissioner of the agency shall so certify to the commissioner of revenue who must grant the exemption. For each subsequent calendar year, by October 1 of the preceding year, the facility must apply to the agency for certification to renew its exemption for the following year. The application must be filed according to the procedures and contain the information required by the agency. The commissioner of revenue shall grant the exemption if the commissioner of the agency finds and certifies to the commissioner of revenue that based on an evaluation of the composition of incoming waste and residuals and the quality and use of the product:

- (1) generators separate materials at the source;
- (2) the separation is performed in a manner appropriate to the technology specific to the facility that:
 - (i) maximizes the quality of the product;
 - (ii) minimizes the toxicity and quantity of residuals; and
 - (iii) provides an opportunity for significant improvement in the environmental efficiency of the operation;
- (3) the operator of the facility educates generators, in coordination with each county using the facility, about separating the waste to maximize the quality of the waste stream for the technology specific to the facility;
- (4) process residuals do not exceed 15 percent of the weight of the total material delivered to the facility; and
- (5) the final product is accepted for use.

Sec. 22. Minnesota Statutes 1994, section 458D.07, subdivision 4, is amended to read:

Subd. 4. **UTILIZATION OF DISTRICT SYSTEM.** (a) The board may provide that every person or local government unit located in the district must dispose of solid waste as provided in the comprehensive plan.

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(b) Upon the adoption of a solid waste plan under section 458D.05, subdivision 2, the plan governs all solid waste management in the district and a public entity, as defined in section 16B.122, subdivision 1, within the district may not:

(1) enter into a binding agreement governing a solid waste management activity that is inconsistent with that plan, without the consent of the district; or

(2) develop or implement a solid waste management activity, other than an activity to reduce waste generation or reuse waste materials, that is inconsistent with a solid waste plan that the district is actively implementing, without the consent of the district.

Sec. 23. Laws 1995, chapter 87, section 1, is amended to read:

Section 1. **WAIVER.**

The pollution control agency must, until 2005, allow the operation of a gas-fired waste combustor installed after January 1, ~~1992~~ 1990, and before June 20, 1994, used to burn blood-contaminated, waxed cardboard, and meat-contaminated cellulose from meat processing operations in amounts that do not exceed 500 pounds per hour and provided the combustor is monitored by an automatic temperature control device and meets emission standards in effect at the time it was installed.

Sec. 24. **LANDFILL CLEANUP COSTS.**

(a) Notwithstanding Minnesota Statutes, sections 115B.42 and 115B.43, \$737,500 is appropriated from the solid waste fund to the commissioner of the pollution control agency for distribution to a county or its political subdivisions to assist those public entities by funding a portion of the \$1,475,000 amount paid by December 31, 1994, as part of a final order or settlement of a lawsuit for environmental response costs at a mixed municipal solid waste facility if:

(1) the county or its political subdivisions stopped sending waste to the facility prior to 1988;

(2) the mixed municipal solid waste facility is owned and operated by another county;

(3) the county that owns the facility decided to reopen the facility after a closure order was issued by the pollution control agency in 1988, and then decided not to enter the landfill cleanup program in 1994; and

(4) the county or its political subdivision incurring the \$1,475,000 liability had no role in the other county's decision to keep the facility open.

(b) Reimbursements under this section must be used to directly reduce or eliminate the burden on citizens of the county caused by this liability, and may not be used for general purposes.

Only proceeds from the sale of bonds credited to the solid waste fund should be used to fund reimbursements under this section.

Sec. 25. **SOLID WASTE MANAGEMENT POLICY REPORT; 2001.**

The report required to be submitted by the director of the office of environmental assistance in 2001 under Minnesota Statutes, section 115A.411, must include an evalua-

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tion of the impact of the exemption under Minnesota Statutes, section 297A.45, subdivision 3, paragraph (f), on the economic viability of the participating facilities, their ability to reach the goals in Minnesota Statutes, section 297A.45, subdivision 3, paragraph (f), and on revenues under Minnesota Statutes, section 297A.45. The director shall recommend whether the exemption should continue.

Sec. 26. REVIEW OF MOTOR VEHICLE ANTIFREEZE STUDIES.

The commissioner of the pollution control agency shall review the conclusions of independent studies completed by December 31, 1997, which analyze the following issues related to motor vehicle antifreeze:

(1) the biological oxygen demand impact of motor vehicle antifreeze on waste water treatment facilities;

(2) the heavy metal content of used motor vehicle antifreeze; and

(3) the extent to which recycled antifreeze is approved for use in automobiles under manufacturers' warranties.

The commissioner shall summarize the findings of this review to the house and senate environment and natural resources committees by February 15, 1997.

Sec. 27. REVISOR'S INSTRUCTION.

The revisor shall change provisions in Minnesota Statutes that direct reports to the legislative commission on waste management so that the reports are received by the environment and natural resources committees of the senate and house of representatives, the finance division of the senate committee on environment and natural resources, and the house of representatives committee on environment and natural resources finance.

Sec. 28. REPEALER.

(a) Minnesota Statutes 1994, section 115A.913, subdivision 5, is repealed.

(b) Minnesota Statutes 1994, sections 115A.154; 115A.156; 115A.48, subdivisions 2 and 5; 115A.53; 115A.9162; and 115A.991; and Minnesota Statutes 1995 Supplement, sections 115A.0715; 115A.072, subdivision 3; 115A.55, subdivision 3; and 115D.05, are repealed.

Sec. 29. EFFECTIVE DATE.

Section 9 is effective the day following final enactment. Sections 7, 8, except for the reference to Minnesota Statutes, section 115A.46, subdivision 5, 18, and 28, paragraph (b), are effective on the effective date of rules adopted under section 6.

Section 23 is effective retroactive to April 25, 1995.

Sections 19 to 21, paragraph (a), are effective retroactively to August 1, 1995.

Presented to the governor April 4, 1996

Signed by the governor April 11, 1996, 12:08 p.m.

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