

CHAPTER 91—S.F.No. 1920

An act relating to state government; modifying the appointment process and position classifications for the state archaeologist; amending Minnesota Statutes 1998, section 138.35, subdivisions 1 and 1a.

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

Section 1. Minnesota Statutes 1998, section 138.35, subdivision 1, is amended to read:

Subdivision 1. **APPOINTMENT.** The state archaeologist shall be a qualified professional archaeologist appointed by the commissioner of administration in consultation with the executive council of the Minnesota historical society in consultation with, the Indian affairs council, and other interested parties to perform the duties in sections 138.31 to 138.42. ~~The position is in the unclassified service in the executive branch and is subject to chapter 43A but not chapter 179A. The compensation and terms and conditions of employment are as provided by section 43A.18, subdivision 3.~~ The state archaeologist's salary shall be established by the ~~commissioner of employee relations within a range established by the commissioner of employee relations.~~

Sec. 2. Minnesota Statutes 1998, section 138.35, subdivision 1a, is amended to read:

Subd. 1a. **ADMINISTRATIVE SUPPORT; STAFF.** The commissioner of administration shall provide the state archaeologist with necessary administrative services. State agencies shall provide the state archaeologist upon request with advisory staff services on matters relating to the duties and jurisdiction of the state archaeologist. The state archaeologist shall hire staff and maintain offices as necessary to perform the duties in sections 138.31 to 138.42. ~~Staff shall serve in the unclassified service and be governed by section 43A.18, subdivision 2.~~

Sec. 3. **POSITION TRANSFER.**

The commissioner of employee relations shall allocate positions described in sections 1 and 2 to the appropriate state job classifications in accordance with Minnesota Statutes, chapter 43A. Positions transferred with their incumbents do not create vacancies. Incumbents transferred to unlimited classified positions are transferred without examination but shall serve a probationary period as provided in the collective bargaining agreement or plan to which their positions are assigned, and shall receive credit for time already served in the position.

Sec. 4. **EFFECTIVE DATE.**

Section 3 is effective on the day following final enactment.

Presented to the governor April 20, 1999

Signed by the governor April 23, 1999, 11:38 a.m.

CHAPTER 92—S.F.No. 1528

An act relating to natural resources; modifying harmful exotic species provisions; amending Minnesota Statutes 1998, sections 84.027, subdivision 13; 84D.01, subdivision 2; 84D.02, subdivi-

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tion 4; 84D.03, subdivision 1, and by adding a subdivision; 84D.09, subdivision 2; 84D.10; 84D.11, by adding a subdivision; and 84D.12, subdivisions 1 and 3; repealing Minnesota Statutes 1998, sections 84D.01, subdivision 10; and 84D.03, subdivision 2.

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

Section 1. Minnesota Statutes 1998, section 84.027, subdivision 13, is amended to read:

Subd. 13. **GAME AND FISH RULES.** (a) The commissioner of natural resources may adopt rules under sections 97A.0451 to 97A.0459 and this subdivision that are authorized under:

(1) chapters 97A, 97B, and 97C to set open seasons and areas, to close seasons and areas, to select hunters for areas, to provide for tagging and registration of game, to prohibit or allow taking of wild animals to protect a species, and to prohibit or allow importation, transportation, or possession of a wild animal;

(2) sections 84.093, 84.15, and 84.152 to set seasons for harvesting wild ginseng roots and wild rice and to restrict or prohibit harvesting in designated areas; and

(3) section 84D.12 to designate prohibited exotic species, regulated exotic species, unregulated exotic species, ~~limited infestations of Eurasian water milfoil~~, and infested waters.

(b) If conditions exist that do not allow the commissioner to comply with sections 97A.0451 to 97A.0459, the commissioner may adopt a rule under this subdivision by submitting the rule to the attorney general for review under section 97A.0455, publishing a notice in the State Register and filing the rule with the secretary of state and the legislative coordinating commission, and complying with section 97A.0459, and including a statement of the emergency conditions and a copy of the rule in the notice. The notice may be published after it is received from the attorney general or five business days after it is submitted to the attorney general, whichever is earlier.

(c) Rules adopted under paragraph (b) are effective upon publishing in the State Register and may be effective up to seven days before publishing and filing under paragraph (b); if:

(1) the commissioner of natural resources determines that an emergency exists;

(2) the attorney general approves the rule; and

(3) for a rule that affects more than three counties the commissioner publishes the rule once in a legal newspaper published in Minneapolis, St. Paul, and Duluth, or for a rule that affects three or fewer counties the commissioner publishes the rule once in a legal newspaper in each of the affected counties.

(d) Except as provided in paragraph (e), a rule published under paragraph (c), clause (3), may not be effective earlier than seven days after publication.

(e) A rule published under paragraph (c), clause (3), may be effective the day the rule is published if the commissioner gives notice and holds a public hearing on the rule within 15 days before publication.

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(f) The commissioner shall attempt to notify persons or groups of persons affected by rules adopted under paragraphs (b) and (c) by public announcements, posting, and other appropriate means as determined by the commissioner.

(g) Notwithstanding section 97A.0458, a rule adopted under this subdivision is effective for the period stated in the notice but not longer than 18 months after the rule is adopted.

Sec. 2. Minnesota Statutes 1998, section 84D.01, subdivision 2, is amended to read:

Subd. 2. **AQUATIC MACROPHYTE.** "Aquatic macrophyte" means a macroscopic nonwoody plant, either a submerged, floating leafed, floating, or emergent plant that naturally grows in water or hydric soils.

Sec. 3. Minnesota Statutes 1998, section 84D.02, subdivision 4, is amended to read:

Subd. 4. **INSPECTION OF WATERCRAFT.** The commissioner shall authorize personnel to inspect, ~~between May 1 and October 15~~ for a minimum of 20,000 hours during the open water season, watercraft and associated equipment, including weed harvesters, that leave or are removed from infested waters of the state.

Sec. 4. Minnesota Statutes 1998, section 84D.03, subdivision 1, is amended to read:

Subdivision 1. **INFESTED WATERS; RESTRICTED ACTIVITIES.** (a) The commissioner shall designate a water of the state as an infested water if the commissioner determines that the water contains a harmful exotic species that could spread to other waters if use of the water and related activities are not regulated to prevent this.

(b) When determining which harmful exotic species comprise infested waters, the commissioner shall consider:

(1) the extent of a species distribution within the state;

(2) the likely means of spread for a species; and

(3) whether regulations specific to infested waters containing a specific species will effectively reduce that species' spread.

(c) The presence of common carp and curly-leaf pondweed shall not be the basis for designating a water as infested.

Sec. 5. Minnesota Statutes 1998, section 84D.03, is amended by adding a subdivision to read:

Subd. 3. **BAIT HARVEST FROM INFESTED WATERS.** (a) The taking of wild animals from infested waters for bait or aquatic farm purposes is prohibited, except as provided in paragraph (b).

(b) In waters that are designated as infested waters except those designated because they contain prohibited exotic species of fish, the taking of wild animals may be permitted for:

(1) commercial taking of wild animals for bait and aquatic farm purposes according to a permit issued under section 84D.11, subject to rules adopted by the commissioner; and

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(2) bait purposes for noncommercial personal use in waters that contain Eurasian water milfoil.

Sec. 6. Minnesota Statutes 1998, section 84D.09, subdivision 2, is amended to read:

Subd. 2. **EXCEPTIONS.** Unless otherwise prohibited by law, a person may transport aquatic macrophytes:

- (1) that are duckweeds in the family Lemnaceae;
- (2) for disposal as part of a harvest or control activity conducted under an aquatic plant management permit pursuant to section 103G.615, under permit pursuant to section 84D.11, or as specified by the commissioner;
- (3) for purposes of constructing shooting or observation blinds in amounts sufficient for that purpose, provided that the aquatic macrophytes are emergent and cut above the waterline;
- (4) when legally purchased or traded by or from commercial or hobbyist sources for aquarium, wetland or lakeshore restoration, or ornamental purposes;
- (5) when harvested for personal or commercial use if in a motor vehicle;
- (6) to the department, or another destination as the commissioner may direct, in a sealed container for purposes of identifying a species or reporting the presence of a species;
- (7) when transporting a commercial aquatic plant harvester to a suitable location for purposes of cleaning any remaining aquatic macrophytes;
- (8) that are wild rice harvested under section 84.091; or
- (9) in the form of fragments of emergent aquatic macrophytes incidentally transported in or on watercraft or decoys used for waterfowl hunting during the waterfowl season.

Sec. 7. Minnesota Statutes 1998, section 84D.10, is amended to read:

84D.10 PROHIBITED ACT; WATERCRAFT.

Subdivision 1. LAUNCHING PROHIBITED. A person may not place or attempt to place into waters of the state a watercraft, a trailer, or plant harvesting equipment that has aquatic macrophytes, zebra mussels, or prohibited exotic species attached except as provided in this section.

Subd. 2. EXCEPTIONS. Unless otherwise prohibited by law, a person may place into the waters of the state a watercraft or trailer with aquatic macrophytes:

- (1) that are duckweeds in the family Lemnaceae;
- (2) for purposes of shooting or observation blinds in amounts sufficient for that purpose, if the aquatic macrophytes are emergent and cut above the waterline;
- (3) that are wild rice harvested under section 84.091; or
- (4) in the form of fragments of emergent aquatic macrophytes incidentally transported in or on watercraft or decoys used for waterfowl hunting during the waterfowl season.

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Subd. 3. **REMOVAL AND CONFINEMENT.** A conservation officer or other licensed peace officer may order:

(1) the removal of aquatic macrophytes or prohibited exotic species from a trailer or watercraft before it is placed into waters of the state;

(2) confinement of the watercraft at a mooring, dock, or other location until the watercraft is removed from the water; and

(3) removal of a watercraft from waters of the state to remove prohibited exotic species if the water has not been designated by the commissioner as being infested with that species.

Sec. 8. Minnesota Statutes 1998, section 84D.11, is amended by adding a subdivision to read:

Subd. 2a. **HARVEST OF BAIT FROM INFESTED WATERS.** The commissioner may issue a permit to allow the harvest of bait from waters that are designated as infested waters, except those designated because they contain prohibited exotic species of fish. The permit shall include conditions necessary to avoid spreading harmful exotic species. Before receiving a permit, a person annually must satisfactorily complete harmful exotic species-related training provided by the commissioner.

Sec. 9. Minnesota Statutes 1998, section 84D.12, subdivision 1, is amended to read:

Subdivision 1. **REQUIRED RULES.** The commissioner shall adopt rules:

(1) designating infested waters, prohibited, regulated, and unregulated exotic species;

(2) governing the application for and issuance of permits under this chapter, which rules may include a fee schedule; and

(3) governing notification under section 84D.08; and

(4) ~~designating, and governing the marking and use of, limited infestations of Eurasian water milfoil.~~

Sec. 10. Minnesota Statutes 1998, section 84D.12, subdivision 3, is amended to read:

Subd. 3. **EXPEDITED RULES.** The commissioner may adopt rules under section 84.027, subdivision 13, that designate:

(1) prohibited exotic species;

(2) regulated exotic species;

(3) unregulated exotic species; and

(4) limited infestations of Eurasian water milfoil; and

(5) infested waters.

Sec. 11. **REPEALER.**

Minnesota Statutes 1998, sections 84D.01, subdivision 10; and 84D.03, subdivision 2, are repealed.

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Sec. 12. EFFECTIVE DATE; APPLICATION.

This act is effective two days after final enactment and applies to any cause of action arising on or after that date.

Presented to the governor April 20, 1999

Signed by the governor April 23, 1999, 11:43 a.m.

CHAPTER 93—S.F.No. 1324

An act relating to motor vehicles; requiring commissioner of public safety to impose commercial driver's license disqualifications for violations of an out-of-service order; requiring commissioner of transportation to impose civil penalties for violations of an out-of-service order; amending Minnesota Statutes 1998, section 171.165, by adding a subdivision; and 221.036, subdivision 3.

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

Section 1. Minnesota Statutes 1998, section 171.165, is amended by adding a subdivision to read:

Subd. 4a. VIOLATION OF OUT-OF-SERVICE ORDER. (a) The commissioner shall disqualify a person from operating a commercial motor vehicle for not less than:

(1) 90 days nor more than one year if the operator is convicted of a first violation of an out-of-service order;

(2) one year nor more than five years if, during any ten-year period, the operator is convicted of two violations of out-of-service orders in separate incidents; and

(3) three years nor more than five years if, during any ten-year period, the operator is convicted of three or more violations of out-of-service orders in separate incidents.

(b) The commissioner shall notify the commissioner of transportation of each disqualification under this subdivision.

Sec. 2. Minnesota Statutes 1998, section 221.036, subdivision 3, is amended to read:

Subd. 3. AMOUNT OF PENALTY; CONSIDERATIONS. (a) The commissioner may issue an order assessing a penalty of up to \$5,000 for all violations of section 221.021; 221.041, subdivision 3; 221.081; 221.141; 221.151; or 221.171, or rules of the board or commissioner relating to motor carrier operations, insurance, or tariffs and accounting, identified during a single inspection, audit, or investigation.

(b) The commissioner may issue an order assessing a penalty up to a maximum of \$10,000 for all violations of section 221.033, subdivision 2b, or 221.035, and rules adopted under those sections, identified during a single inspection or audit.

(c) In determining the amount of a penalty, the commissioner shall consider:

(1) the willfulness of the violation;

(2) the gravity of the violation, including damage to humans, animals, air, water, land, or other natural resources of the state;

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