

Sec. 3. **EFFECTIVE DATE.**

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

Presented to the governor April 26, 2004

Signed by the governor April 29, 2004, 2:10 p.m.

CHAPTER 168—H.F.No. 1861

VETOED

CHAPTER 169—S.F.No. 2299

An act relating to the environment; providing for enforcement for certain aboveground petroleum storage tanks; modifying field citations procedures for petroleum storage tanks; amending Minnesota Statutes 2002, section 115.071, subdivision 7; Minnesota Statutes 2003 Supplement, section 116.073, subdivisions 1, 2.

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

Section 1. Minnesota Statutes 2002, section 115.071, subdivision 7, is amended to read:

Subd. 7. **UNDERGROUND AND ABOVEGROUND STORAGE TANKS; RED TAGS.** (a) The commissioner may issue a red tag for failure to have the regulated underground tank system or aboveground tank facility at a bulk plant, as defined in section 115C.09, subdivision 3h, paragraph (a), protected from corrosion, failure to have spill and overfill protection, or failure to have a leak detection method in place. A red tag may also be issued for underground storage tank system or aboveground tank facility at a bulk plant violations if an enforcement action, including, but not limited to, a citation as defined in section 116.073, subdivision 1, has been issued and the violations are not corrected. Upon discovery of a violation at a facility with an underground storage tank system or aboveground tank facility at a bulk plant, the commissioner shall affix a red tag, in plain view, to the fill pipe cap of the tank system that provides notice that delivery of petroleum products to the tank system is prohibited. When the red tag is issued, agency staff must determine the product level in the tank.

(b) No owner or operator of a facility having an underground storage tank system or aboveground tank facility at a bulk plant shall fill or allow the filling of a tank with a petroleum product while a red tag is affixed to the fill pipe cap of the tank system.

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(c) A person shall not remove, deface, alter, or otherwise tamper with a red tag so that the information contained on the tag is not legible.

(d) A red tag may not be removed until the commissioner has inspected the underground storage tank system or aboveground tank facility at a bulk plant and established that it is no longer in violation. After making that determination, the commissioner shall remove the red tag within 24 hours or as soon as reasonably possible. Upon agreement by the commissioner, the red tag may also be removed by an agency-certified installer who provides documentation to the commissioner that the violation for which the system was red-tagged has been corrected.

(e) The issuance of a red tag may be appealed under section 116.072, subdivision 6, paragraphs (a) to (e), except that the person subject to the order must request a hearing within 15 days after issuance of a red tag and, if a hearing is not requested within the 15-day period, the red tag becomes a final order not subject to further review.

Sec. 2. Minnesota Statutes 2003 Supplement, section 116.073, subdivision 1, is amended to read:

Subdivision 1. **AUTHORITY TO ISSUE.** (a) Pollution Control Agency staff designated by the commissioner and Department of Natural Resources conservation officers may issue citations to a person who:

(1) disposes of solid waste as defined in section 116.06, subdivision 22, at a location not authorized by law for the disposal of solid waste without permission of the owner of the property;

(2) fails to report or recover discharges as required under section 115.061;

(3) fails to take discharge preventive or preparedness measures required under chapter 115E; or

(4) fails to install or use vapor recovery equipment during the transfer of gasoline from a transport delivery vehicle to an underground storage tank as required in section 116.49, subdivisions 3 and 4.

(b) In addition, Pollution Control Agency staff designated by the commissioner may issue citations to owners and operators of facilities ~~dispensing petroleum products~~ who violate sections 116.46 to 116.50 and Minnesota Rules, chapters 7150 and 7151 and parts 7001.4200 to 7001.4300. A citation issued under this subdivision must include a requirement that the person cited remove and properly dispose of or otherwise manage the waste or discharged oil or hazardous substance, reimburse any government agency that has disposed of the waste or discharged oil or hazardous substance and contaminated debris for the reasonable costs of disposal, or correct any storage tank violations.

(c) ~~Until June 1, 2004, Citations for violation violations of sections 115E.045 and 116.46 to 116.50 and Minnesota Rules, chapters 7150 and 7151, may be issued only after the owners and operators have had a 90-day 60-day period to correct violations stated in writing by Pollution Control Agency staff, unless there is a discharge~~

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associated with the violation or the violation is of Minnesota Rules, part 7151.6400, subpart 1, item B, or 7151.6500 a repeat violation from a previous inspection.

Sec. 3. Minnesota Statutes 2003 Supplement, section 116.073, subdivision 2, is amended to read:

Subd. 2. **PENALTY AMOUNT.** The citation must impose the following penalty amounts:

(1) \$100 per major appliance, as defined in section 115A.03, subdivision 17a, up to a maximum of \$2,000;

(2) \$25 per waste tire, as defined in section 115A.90, subdivision 11, up to a maximum of \$2,000;

(3) \$25 per lead acid battery governed by section 115A.915, up to a maximum of \$2,000;

(4) \$1 per pound of other solid waste or \$20 per cubic foot up to a maximum of \$2,000;

(5) up to \$200 for any amount of waste that escapes from a vehicle used for the transportation of solid waste if, after receiving actual notice that waste has escaped the vehicle, the person or company transporting the waste fails to immediately collect the waste;

(6) \$50 per violation of rules adopted under section 116.49, relating to underground storage tank system design, construction, installation, and notification requirements, up to a maximum of \$2,000;

(7) ~~\$250~~ \$500 per violation of rules adopted under section 116.49, relating to upgrading of existing underground storage tank systems, up to a maximum of \$2,000 per tank system;

(8) ~~\$100~~ \$250 per violation of rules adopted under section 116.49, relating to underground storage tank system general operating requirements, up to a maximum of \$2,000;

(9) \$250 per violation of rules adopted under section 116.49, relating to underground storage tank system release detection requirements, up to a maximum of \$2,000;

(10) \$50 per violation of rules adopted under section 116.49, relating to out-of-service underground storage tank systems and closure, up to a maximum of \$2,000;

(11) \$50 per violation of sections 116.48 to 116.491 relating to underground storage tank system notification, monitoring, environmental protection, and tank installers training and certification requirements, up to a maximum of \$2,000;

(12) \$25 per gallon of oil or hazardous substance discharged which is not reported or recovered under section 115.061, up to a maximum of \$2,000;

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(13) \$1 per gallon of oil or hazardous substance being stored, transported, or otherwise handled without the prevention or preparedness measures required under chapter 115E, up to a maximum of \$2,000;

(14) \$250 per violation of Minnesota Rules, parts 7001.4200 to 7001.4300 or chapter 7151, related to aboveground storage tank systems, up to a maximum of \$2,000; and

(15) \$250 per delivery made in violation of section 116.49, subdivision 3 or 4, levied against:

(i) the retail location if vapor recovery equipment is not installed or maintained properly;

(ii) the carrier if the transport delivery vehicle is not equipped with vapor recovery equipment; or

(iii) the driver for failure to use supplied vapor recovery equipment.

Presented to the governor April 26, 2004

Signed by the governor April 29, 2004, 2:20 p.m.

CHAPTER 170—S.F.No. 2300

An act relating to redistricting; adjusting the boundary between house districts 41A and 41B to correct an error; proposing coding for new law in Minnesota Statutes, chapter 2.

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

Section 1. **[2.444] FORTY-FIRST DISTRICT.**

Subdivision 1. **SENATE DISTRICT.** Senate district 41 consists of that district as described in the order of the Minnesota Special Redistricting Panel in Zachman v. Kiffmeyer, No. CO-01-160 (March 19, 2002).

Subd. 2. **HOUSE DISTRICT.** Notwithstanding the order of the Minnesota Special Redistricting Panel in Zachman v. Kiffmeyer, No. CO-01-160 (March 19, 2002), senate district 41, as described in that order, is divided into two house districts as follows:

(a) House district 41A consists of that portion of the city of Edina lying north of a line described as follows: commencing at the intersection of the western boundary of the city of Edina with Valley View Road, easterly along Valley View Road to the service road east of U.S. 169, southerly along the service road to Braemar Boulevard, easterly and northerly along Braemar Boulevard to Valley View Road, northeasterly along Valley View Road to Antrim Road, southerly along Antrim Road to West 70th Street, easterly along West 70th Street to France Avenue, southerly along France

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