

CHAPTER 243—H.F.No. 2363

An act relating to natural resources; modifying provisions for the control of invasive and nonnative species; providing criminal and civil penalties; requiring rulemaking; amending Minnesota Statutes 2002, sections 17.4982, subdivision 18a; 84D.01, subdivisions 6, 9, 12, 13, 15, 17, 18, by adding subdivisions; 84D.02, subdivisions 1, 3, 4, 5, 6; 84D.03; 84D.04; 84D.05; 84D.06; 84D.07; 84D.08; 84D.09, subdivision 2; 84D.10, subdivisions 1, 3; 84D.11, subdivisions 1, 2, 2a; 84D.12; 84D.13, subdivisions 3, 4, 5; 86B.415, subdivision 7; 97C.821; Minnesota Statutes 2003 Supplement, sections 18.78, subdivision 2; 84.027, subdivision 13; 84D.14; repealing Minnesota Statutes 2002, section 84D.01, subdivisions 5, 7; Minnesota Rules, part 6216.0400, subpart 3.

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

Section 1. Minnesota Statutes 2002, section 17.4982, subdivision 18a, is amended to read:

Subd. 18a. **NONINDIGENOUS SPECIES.** "Nonindigenous species" means a species of fish or other aquatic life that is:

- (1) not known to have been historically present in the state;
- (2) not known to be naturally occurring in a particular part of the state; or
- (3) designated by rule as a prohibited or restricted exotic regulated invasive species.

Sec. 2. Minnesota Statutes 2003 Supplement, section 18.78, subdivision 2, is amended to read:

Subd. 2. **CONTROL OF PURPLE LOOSESTRIFE.** An owner of nonfederal lands underlying public waters or wetlands designated under section 103G.201 is not required to control or eradicate purple loosestrife below the ordinary high water level of the public water or wetland. The commissioner of natural resources is responsible for control and eradication of purple loosestrife on public waters and wetlands designated under section 103G.201, except those located upon lands owned in fee title or managed by the United States. The officers, employees, agents, and contractors of the commissioner of natural resources may enter upon public waters and wetlands designated under section 103G.201 and, after providing notification to the occupant or owner of the land, may cross adjacent lands as necessary for the purpose of investigating purple loosestrife infestations, formulating methods of eradication, and implementing control and eradication of purple loosestrife. The commissioner of natural resources shall, by June 1 of each year, compile a priority list of purple loosestrife infestations to be controlled with herbicides in designated public waters. The commissioner of natural resources must distribute the list to county agricultural inspectors, local weed inspectors, and their appointed agents. The commissioner of natural resources shall control listed purple loosestrife infestations in priority order within the limits of appropriations provided funding allocated for that purpose. This procedure shall be the exclusive means for control of purple loosestrife on designated public waters by the commissioner of natural resources and shall supersede the other

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

provisions for control of noxious weeds set forth elsewhere in this chapter. The responsibility of the commissioner of natural resources to control and eradicate purple loosestrife on public waters and wetlands located on private lands and the authority to enter upon private lands ends ten days after receipt by the commissioner of a written statement from the landowner that the landowner assumes all responsibility for control and eradication of purple loosestrife under sections 18.78 to 18.88. State officers, employees, agents, and contractors of the commissioner of natural resources are not liable in a civil action for trespass committed in the discharge of their duties under this section and are not liable to anyone for damages, except for damages arising from gross negligence.

Sec. 3. Minnesota Statutes 2003 Supplement, 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, to prevent or control wildlife disease, 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~~ invasive species, regulated ~~exotic~~ invasive species, unregulated ~~exotic~~ nonnative species, 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.

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

(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.

(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. 4. Minnesota Statutes 2002, section 84D.01, is amended by adding a subdivision to read:

Subd. 2a. AQUATIC PLANT. "Aquatic plant" means a plant, including algae and submerged, floating leafed, floating, or emergent plants, that naturally grows in water, saturated soils, or seasonally saturated soils.

Sec. 5. Minnesota Statutes 2002, section 84D.01, subdivision 6, is amended to read:

Subd. 6. EURASIAN WATER MILFOIL. "Eurasian water milfoil" means Myriophyllum spicatum and its hybrids.

Sec. 6. Minnesota Statutes 2002, section 84D.01, is amended by adding a subdivision to read:

Subd. 8a. INTRODUCE. "Introduce" means to place, release, or allow the escape of a nonnative species into a free-living state.

Sec. 7. Minnesota Statutes 2002, section 84D.01, subdivision 9, is amended to read:

Subd. 9. INTRODUCTION. "Introduction" means the placement, release, or escape of an exotic nonnative species into a free-living state.

Sec. 8. Minnesota Statutes 2002, section 84D.01, is amended by adding a subdivision to read:

Subd. 9a. INVASIVE SPECIES. "Invasive species" means a nonnative species that can naturalize and:

(1) causes or may cause economic or environmental harm or harm to human health; or

(2) threatens or may threaten natural resources or the use of natural resources in the state.

Sec. 9. Minnesota Statutes 2002, section 84D.01, subdivision 12, is amended to read:

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

Subd. 12. **NATURALIZE.** "Naturalize" means to establish a self-sustaining population of ~~exotic~~ nonnative species in the wild outside of its natural range.

Sec. 10. Minnesota Statutes 2002, section 84D.01, is amended by adding a subdivision to read:

Subd. 12a. **NONNATIVE SPECIES.** "Nonnative species" means a species that is not a native species.

Sec. 11. Minnesota Statutes 2002, section 84D.01, subdivision 13, is amended to read:

Subd. 13. **PROHIBITED EXOTIC INVASIVE SPECIES.** "Prohibited ~~exotic~~ invasive species" means a ~~harmful~~ exotic an invasive species that has been designated as a prohibited ~~exotic~~ invasive species in a rule adopted by the commissioner under section 84D.12.

Sec. 12. Minnesota Statutes 2002, section 84D.01, subdivision 15, is amended to read:

Subd. 15. **REGULATED EXOTIC INVASIVE SPECIES.** "Regulated ~~exotic~~ invasive species" means a ~~harmful~~ exotic an invasive species that has been designated as a regulated ~~exotic~~ invasive species in a rule adopted by the commissioner under section 84D.12.

Sec. 13. Minnesota Statutes 2002, section 84D.01, subdivision 17, is amended to read:

Subd. 17. **UNLISTED EXOTIC NONNATIVE SPECIES.** "Unlisted ~~exotic~~ nonnative species" means ~~an~~ exotic a nonnative species that has not been designated as a prohibited ~~exotic~~ invasive species, a regulated ~~exotic~~ invasive species, or an unregulated ~~exotic~~ nonnative species in a rule adopted by the commissioner under section 84D.12.

Sec. 14. Minnesota Statutes 2002, section 84D.01, subdivision 18, is amended to read:

Subd. 18. **UNREGULATED EXOTIC NONNATIVE SPECIES.** "Unregulated ~~exotic~~ nonnative species" means ~~an~~ exotic a nonnative species that has been designated as an unregulated ~~exotic~~ nonnative species in a rule adopted by the commissioner under section 84D.12.

Sec. 15. Minnesota Statutes 2002, section 84D.02., subdivision 1, is amended to read:

Subdivision 1. **ESTABLISHMENT.** The commissioner shall establish a state-wide program to prevent and curb the spread of ~~harmful~~ exotic invasive species of aquatic plants and wild animals. The program must provide for coordination among governmental entities and private organizations to the extent practicable. The commissioner shall seek available federal funding and grants for the program.

Sec. 16. Minnesota Statutes 2002, section 84D.02, subdivision 3, is amended to read:

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

Subd. 3. **MANAGEMENT PLAN.** By July 1, 1997, The commissioner shall prepare and maintain a long-term plan, which may include specific plans for individual species and actions, for the statewide management of harmful exotic invasive species of aquatic plants and wild animals. The plan must address:

- (1) coordinated detection and prevention of accidental introductions;
- (2) coordinated dissemination of information about harmful exotic invasive species of aquatic plants and wild animals among resource management agencies and organizations;
- (3) a coordinated public education and awareness campaign;
- (4) coordinated control of selected harmful exotic invasive species of aquatic plants and wild animals on lands and public waters;
- (5) participation by lake associations, local citizen groups, and local units of government in the development and implementation of local management efforts;
- (6) a reasonable and workable inspection requirement for watercraft and equipment including those participating in organized events on the waters of the state;
- (7) the closing of points of access to infested waters, if the commissioner determines it is necessary, for a total of not more than seven days during the open water season for control or eradication purposes;
- (8) maintaining public accesses on infested waters to be reasonably free of aquatic macrophytes; and
- (9) notice to travelers of the penalties for violation of laws relating to harmful exotic invasive species of aquatic plants and wild animals.

Sec. 17. Minnesota Statutes 2002, section 84D.02, subdivision 4, is amended to read:

Subd. 4. **INSPECTION OF WATERCRAFT.** The commissioner shall train and authorize personnel to inspect, for a minimum of ~~20,000~~ 10,000 hours during the open water season, watercraft and associated equipment, including weed harvesters, ~~that~~ for aquatic macrophytes and aquatic invasive species as the watercraft and equipment leave or are removed from waters of the state during the open water season.

Sec. 18. Minnesota Statutes 2002, section 84D.02, subdivision 5, is amended to read:

Subd. 5. **REGIONAL COOPERATION.** The commissioner shall seek cooperation with other states and Canadian provinces for the purposes of management and control of harmful exotic invasive species of aquatic plants and wild animals.

Sec. 19. Minnesota Statutes 2002, section 84D.02, subdivision 6, is amended to read:

Subd. 6. **ANNUAL REPORT.** By January 15 each year, the commissioner shall submit a report on harmful exotic invasive species of aquatic plants and wild animals

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

to the legislative committees having jurisdiction over environmental and natural resource issues. The report must include:

(1) detailed information on expenditures for administration, education, management, inspections, and research;

(2) an analysis of the effectiveness of management activities conducted in the state, including chemical control, harvesting, educational efforts, and inspections;

(3) information on the participation of other state agencies, local government units, and interest groups in control efforts;

(4) ~~information on management efforts in other states;~~

(5) information on the progress made in the management of each species; and

(6) ~~(5)~~ an assessment of future management needs.

Sec. 20. Minnesota Statutes 2002, section 84D.03, is amended to read:

84D.03 INFESTED WATERS; RESTRICTED ACTIVITIES.

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 population of an aquatic invasive 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 invasive 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.

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 invasive 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

(2) bait purposes for noncommercial personal use in waters that contain Eurasian water milfoil, when the infested waters are designated solely because they contain

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

Eurasian water milfoil and if the equipment for taking is limited to cylindrical minnow traps not exceeding 16 inches in diameter and 32 inches in length.

Subd. 4. **COMMERCIAL FISHING RESTRICTIONS IN INFESTED AND NONINFESTED WATERS.** (a) All nets, traps, buoys, anchors, stakes, and lines used for commercial fishing or turtle, frog, or crayfish harvesting in infested waters, designated because the waters contain invasive fish or invertebrates, may not be used in noninfested waters. If a commercial licensee operates in both noninfested waters and infested waters designated because the waters contain invasive fish or invertebrates, all nets, traps, buoys, anchors, stakes, and lines used for commercial fishing or turtle, frog, or crayfish harvesting in noninfested waters must be tagged with tags provided by the commissioner, as specified in the commercial licensee's license or permit, and may not be used in infested waters designated because the waters contain invasive fish or invertebrates.

(b) In infested waters designated solely because the waters contain Eurasian water milfoil, all nets, traps, buoys, anchors, stakes, and lines used for commercial fishing or turtle, frog, or crayfish harvesting must be dried for a minimum of ten days or frozen for a minimum of two days before they are used in noninfested waters. Commercial operators must notify the department's regional or area fisheries office or a conservation officer when removing nets or equipment from infested waters and before resetting those nets or equipment in noninfested waters. All aquatic macrophytes must be removed from nets and other equipment when the nets and equipment are removed from infested waters.

Sec. 21. Minnesota Statutes 2002, section 84D.04, is amended to read:

84D.04 CLASSIFICATION OF EXOTIC NONNATIVE SPECIES.

Subdivision 1. **CLASSES.** The commissioner shall, as provided in this chapter, classify exotic nonnative species of aquatic plants and wild animals according to the following categories:

(1) prohibited exotic invasive species, which may not be possessed, imported, purchased, sold, propagated, transported, or introduced except as provided in section 84D.05;

(2) regulated exotic invasive species, which may not be introduced except as provided in section 84D.07;

(3) unlisted exotic nonnative species, which are subject to the classification procedure in section 84D.06; and

(4) unregulated exotic nonnative species, which are not subject to regulation under this chapter.

Subd. 2. **CRITERIA.** The commissioner shall consider the following criteria in classifying an exotic a nonnative species of aquatic plants or wild animals under this chapter:

(1) the likelihood of introduction of the species if it is allowed to enter or exist in the state;

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

- (2) the likelihood that the species would naturalize in the state were it introduced;
- (3) the magnitude of potential adverse impacts of the species on native species and on outdoor recreation, commercial fishing, and other uses of natural resources in the state;
- (4) the ability to eradicate or control the spread of the species once it is introduced in the state; and
- (5) other criteria the commissioner deems appropriate.

Sec. 22. Minnesota Statutes 2002, section 84D.05, is amended to read:

84D.05 PROHIBITED EXOTIC INVASIVE SPECIES.

Subdivision 1. **PROHIBITED ACTIVITIES.** A person may not possess, import, purchase, sell, propagate, transport, or introduce a prohibited ~~exotic~~ invasive species, except:

- (1) under a permit issued by the commissioner under section 84D.11;
- (2) in the case of purple loosestrife, as provided by sections 18.75 to 18.88;
- (3) under a restricted species permit issued under section 17.457;
- (4) when being transported to the department, or another destination as the commissioner may direct, in a sealed container for purposes of identifying the species or reporting the presence of the species;
- (5) when being transported for disposal as part of a harvest or control activity under a permit issued by the commissioner pursuant according to section 103G.615, when being transported for disposal as specified under a commercial fishing license issued by the commissioner according to section 97A.418, 97C.801, 97C.811, 97C.825, 97C.831, or 97C.835, or when being transported as specified by the commissioner;
- (6) when the specimen has been lawfully acquired dead and, in the case of plant species, all seeds are removed or are otherwise secured in a sealed container;
- (7) in the form of herbaria or other preserved specimens;
- (8) when being removed from watercraft and equipment, or caught while angling, and immediately returned to the water from which they came; or
- (9) as the commissioner may otherwise prescribe by rule.

Subd. 2. **SEIZURE.** Under section 97A.221, the commissioner may seize or dispose of all specimens of prohibited ~~exotic~~ invasive species unlawfully possessed, imported, purchased, sold, propagated, transported, or introduced in the state.

Sec. 23. Minnesota Statutes 2002, section 84D.06, is amended to read:

84D.06 UNLISTED EXOTIC NONNATIVE SPECIES.

Subdivision 1. **PROCESS.** ~~After the effective date of the rules adopted under section 84D.12, subdivision 1, clause (1),~~ A person may not introduce an unlisted

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

~~exotic~~ nonnative aquatic plant or wild animal species unless:

(1) the person has notified the commissioner in a manner and form prescribed by the commissioner;

(2) the commissioner has made the classification determination required in subdivision 2 and designated the species as appropriate; and

(3) the introduction is allowed under the applicable provisions of this chapter.

Subd. 2. **CLASSIFICATION.** (a) If the commissioner determines that a species for which a notification is received under subdivision 1 should be classified as a prohibited ~~exotic~~ invasive species, the commissioner shall:

(1) adopt a rule under section 84D.12, subdivision 3, designating the species as a prohibited ~~exotic~~ invasive species; and

(2) notify the person from which the notification was received that the species is subject to section 84D.04.

(b) If the commissioner determines that a species for which a notification is received under subdivision 1 should be classified as an unregulated ~~exotic~~ nonnative species, the commissioner shall:

(1) adopt a rule under section 84D.12, subdivision 3, designating the species as an unregulated nonnative species; and

(2) notify the person from which the notification was received that the species is not subject to regulation under this chapter.

(c) If the commissioner determines that a species for which a notification is received under subdivision 1 should be classified as a regulated ~~exotic~~ invasive species, the commissioner shall notify the applicant that the species is subject to the requirements in section 84D.07.

Sec. 24. Minnesota Statutes 2002, section 84D.07, is amended to read:

84D.07 REGULATED EXOTIC INVASIVE SPECIES.

Except as provided in rules adopted under section 84D.12, subdivision 2, clause (1), a person may not introduce a regulated ~~exotic~~ invasive species without a permit issued by the commissioner.

Sec. 25. Minnesota Statutes 2002, section 84D.08, is amended to read:

84D.08 ESCAPE OF EXOTIC NONNATIVE AND INVASIVE SPECIES.

(a) A person that allows or causes the introduction of an animal that is a prohibited invasive, regulated invasive, or unlisted ~~exotic~~ nonnative species shall, within 48 24 hours after learning of the introduction, notify the commissioner, a conservation officer, or another person designated by the commissioner. The person shall make every reasonable attempt to recapture or destroy the introduced animal. If the animal is a prohibited ~~exotic~~ invasive species, the person is liable for the actual costs incurred by the department in capturing or controlling, or attempting to capture or control, the

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

animal and its progeny. If the animal is a regulated ~~exotic~~ invasive species, the person is liable for these costs if the introduction was in violation of the person's permit issued under section 84D.11.

(b) A person that complies with this section is not subject to criminal penalties under section 84D.13 for the introduction.

Sec. 26. Minnesota Statutes 2002, 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 harvesting equipment 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. 27. Minnesota Statutes 2002, section 84D.10, subdivision 1, is amended to read:

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~~ invasive species attached except as provided in this section.

Sec. 28. Minnesota Statutes 2002, section 84D.10, subdivision 3, is amended to read:

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

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

(1) the removal of aquatic macrophytes or prohibited ~~exotic~~ invasive 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~~ invasive species if the water has not been designated by the commissioner as being infested with that species.

Sec. 29. Minnesota Statutes 2002, section 84D.11, subdivision 1, is amended to read:

Subdivision 1. **PROHIBITED EXOTIC INVASIVE SPECIES.** The commissioner may issue a permit for the propagation, possession, importation, purchase, or transport of a prohibited ~~exotic~~ invasive species for the purposes of disposal, control, research, or education.

Sec. 30. Minnesota Statutes 2002, section 84D.11, subdivision 2, is amended to read:

Subd. 2. **REGULATED EXOTIC INVASIVE SPECIES.** The commissioner may issue a permit for the introduction of a regulated ~~exotic~~ invasive species.

Sec. 31. Minnesota Statutes 2002, section 84D.11, subdivision 2a, is amended 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~~ invasive species of fish. The permit shall include conditions necessary to avoid spreading ~~harmful~~ exotic aquatic invasive species. Before receiving a permit, a person annually must satisfactorily complete ~~harmful~~ exotic aquatic invasive species-related training provided by the commissioner.

Sec. 32. Minnesota Statutes 2002, section 84D.12, is amended to read:

84D.12 RULES.

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

(1) designating infested waters, prohibited invasive species, regulated invasive species, and unregulated ~~exotic~~ nonnative species of aquatic plants and wild animals;

(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.

Subd. 2. **AUTHORIZED RULES.** The commissioner may adopt rules:

(1) regulating the possession, importation, purchase, sale, propagation, transport, and introduction of ~~harmful~~ exotic invasive species of aquatic plants and wild animals; and

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

(2) regulating the appropriation, use, and transportation of water from infested waters.

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

- (1) prohibited exotic invasive species of aquatic plants and wild animals;
- (2) regulated exotic invasive species of aquatic plants and wild animals;
- (3) unregulated exotic nonnative species of aquatic plants and wild animals; and
- (4) infested waters.

Sec. 33. Minnesota Statutes 2002, section 84D.13, subdivision 3, is amended to read:

Subd. 3. **CRIMINAL PENALTIES.** (a) A person who violates a provision of section ~~84D.05~~, 84D.06, 84D.07, 84D.08, or 84D.10, or a rule adopted under section 84D.12, is guilty of a misdemeanor.

(b) A person who possesses, transports, or introduces a prohibited invasive species in violation of section 84D.05 is guilty of a misdemeanor. A person who imports, purchases, sells, or propagates a prohibited invasive species in violation of section 84D.05 is guilty of a gross misdemeanor.

(c) A person who refuses to obey an order of a peace officer or conservation officer to remove prohibited exotic invasive species or aquatic macrophytes from any watercraft, trailer, or plant harvesting equipment is guilty of a gross misdemeanor.

Sec. 34. Minnesota Statutes 2002, section 84D.13, subdivision 4, is amended to read:

Subd. 4. **WARNINGS; CIVIL CITATIONS.** After appropriate training, conservation officers, other licensed peace officers, and other department personnel designated by the commissioner may issue warnings or citations to a person who:

- (1) unlawfully transports prohibited exotic invasive species or aquatic macrophytes;
- (2) unlawfully places or attempts to place into waters of the state a trailer, a watercraft, or plant harvesting equipment that has prohibited exotic invasive species attached;
- (3) unlawfully anchors, or operates a watercraft in a marked area of a Eurasian water milfoil limited infestation; or
- (4) intentionally damages, moves, removes, or sinks a buoy marking, as prescribed by rule, Eurasian water milfoil;
- (4) fails to drain water, as required by rule, from watercraft and equipment before leaving designated zebra mussel, spiny water flea, or other invasive plankton infested waters; or
- (5) transports infested water, in violation of rule, off riparian property.

New language is indicated by underline, deletions by strikeout.

Sec. 35. Minnesota Statutes 2002, section 84D.13, subdivision 5, is amended to read:

Subd. 5. **CIVIL PENALTIES.** A civil citation issued under this section may impose civil penalties up to the following penalty amounts:

(1) for transporting aquatic macrophytes on a forest road as defined by section 89.001, subdivision 14, road or highway as defined by section 160.02, subdivision 26, or any other public road, \$50;

(2) for placing or attempting to place into waters of the state a watercraft, a trailer, or aquatic plant harvesting equipment that has aquatic macrophytes attached, \$100;

(3) for unlawfully possessing or transporting a prohibited exotic invasive species other than an aquatic macrophyte, ~~\$100~~ \$250;

(4) for placing or attempting to place into waters of the state, a watercraft, a trailer, or aquatic plant harvesting equipment that has prohibited exotic invasive species attached when the waters are not designated by the commissioner as being infested with that invasive species, \$500 for the first offense and \$1,000 for each subsequent offense;

(5) for angling, anchoring, or operating a watercraft in a marked area of a Eurasian water milfoil limited infestation, other than as provided by law, \$100; and

(6) for intentionally damaging, moving, removing, or sinking a buoy marking, as prescribed by rule, Eurasian water milfoil, \$100;

(6) for failing to drain water, as required by rule, from watercraft and equipment before leaving designated zebra mussel, spiny water flea, or other invasive plankton infested waters, \$50; and

(7) for transporting infested water off riparian property without a permit as required by rule, \$200.

Sec. 36. Minnesota Statutes 2003 Supplement, section 84D.14, is amended to read:

84D.14 EXEMPTIONS.

This chapter does not apply to:

(1) pathogens and terrestrial arthropods regulated under sections 18G.01 to 18G.16; or

(2) mammals and birds defined by statute as livestock.

Sec. 37. Minnesota Statutes 2002, section 86B.415, subdivision 7, is amended to read:

Subd. 7. **WATERCRAFT SURCHARGE.** A \$5 surcharge is placed on each watercraft licensed under subdivisions 1 to 5 for control, public awareness, law enforcement, monitoring, and research of nuisance aquatic exotic invasive species such

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

as zebra mussel, purple loosestrife, and Eurasian water milfoil in public waters and public wetlands.

Sec. 38. Minnesota Statutes 2002, section 97C.821, is amended to read:

97C.821 POSSESSION, SALE, AND TRANSPORTATION OF COMMERCIAL FISH.

Subject to the applicable provisions of the game and fish laws, fish taken under commercial fishing licenses may be possessed in any quantity, bought, sold, and transported at any time. Commercial fishing licensees may transport their catch live to holding facilities, if the licensee has exclusive control of the facilities. Commercial fishing licensees may harvest fish from their holding facilities at any time with their licensed gear. The commissioner may prohibit the transport of live fish taken under a commercial fishing license from waters that contain exotic nonnative species.

Sec. 39. REQUIRED RULEMAKING.

The commissioner of natural resources shall amend Minnesota Rules, part 6216.0400, subpart 1, to delete item B. The commissioner may use the procedures under Minnesota Statutes, section 14.388. Except as provided under Minnesota Statutes, section 14.388, Minnesota Statutes, section 14.386, does not apply.

Sec. 40. REVISOR'S INSTRUCTION.

In Minnesota Rules, parts 6216.0100 to 6216.0600, the revisor of statutes shall change the term in column A to the term in column B:

| <u>Column A</u> | <u>Column B</u> |
|-----------------------------------|--------------------------------------|
| <u>harmful exotic species</u> | <u>invasive species</u> |
| <u>exotic species</u> | <u>nonnative species</u> |
| <u>prohibited exotic species</u> | <u>prohibited invasive species</u> |
| <u>regulated exotic species</u> | <u>regulated invasive species</u> |
| <u>unlisted exotic species</u> | <u>unlisted nonnative species</u> |
| <u>unregulated exotic species</u> | <u>unregulated nonnative species</u> |
| <u>exotic species program</u> | <u>invasive species program</u> |
| <u>prohibited, regulated, or</u> | <u>prohibited invasive species,</u> |
| <u>unlisted exotic species</u> | <u>regulated invasive species,</u> |
| | <u>or unlisted nonnative species</u> |

Sec. 41. REPEALER.

Minnesota Statutes 2002, section 84D.01, subdivisions 5 and 7, are repealed. Minnesota Rules, part 6216.0400, subpart 3, is repealed.

Sec. 42. EFFECTIVE DATE.

Sections 1 to 41 are effective June 1, 2004.

Presented to the governor May 18, 2004

Signed by the governor May 29, 2004, 1:15 p.m.

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