CHAPTER 168--S.F.No. 3368

An act relating to transportation; modifying permit requirements for temporary use of certain rights-of-way; amending Minnesota Statutes 2014, section 160.27, by adding subdivisions; Minnesota Statutes 2015 Supplement, section 160.27, subdivision 10.

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

Section 1. Minnesota Statutes 2015 Supplement, section 160.27, subdivision 10, is amended to read:

Subd. 10. **Department of Transportation temporary permit for field application.** (a) In connection with the use of ~~the~~ road right-of-way ~~of a road authority~~ controlled by the commissioner, excluding on controlled-access highways under section 160.08, a property owner or occupant of property ~~abutting the road right-of-way~~ may apply for a permit for temporary placement, for up to 14 days, of a pressurized flexible force main ~~for the~~ to transport ~~of~~ manure for field application.

(b) The property owner or occupant must:

(1) identify the entire length of the right-of-way for use under the permit;

(2) place the force main within the backslope of the ~~road authority's~~ right-of-way where possible;

(3) place pumping equipment outside the ~~road authority's~~ right-of-way; and

(4) meet all of the permit requirements identified by the ~~road authority~~ commissioner.

(c) Once the ~~road authority~~ commissioner has issued a permit, the property owner or occupant may ~~install~~ place the force main over the length of the right-of-way from the permittee's property to where the manure will be applied, irrespective of whether the permittee is the owner or occupant of all property abutting the portion of the right-of-way where the force main is to be ~~installed~~ placed.

(d) The commissioner may restrict the number of force mains simultaneously located in the same right-of-way.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 2. Minnesota Statutes 2014, section 160.27, is amended by adding a subdivision to read:

Subd. 11. **Local road authority temporary permit for certain field application.** (a) A local road authority may, by ordinance, establish a permitting process to authorize the placement of pressurized flexible force main within right-of-way under the jurisdiction of the local road authority to transport manure for field application. A town board must be authorized to adopt the ordinance at an annual town meeting. A local road authority must not impose a fee or other charge for the permit. A permit issued under the ordinance is valid for one year or longer as specified by the local road authority.

(b) A local road authority that has adopted an ordinance providing for a permitting process must issue a permit to any property owner or occupant who applies for a permit if:

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(1) the applicant submits a complete application at least five days prior to the day the applicant intends to place the force main within the identified right-of-way or a shorter time if approved by the road authority; and

(2) the requirements under subdivision 13 are met.

Sec. 3. Minnesota Statutes 2014, section 160.27, is amended by adding a subdivision to read:

Subd. 12. **General authority for certain field application.** When the local road authority has not adopted an ordinance establishing a permitting process under subdivision 11, an owner or occupant may place a pressurized flexible force main within right-of-way under the jurisdiction of the local road authority to transport manure for field application if:

(1) the local road authority has not notified the owner or occupant of scheduled road authority maintenance activities that would be unduly interfered with if the placement occurred during the maintenance activity; and

(2) the requirements under subdivision 13 are met.

Sec. 4. Minnesota Statutes 2014, section 160.27, is amended by adding a subdivision to read:

Subd. 13. **General regulations regarding certain field application.** The following requirements apply when a force main is placed in a road right-of-way under subdivision 11 or 12:

(1) the owner or occupant must provide, at least one business day prior to placement of the force main, written or electronic notice to the local road authority of the intent to place a force main within an identified right-of-way;

(2) unless specifically authorized, the force main must not be left in a right-of-way for more than 21 consecutive days;

(3) the owner or occupant must identify and notify the local road authority of the intended starting and end points, and the path of the intended placement;

(4) the owner or occupant must provide to the local road authority the intended starting and ending dates the force main will be placed in the right-of-way;

(5) unless otherwise instructed by the applicable local road authority, the owner or occupant must place the force main in the backslope of the right-of-way to the extent possible;

(6) unless specifically instructed otherwise, the owner or occupant must place all pumping equipment outside of the right-of-way;

(7) the identified right-of-way must not be a controlled-access highway under section 160.08;

(8) the owner or occupant must provide the local road authority (i) the owner or occupant's full name, address, and phone number where the owner or occupant can be reached during the time the force main is placed within the right-of-way, and (ii) any other contact information where the owner or occupant can be reached after the force main has been removed from the right-of-way;

(9) field application must be performed by the holder of a valid commercial animal waste technician applicator license under section 18C.430, including proof of financial responsibility;

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(10) the force main placement must not unreasonably interfere with: (i) another landowner or occupant's access to the owner or occupant's property; (ii) the safe use of the right-of-way in which the force main is placed; (iii) the safe use of any driveway or private road that the force main crosses; or (iv) maintenance activities authorized by the local road authority;

(11) no prior notice under clause (1) or permit under subdivision 11 is required if the placement of the force main is necessary to prevent overflow of a manure lagoon or manure storage pond or to deal with emergency pumping activities created by flooding, natural disaster, or declared emergency. The owner or occupant must make a good faith effort to notify the local road authority of emergency placement and operation of a force main under this clause, and must remove the force main within three days following the end of the impending overflow, flood, natural disaster response, or declared emergency;

(12) the local road authority may remove or have removed, at the owner or occupant's expense, any force main remaining in a right-of-way beyond the number of days authorized under this section;

(13) the owner or occupant is responsible for restoring the right-of-way to the preplacement condition, including the immediate cleanup of any spillage or leakage of manure into the right-of-way; and

(14) a local road authority may, by ordinance, restrict the number of force mains simultaneously located in the same right-of-way.

Sec. 5. Minnesota Statutes 2014, section 160.27, is amended by adding a subdivision to read:

Subd. 14. **Damage or spills; liability and immunity.** (a) A commercial animal waste technician company licensed under section 18C.430 using a pressurized flexible force main for the transport of manure for field application under this section is liable for the costs of cleanup and repair for any spill or damage caused by a commercial animal waste technician applicator during the placement, use, or removal of the force main.

(b) Neither the commissioner nor any city, county, or town road authority is subject to any cause of action arising from the placement or operation of a pressurized flexible force main under this section.

APPLICATION. This section applies to causes of action arising after the effective date of this section.

Sec. 6. **EFFECTIVE DATE.**

This act is effective the day following final enactment.

Presented to the governor May 24, 2016

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