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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 1759

02/15/2023

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The bill was read for the first time and referred to the Committee on Public Safety Finance and Policy

1.1 A bill for an act
1.2 relating to public safety; modifying the Minnesota Hazardous Materials Incident
1.3 Response Act; modifying bomb disposal cost reimbursement; making technical
1.4 changes related to smoke alarms; amending Minnesota Statutes 2022, sections
1.5 299A.48; 299A.49; 299A.50; 299A.51; 299A.52; 299C.063; 299F.362.

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

1.7 Section 1. Minnesota Statutes 2022, section 299A.48, is amended to read:

1.8 **299A.48 CITATION.**

1.9 Sections 299A.48 to ~~299A.52~~ 299A.53 and 299K.095 may be cited as the "Minnesota
1.10 ~~Hazardous Materials~~ Emergency Incident Response Act."

1.11 Sec. 2. Minnesota Statutes 2022, section 299A.49, is amended to read:

1.12 **299A.49 DEFINITIONS.**

1.13 Subdivision 1. **Scope.** For the purposes of sections 299A.48 to ~~299A.52~~ 299A.53 and
1.14 299K.095, the following terms have the meanings given ~~them~~.

1.15 Subd. 1a. **Bomb squad.** "Bomb squad" means a team trained, equipped, and authorized
1.16 by the commissioner to evaluate and provide disposal operations for bombs or other similar
1.17 hazardous explosives. Bomb squad includes a bomb disposal unit as defined in section
1.18 299C.063.

1.19 ~~Subd. 2. **Chemical assessment team.** "Chemical assessment team" means a team (1)~~
1.20 ~~trained, equipped, and authorized to evaluate and, when possible, provide simple mitigation~~
1.21 ~~to a hazardous materials incident and (2) required to recommend to the local incident manager~~
1.22 ~~the best means of controlling the hazard after consideration of life safety concerns,~~

2.1 ~~environmental effects, exposure hazards, quantity and type of hazardous material, availability~~
 2.2 ~~of resources, or other relevant factors.~~

2.3 Subd. 3. **Commissioner.** "Commissioner" means the commissioner of public safety.

2.4 Subd. 3a. **Emergency response incident.** "Emergency response incident" means any
 2.5 incident to which the response of a state emergency response asset is required.

2.6 Subd. 4. **Hazardous materials.** "Hazardous materials" means substances or materials
 2.7 that, because of their chemical, physical, or biological nature, pose a potential risk to life,
 2.8 health, or property if they are released. "Hazardous materials" includes any substance or
 2.9 material in a particular form or quantity that may pose an unreasonable risk to health, safety,
 2.10 and property, or any substance or material in a quantity or form that may be harmful to
 2.11 humans, animals, crops, water systems, or other elements of the environment if accidentally
 2.12 or intentionally released. Hazardous substances so designated may include explosives,
 2.13 radioactive materials, etiologic agents, flammable liquids or solids, combustible liquids or
 2.14 solids, poisons, oxidizing or corrosive materials, chemical and biological substances, and
 2.15 toxic or flammable gases.

2.16 Subd. 4a. **Hazardous materials emergency response team.** "Hazardous materials
 2.17 emergency response team" means a team (1) trained, equipped, and authorized to evaluate
 2.18 and, when possible, provide practical mitigation to a hazardous materials incident and (2)
 2.19 required to recommend to the local incident manager the best means of controlling the
 2.20 hazard after consideration of life safety concerns, environmental effects, exposure hazards,
 2.21 quantity and type of hazardous material, availability of resources, and other relevant factors.

2.22 Subd. 5. **Local unit of government.** "Local unit of government" means a county, home
 2.23 rule charter or statutory city, or town.

2.24 Subd. 5a. **Minnesota air rescue team.** "Minnesota air rescue team" means a team trained,
 2.25 equipped, and authorized by the commissioner to perform specialized air rescue operations.

2.26 Subd. 6. **Person.** "Person" means any individual, partnership, association, public or
 2.27 private corporation or other entity including the United States government, any interstate
 2.28 body, the state, and any agency, department, or political subdivision of the state.

2.29 ~~Subd. 7. **Regional hazardous materials response team.** "Regional hazardous materials~~
 2.30 ~~response team" means a team trained and equipped to respond to and mitigate a hazardous~~
 2.31 ~~materials release. A regional hazardous materials response team may include strategically~~
 2.32 ~~located chemical assessment teams.~~

3.1 Subd. 8. State emergency response asset. "State emergency response asset" means any
 3.2 team or teams defined under this section.

3.3 Subd. 9. Urban search and rescue team (USAR). "Urban search and rescue team" or
 3.4 "USAR" means a team trained and equipped to respond to and carry out rescue and recovery
 3.5 operations at the scene of a collapsed structure. A USAR team may include strategically
 3.6 located fire department assets combined under one joint powers agreement.

3.7 Sec. 3. Minnesota Statutes 2022, section 299A.50, is amended to read:

3.8 **299A.50 RESPONSE PLAN.**

3.9 Subdivision 1. **Elements of plan; rules.** After consultation with the commissioners of
 3.10 natural resources, agriculture, transportation, and the Pollution Control Agency, the state
 3.11 fire marshal, the Emergency Response Commission, appropriate technical emergency
 3.12 response representatives, and representatives of affected parties, the commissioner shall
 3.13 adopt rules to implement a statewide hazardous materials incident response plan. The plan
 3.14 must include:

3.15 (1) the locations of ~~up to five regional~~ hazardous materials emergency response teams,
 3.16 based on the location of hazardous materials, response time, proximity to large population
 3.17 centers, and other factors;

3.18 (2) the number and qualifications of members on each team;

3.19 (3) the responsibilities of ~~regional~~ hazardous materials emergency response teams;

3.20 (4) equipment needed for ~~regional~~ hazardous materials emergency response teams;

3.21 (5) procedures for selecting and contracting with local governments or nonpublic persons
 3.22 to establish ~~regional~~ hazardous materials emergency response teams;

3.23 (6) procedures for dispatching teams at the request of local governments;

3.24 (7) a fee schedule for reimbursing local governments or nonpublic persons responding
 3.25 to an incident; and

3.26 (8) coordination with other state departments and agencies, local units of government,
 3.27 other states, Indian tribes, the federal government, and other nonpublic persons.

3.28 Subd. 2. **Contract and agreement.** The commissioner may cooperate with and enter
 3.29 into contracts with other state departments and agencies, local units of government, other
 3.30 states, Indian tribes, the federal government, or nonpublic persons to implement the
 3.31 emergency incident response plan.

4.1 Subd. 3. **Long-term oversight; transition.** When a ~~regional~~ hazardous materials
 4.2 emergency response team has completed its response to an incident, the commissioner shall
 4.3 notify the commissioner of the Pollution Control Agency, which is responsible for assessing
 4.4 environmental damage caused by the incident and providing oversight of monitoring and
 4.5 remediation of that damage from the time the response team has completed its activities.

4.6 Sec. 4. Minnesota Statutes 2022, section 299A.51, is amended to read:

4.7 **299A.51 LIABILITY AND WORKERS' COMPENSATION.**

4.8 Subdivision 1. **Liability.** During operations authorized under section 299A.50, members
 4.9 of a ~~regional hazardous materials team~~ state emergency response asset operating outside
 4.10 their geographic jurisdiction are "employees of the state" as defined in section 3.736.

4.11 Subd. 2. **Workers' compensation.** During operations authorized under section 299A.50,
 4.12 members of a ~~regional hazardous materials team~~ state emergency response asset operating
 4.13 outside their geographic jurisdiction are considered employees of the Department of Public
 4.14 Safety for purposes of chapter 176.

4.15 Subd. 3. **Limitation.** A person who provides personnel and equipment to assist at the
 4.16 scene of a ~~hazardous materials~~ an emergency response incident outside the person's
 4.17 geographic jurisdiction or property, at the request of the state or a local unit of government,
 4.18 is not liable for any civil damages resulting from acts or omissions in providing the assistance,
 4.19 unless the person acts in a willful and wanton or reckless manner in providing the assistance.

4.20 Sec. 5. Minnesota Statutes 2022, section 299A.52, is amended to read:

4.21 **299A.52 RESPONSIBLE PERSON PARTY.**

4.22 Subdivision 1. **Response liability.** A responsible person party, as described in section
 4.23 115B.03, is liable for the reasonable and necessary costs, including legal and administrative
 4.24 costs, of response to a ~~hazardous materials~~ an emergency response incident or explosives
 4.25 disposal under section 299C.063 incurred by a ~~regional hazardous materials response team~~
 4.26 state emergency response asset or local unit of government. For the purposes of this section,
 4.27 "hazardous substance" as used in section 115B.03 means "hazardous material" as defined
 4.28 in section 299A.49.

4.29 Subd. 2. **Expense recovery.** The commissioner shall assess the responsible person party
 4.30 ~~for the regional hazardous materials response team~~ an emergency response asset's costs of
 4.31 response. The commissioner may bring an action for recovery of unpaid costs, reasonable
 4.32 attorney fees, and any additional court costs. Any funds received by the commissioner under

5.1 this subdivision are appropriated to the commissioner to pay for costs for which the funds
 5.2 were received. Any remaining funds at the end of the biennium shall be transferred to the
 5.3 ~~Fire Safety Account~~ general fund.

5.4 Subd. 3. **Attempted avoidance of liability.** For purposes of sections 299A.48 to 299A.52
 5.5 and 299K.095, a responsible ~~person~~ party may not avoid liability by conveying any right,
 5.6 title, or interest in real property or by any indemnification, hold harmless agreement, or
 5.7 similar agreement.

5.8 Sec. 6. Minnesota Statutes 2022, section 299C.063, is amended to read:

5.9 **299C.063 BOMB DISPOSAL EXPENSE REIMBURSEMENT.**

5.10 Subdivision 1. **Definitions.** The terms used in this section have the meanings given them
 5.11 in this subdivision:

5.12 (a) "Bomb disposal unit" means a commissioner-approved unit consisting of persons
 5.13 who are trained and equipped to dispose of or neutralize bombs or other similar hazardous
 5.14 explosives and who are employed by a municipality.

5.15 (b) "Commissioner" means the commissioner of public safety.

5.16 ~~(c) "Municipality" has the meaning given it in section 466.01.~~

5.17 (c) "Explosives sweep" means a detailed scanning service used in corporate office
 5.18 buildings, shipping hangars, event stadiums, transportation hubs, large outdoor events, and
 5.19 other critical facilities using ground-penetrating radar, magnetometers, metal detectors, and
 5.20 specially trained K-9 units to detect improvised explosive devices and explosive remnants
 5.21 of war, such as unexploded ordnance and abandoned ordnance.

5.22 (d) "Hazardous explosives" means explosives as defined in section 299F.72, subdivision
 5.23 2, explosive devices and incendiary devices as defined in section 609.668, subdivision 1,
 5.24 and all materials subject to regulation under United States Code, title 18, chapter 40.

5.25 (e) "Municipality" has the meaning given in section 466.01.

5.26 Subd. 2. **Expense reimbursement.** (a) The commissioner may reimburse bomb disposal
 5.27 units for reasonable expenses incurred:

5.28 (1) to dispose of or neutralize bombs or other similar hazardous explosives for their
 5.29 employer-municipality or for another municipality outside the jurisdiction of the
 5.30 employer-municipality but within the state. Reimbursement is limited to the extent of
 5.31 appropriated funds;

6.1 (2) to use the services of police explosive detection K-9 assets;

6.2 (3) for dignitary explosive sweeps;

6.3 (4) for explosive sweeps at large state events;

6.4 (5) to provide for explosive security at large state events; and

6.5 (6) for large-scale scheduled public events.

6.6 (b) Reimbursement for expenses under this subdivision is limited to the extent of
6.7 appropriated funds.

6.8 Subd. 3. **Agreements.** The commissioner may enter into contracts or agreements with
6.9 bomb disposal units to implement and administer this section.

6.10 Subd. 4. **Public event agreements.** The commissioner may enter into contracts with
6.11 public event organizers, as defined in section 299A.52, for costs associated with explosive
6.12 sweeps conducted by state bomb disposal units.

6.13 Sec. 7. Minnesota Statutes 2022, section 299F.362, is amended to read:

6.14 **299F.362 SMOKE ~~DETECTOR~~ ALARM; INSTALLATION; RULES; PENALTY.**

6.15 Subdivision 1. **Definitions.** For the purposes of this section, the following definitions
6.16 shall apply:

6.17 (a) "Apartment house" is any building, or portion thereof, which is designed, built,
6.18 rented, leased, let, or hired out to be occupied, or which is occupied as the home or residence
6.19 of three or more families living independently of each other and doing their own cooking
6.20 in the building, and shall include buildings containing three or more flats or apartments.

6.21 (b) "Dwelling" is any building, or any portion thereof, which is not an apartment house,
6.22 lodging house, or a hotel and which contains one or two "dwelling units" which are, or are
6.23 intended or designed to be, occupied for living purposes.

6.24 (c) "Dwelling unit" is a single unit providing complete, independent living facilities for
6.25 one or more persons including permanent provisions for living, sleeping, eating, cooking,
6.26 and sanitation, or a single unit used by one or more persons for sleeping and sanitation
6.27 pursuant to a work practice or labor agreement.

6.28 (d) "Hotel" is any building, or portion thereof, containing six or more guest rooms
6.29 intended or designed to be used, or which are used, rented, or hired out to be occupied, or
6.30 which are occupied for sleeping purposes by guests.

7.1 (e) "Lodging house" is any building, or portion thereof, containing not more than five
7.2 guest rooms which are used or are intended to be used for sleeping purposes by guests and
7.3 where rent is paid in money, goods, labor, or otherwise.

7.4 Subd. 2. **Rules; smoke detector alarm location.** The commissioner of public safety
7.5 shall promulgate rules concerning the placement of smoke ~~detectors~~ alarms in dwellings,
7.6 apartment houses, hotels, and lodging houses. The rules shall take into account designs of
7.7 the guest rooms or dwelling units.

7.8 Subd. 3. **Smoke detector alarm for any dwelling.** Every dwelling unit within a dwelling
7.9 must be provided with a smoke ~~detector~~ alarm meeting the requirements of the State Fire
7.10 Code. The ~~detector~~ smoke alarm must be mounted in accordance with the rules regarding
7.11 smoke ~~detector~~ alarm location adopted under subdivision 2. When actuated, the ~~detector~~
7.12 smoke alarm must provide an alarm in the dwelling unit.

7.13 Subd. 3a. **Smoke detector alarm for new dwelling.** In construction of a new dwelling,
7.14 each smoke ~~detector~~ alarm must be attached to a centralized power source.

7.15 Subd. 4. **Smoke detector alarm for apartment, lodging house, or hotel.** Every dwelling
7.16 unit within an apartment house and every guest room in a lodging house or hotel used for
7.17 sleeping purposes must be provided with a smoke ~~detector~~ alarm conforming to the
7.18 requirements of the State Fire Code. In dwelling units, ~~detectors~~ smoke alarms must be
7.19 mounted in accordance with the rules regarding smoke ~~detector~~ alarm location adopted
7.20 under subdivision 2. When actuated, the ~~detector~~ smoke alarm must provide an alarm in
7.21 the dwelling unit or guest room.

7.22 Subd. 5. **Maintenance responsibilities.** For all occupancies covered by this section
7.23 where the occupant is not the owner of the dwelling unit or the guest room, the owner is
7.24 responsible for maintenance of the smoke ~~detectors~~ alarms. An owner may file inspection
7.25 and maintenance reports with the local fire marshal for establishing evidence of inspection
7.26 and maintenance of smoke ~~detectors~~ alarms.

7.27 Subd. 5a. **Inform owner; no added liability.** The occupant of a dwelling unit must
7.28 inform the owner of the dwelling unit of a nonfunctioning smoke ~~detector~~ alarm within 24
7.29 hours of discovering that the smoke ~~detector~~ alarm in the dwelling unit is not functioning.
7.30 If the occupant fails to inform the owner under this subdivision, the occupant's liability for
7.31 damages is not greater than it otherwise would be.

7.32 Subd. 6. **Penalties.** (a) Any person who violates any provision of this section ~~shall be~~
7.33 is subject to the same penalty and ~~the~~ enforcement mechanism that is provided for violation
7.34 of the State Fire Code, as specified in section 299F.011, subdivision 6.

8.1 (b) An occupant who willfully disables a smoke ~~detector~~ alarm or causes it to be
8.2 nonfunctioning, resulting in damage or injury to persons or property, is guilty of a
8.3 misdemeanor.

8.4 Subd. 7. **Local government preempted.** This section prohibits a local unit of government
8.5 from adopting standards different from those provided in this section.

8.6 Subd. 9. **Local government ordinance; installation in single-family**
8.7 **residence.** Notwithstanding subdivision 7, or other law to the contrary, a local governing
8.8 body may adopt, by ordinance, rules for the installation of a smoke ~~detector~~ alarm in
8.9 single-family homes in the city that are more restrictive than the standards provided by this
8.10 section. Rules adopted pursuant to this subdivision may be enforced through a
8.11 truth-in-housing inspection.

8.12 Subd. 10. **Public fire safety educator.** The position of Minnesota public fire safety
8.13 educator is established in the Department of Public Safety.

8.14 Subd. 11. **Insurance claim.** No insurer shall deny a claim for loss or damage by fire for
8.15 failure of a person to comply with this section.