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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 4594

04/28/2020 Authored by Hassan, Noor, Persell, Lee, Davnie and others
The bill was read for the first time and referred to the Committee on Environment and Natural Resources Policy

1.1 A bill for an act
1.2 relating to environment; modifying cumulative impact analysis requirements;
1.3 requiring permits for certain demolitions; amending Minnesota Statutes 2018,
1.4 section 116.07, subdivision 4a, by adding a subdivision.

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

1.6 Section 1. Minnesota Statutes 2018, section 116.07, subdivision 4a, is amended to read:

1.7 Subd. 4a. Permits. (a) The Pollution Control Agency may issue, continue in effect or
1.8 deny permits, under such conditions as it may prescribe for the prevention of pollution, for
1.9 the emission of air contaminants, or for the installation or operation of any emission facility,
1.10 air contaminant treatment facility, treatment facility, potential air contaminant storage
1.11 facility, or storage facility, or any part thereof, or for the sources or emissions of noise
1.12 pollution.

1.13 The Pollution Control Agency may also issue, continue in effect or deny permits, under
1.14 such conditions as it may prescribe for the prevention of pollution, for the storage, collection,
1.15 transportation, processing, or disposal of waste, or for the installation or operation of any
1.16 system or facility, or any part thereof, related to the storage, collection, transportation,
1.17 processing, or disposal of waste.

1.18 The agency may not issue a permit to a facility without analyzing and considering the
1.19 cumulative levels and effects of past and current environmental pollution from all sources
1.20 on the environment and residents of the geographic area within which the facility's emissions
1.21 are likely to be deposited, provided that the facility is located in a community in a city of
1.22 the first class in Hennepin County that meets all of the following conditions:

2.1 ~~(1) is within a half mile of a site designated by the federal government as an EPA~~
 2.2 ~~superfund site due to residential arsenic contamination;~~

2.3 ~~(2) a majority of the population are low-income persons of color and American Indians;~~

2.4 ~~(3) a disproportionate percent of the children have childhood lead poisoning, asthma,~~
 2.5 ~~or other environmentally related health problems;~~

2.6 ~~(4) is located in a city that has experienced numerous air quality alert days of dangerous~~
 2.7 ~~air quality for sensitive populations between February 2007 and February 2008; and~~

2.8 ~~(5) is located near the junctions of several heavily trafficked state and county highways~~
 2.9 ~~and two one-way streets which carry both truck and auto traffic.~~

2.10 The Pollution Control Agency may revoke or modify any permit issued under this
 2.11 subdivision and section 116.081 whenever it is necessary, in the opinion of the agency, to
 2.12 prevent or abate pollution.

2.13 (b) The Pollution Control Agency has the authority for approval over the siting,
 2.14 expansion, or operation of a solid waste facility with regard to environmental issues.
 2.15 However, the agency's issuance of a permit does not release the permittee from any liability,
 2.16 penalty, or duty imposed by any applicable county ordinances. Nothing in this chapter
 2.17 precludes, or shall be construed to preclude, a county from enforcing land use controls,
 2.18 regulations, and ordinances existing at the time of the permit application and adopted
 2.19 pursuant to sections 366.10 to 366.181, 394.21 to 394.37, or 462.351 to 462.365, with regard
 2.20 to the siting, expansion, or operation of a solid waste facility.

2.21 (c) Except as prohibited by federal law or section 116.07, subdivision 41, paragraph (c),
 2.22 a person may commence construction, reconstruction, replacement, or modification of any
 2.23 facility prior to the issuance of a construction permit by the agency.

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

2.25 Sec. 2. Minnesota Statutes 2018, section 116.07, is amended by adding a subdivision to
 2.26 read:

2.27 **Subd. 41. Cumulative impact analysis.** (a) Before issuing an air emissions permit for
 2.28 a facility or project that is likely to deposit emissions within a highly impacted area, the
 2.29 commissioner must prepare an analysis and consider the cumulative levels and effects of
 2.30 past and current environmental pollution from all sources on the environment and residents.

2.31 (b) When an air permit is not required, the commissioner must prepare an analysis of
 2.32 the cumulative levels and effects of environmental pollution resulting from a project upon

3.1 receipt of a petition under this paragraph. The petition must be signed by at least 200
3.2 individuals who reside or own property in the highly impacted area and must be submitted
3.3 to the commissioner before the proposed project has received final approval by the
3.4 appropriate political subdivision. The petition must raise concerns that the project will
3.5 significantly increase pollution in a highly impacted area. Within 30 days, the commissioner
3.6 must respond to the petition by providing a timeline for completing the analysis. When
3.7 completing the analysis, the commissioner must consider the cumulative levels of pollution
3.8 from all sources to which residents of the highly impacted area have been exposed in the
3.9 past and to which they continue to be exposed. The commissioner must consider the
3.10 principles of environmental justice as identified in the Pollution Control Agency's
3.11 "Incorporating Environmental Justice Principles and Practices into Minnesota Pollution
3.12 Control Agency Operations" policy dated April 30, 2008. The commissioner may require
3.13 any permit or approval issued by a political subdivision authorizing the project to contain
3.14 provisions that prevent environmental impacts that violate those principles of environmental
3.15 justice. A political subdivision may not issue final approval for a project when a petition
3.16 has been submitted under this section until the cumulative impact analysis has been
3.17 completed.

3.18 (c) A person must obtain a permit from the commissioner before demolishing a structure
3.19 of or more square feet within a highly impacted area. Before issuing the permit, the
3.20 commissioner must prepare an analysis of the cumulative levels and effects of environmental
3.21 pollution resulting from the demolition and any planned redevelopment of the site. When
3.22 completing the analysis, the commissioner must consider the cumulative levels of pollution
3.23 from all sources to which residents of the highly impacted area have been exposed in the
3.24 past and to which they continue to be exposed, considering the principles of environmental
3.25 justice identified in paragraph (b). The commissioner may require provisions that prevent
3.26 environmental impacts that violate those principles as part of the permit.

3.27 (d) For the purposes of this section, a "highly impacted area" is an area within a city of
3.28 the first class in Hennepin County:

3.29 (1) that is within a half mile of a site that was designated by the federal government as
3.30 an Environmental Protection Agency superfund site because of residential arsenic
3.31 contamination;

3.32 (2) where a majority of the population is low-income persons of color and American
3.33 Indians;

4.1 (3) where a disproportionate percentage of the children have childhood lead poisoning,
4.2 asthma, or other environmentally related health problems;

4.3 (4) that is located in a city that has experienced numerous air quality alert days of
4.4 dangerous air quality for sensitive populations between February 2007 and February 2008;

4.5 (5) that is located near the junctions of several heavily trafficked state and county
4.6 highways and two one-way streets that carry both truck and auto traffic; and

4.7 (6) that, during the COVID-19 pandemic, is located in a community that has dramatically
4.8 increased high-risk vulnerabilities to the COVID-19 pandemic based on documented racial
4.9 health disparities including asthma, childhood lead poisoning, obesity, hypertension, diabetes,
4.10 heart disease, and cancer related to exposures to toxic environmental pollutants, food
4.11 insecurity, and high-risk immunity issues.

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