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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 1091

03/04/2013 Authored by Isaacson; Uglem; Persell; Ward, J.E.; Gunther 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 natural resources; modifying aquatic invasive species provisions;
1.3 modifying invasive species penalties and enforcement; amending Minnesota
1.4 Statutes 2012, sections 84D.01, subdivision 15a; 84D.03, subdivision 4;
1.5 84D.09; 84D.10, subdivisions 1, 4; 84D.105, subdivision 2; 84D.11, by adding
1.6 subdivisions; 84D.13, subdivision 2, by adding a subdivision; 86B.13, by adding
1.7 a subdivision; repealing Minnesota Statutes 2012, section 84D.01, subdivision 22.

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

1.9 Section 1. Minnesota Statutes 2012, section 84D.01, subdivision 15a, is amended to
1.10 read:

1.11 Subd. 15a. **Service provider.** "Service provider" means an individual who or entity
1.12 that decontaminates, installs, or removes water-related equipment or structures from
1.13 waters of the state for hire or as a service provided as a benefit of membership in a yacht
1.14 club, boat club, marina, or similar organization. Service provider does not include a
1.15 person working under the supervision of an individual with a valid service provider permit
1.16 issued under section 84D.108.

1.17 Sec. 2. Minnesota Statutes 2012, section 84D.03, subdivision 4, is amended to read:

1.18 Subd. 4. **Commercial fishing and turtle, frog, and crayfish harvesting**
1.19 **restrictions in infested and noninfested waters.** (a) All nets, traps, buoys, anchors,
1.20 stakes, and lines used for commercial fishing or turtle, frog, or crayfish harvesting in
1.21 an infested water that is designated because it contains invasive fish, invertebrates, or
1.22 certifiable diseases, as defined in section 17.4982, may not be used in any other waters.
1.23 If a commercial licensee operates in an infested water designated because it contains
1.24 invasive fish, invertebrates, or certifiable diseases, as defined in section 17.4982, all nets,

2.1 traps, buoys, anchors, stakes, and lines used for commercial fishing or turtle, frog, or
 2.2 crayfish harvesting in waters designated as infested with invasive fish, invertebrates, or
 2.3 certifiable diseases, as defined in section 17.4982, must be tagged with tags provided by
 2.4 the commissioner, as specified in the commercial licensee's license or permit. This tagging
 2.5 requirement does not apply to commercial fishing equipment used in Lake Superior.

2.6 (b) All nets, traps, buoys, anchors, stakes, and lines used for commercial fishing or
 2.7 turtle, frog, or crayfish harvesting in an infested water that is designated solely because it
 2.8 contains Eurasian water milfoil must be dried for a minimum of ten days or frozen for a
 2.9 minimum of two days before they are used in any other waters, except as provided in this
 2.10 paragraph. Commercial licensees must notify the department's regional or area fisheries
 2.11 office or a conservation officer before removing nets or equipment from an infested water
 2.12 designated solely because it contains Eurasian water milfoil and before resetting those nets
 2.13 or equipment in any other waters. Upon notification, the commissioner may authorize a
 2.14 commercial licensee to move nets or equipment to another water without freezing or drying,
 2.15 if that water is designated as infested solely because it contains Eurasian water milfoil.

2.16 (c) A commercial licensee must remove all aquatic macrophytes from nets and other
 2.17 equipment ~~when the nets and equipment are removed from~~ before placing the equipment
 2.18 into waters of the state.

2.19 (d) The commissioner shall provide a commercial licensee with a current listing of
 2.20 designated infested waters at the time that a license or permit is issued.

2.21 Sec. 3. Minnesota Statutes 2012, section 84D.09, is amended to read:

2.22 **84D.09 AQUATIC MACROPHYTES.**

2.23 Subdivision 1. **Transportation prohibited.** Unless specifically authorized under
 2.24 a license or permit issued by the commissioner, a person may not transport aquatic
 2.25 macrophytes, except as provided in this section.

2.26 Subd. 2. **Exceptions.** Unless otherwise prohibited by law, a person may transport
 2.27 aquatic macrophytes:

2.28 (1) that are duckweeds in the family Lemnaceae;

2.29 ~~(2) for disposal as part of a harvest or control activity when specifically authorized~~
 2.30 ~~under an aquatic plant management permit pursuant to section 103G.615, under permit~~
 2.31 ~~pursuant to section 84D.11, or as specified by the commissioner;~~

2.32 ~~(3)~~ (2) for purposes of constructing shooting or observation blinds in amounts
 2.33 sufficient for that purpose, provided that the aquatic macrophytes are emergent and cut
 2.34 above the waterline;

- 3.1 ~~(4)~~ (3) when legally purchased or traded by or from commercial or hobbyist sources
 3.2 for aquarium, wetland or lakeshore restoration, or ornamental purposes;
 3.3 ~~(5)~~ (4) when harvested for personal or commercial use if in a motor vehicle;
 3.4 ~~(6)~~ (5) to the department, or another destination as the commissioner may direct, in a
 3.5 sealed container for purposes of identifying a species or reporting the presence of a species;
 3.6 ~~(7) when transporting commercial aquatic plant harvesting or control equipment to a~~
 3.7 ~~suitable location for purposes of cleaning any remaining aquatic macrophytes;~~
 3.8 ~~(8)~~ (6) that are wild rice harvested under section 84.091;
 3.9 ~~(9)~~ (7) in the form of fragments of emergent aquatic macrophytes incidentally
 3.10 transported in or on watercraft or decoys used for waterfowl hunting during the waterfowl
 3.11 season; or
 3.12 ~~(10)~~ (8) when removing water-related equipment from waters of the state for
 3.13 purposes of cleaning off aquatic macrophytes before leaving a water access site.

3.14 Sec. 4. Minnesota Statutes 2012, section 84D.10, subdivision 1, is amended to read:

3.15 Subdivision 1. **Launching prohibited.** A person may not place or attempt to place
 3.16 into waters of the state water-related equipment, including aquatic plant harvesting or
 3.17 control equipment that has aquatic macrophytes, ~~zebra mussels~~, or prohibited invasive
 3.18 species attached except as provided in this section.

3.19 Sec. 5. Minnesota Statutes 2012, section 84D.10, subdivision 4, is amended to read:

3.20 Subd. 4. **Persons transporting water-related equipment.** (a) When leaving waters
 3.21 of the state a person must drain water-related equipment holding water and live wells and
 3.22 bilges by removing the drain plug before transporting the water-related equipment off
 3.23 the water access site or riparian property.

3.24 (b) Drain plugs, bailers, valves, or other devices used to control the draining of water
 3.25 from ballast tanks, bilges, and live wells must be removed or opened while transporting
 3.26 water-related equipment.

3.27 (c) Emergency response vehicles and equipment may be transported on a public road
 3.28 with the drain plug or other similar device replaced only after all water has been drained
 3.29 from the equipment upon leaving the water body.

3.30 (d) Portable bait containers used by licensed aquatic farms, portable bait containers
 3.31 when fishing through the ice except on waters designated infested for viral hemorrhagic
 3.32 septicemia, and marine sanitary systems are exempt from this subdivision.

3.33 (e) A person must not dispose of bait in waters of the state.

4.1 (f) A boat lift, dock, swim raft, or associated equipment that has been removed
4.2 from any water body may not be placed in another water body until a minimum of 21
4.3 days have passed.

4.4 (g) A person who transports water that is appropriated from noninfested surface
4.5 water bodies and that is transported by a commercial vehicle, excluding watercraft, or
4.6 commercial trailer, which vehicle or trailer is specifically designed and used for water
4.7 hauling, is exempt from paragraphs (a) and (b), provided that the person does not discharge
4.8 the transported water to other surface waters or within 100 feet of a surface water body.

4.9 (h) A person transporting water from noninfested surface water bodies for
4.10 firefighting or emergencies that threaten human safety or property is exempt from
4.11 paragraphs (a) and (b).

4.12 Sec. 6. Minnesota Statutes 2012, section 84D.105, subdivision 2, is amended to read:

4.13 Subd. 2. **Inspector authority.** (a) The commissioner shall train and authorize
4.14 individuals to inspect water-related equipment for aquatic macrophytes, aquatic invasive
4.15 species, and water. The commissioner may enter into a delegation agreement with a
4.16 tribal or local government where inspection authority as provided under paragraphs (b),
4.17 (g), and (h) is delegated to tribal and local governments that assume all legal, financial,
4.18 and administrative responsibilities for inspection programs on some or all public waters
4.19 within their jurisdiction.

4.20 (b) Inspectors may visually and tactilely inspect watercraft and water-related
4.21 equipment to determine whether aquatic invasive species, aquatic macrophytes, or water
4.22 is present. If a person transporting watercraft or water-related equipment refuses to
4.23 take required corrective actions or fails to comply with an order under section 84D.10,
4.24 subdivision 3, an inspector who is not a licensed peace officer shall refer the violation
4.25 to a conservation officer or other licensed peace officer.

4.26 (c) In addition to paragraph (b), a conservation officer or other licensed peace officer
4.27 may inspect any watercraft or water-related equipment that is stopped at a water access
4.28 site, any other public location in the state, or a private location where the watercraft or
4.29 water-related equipment is in plain view, if the officer determines there is reason to believe
4.30 that aquatic invasive species, aquatic macrophytes, or water is present on the watercraft or
4.31 water-related equipment.

4.32 (d) Conservation officers or other licensed peace officers may utilize check stations
4.33 in locations, or in proximity to locations, where watercraft or other water-related
4.34 equipment is placed into or removed from waters of the state. Any check stations shall be
4.35 operated in a manner that minimizes delays to vehicles, equipment, and their occupants.

5.1 (e) Conservation officers or other licensed peace officers may order water-related
5.2 equipment to be removed from a water body if the commissioner determines such action is
5.3 needed to implement aquatic invasive species control measures.

5.4 (f) The commissioner may require mandatory inspections of water-related equipment
5.5 before a person places or removes water-related equipment into or out of a water body.
5.6 Inspection stations may be located at or near public water accesses or in locations that
5.7 allow for servicing individual or multiple water bodies. The commissioner shall ensure
5.8 that inspection stations:

5.9 (1) have adequate staffing to minimize delays to vehicles and their occupants;

5.10 (2) allow for reasonable travel times between public accesses and inspection stations
5.11 if inspection is required before placing water-related equipment into a water body;

5.12 (3) are located so as not to create traffic delays or public safety issues;

5.13 (4) have decontamination equipment available to bring water-related equipment
5.14 into compliance; and

5.15 (5) do not reduce the capacity or hours of operation of public water accesses.

5.16 (g) The commissioner may authorize tribal and local governments that enter into
5.17 a delegation agreement with the commissioner to conduct mandatory inspections of
5.18 water-related equipment at specified locations within a defined area before a person
5.19 places or removes water-related equipment into or out of a water body. Tribal and local
5.20 governments that are authorized to conduct inspections under this paragraph must:

5.21 (1) assume all legal, financial, and administrative responsibilities for implementing
5.22 the mandatory inspections, alone or in agreement with other tribal or local governments;

5.23 (2) employ inspectors that have been trained and authorized by the commissioner;

5.24 (3) conduct inspections and decontamination measures in accordance with guidelines
5.25 approved by the commissioner;

5.26 (4) have decontamination equipment available at inspection stations or identify
5.27 alternative decontamination equipment locations within a reasonable distance of the
5.28 inspection station that can bring water-related equipment into compliance;

5.29 (5) provide for inspection station locations that do not create traffic delays or public
5.30 safety issues; and

5.31 (6) submit a plan approved by the commissioner according to paragraph (h).

5.32 (h) Plans required under paragraph (g) must address:

5.33 (1) no reduction in capacity or hours of operation of public accesses and fees that
5.34 do not discourage or limit use;

5.35 (2) reasonable travel times between public accesses and inspection stations;

6.1 (3) adequate staffing to minimize wait times and provide adequate hours of operation
6.2 at inspection stations and public accesses;

6.3 (4) adequate enforcement capacity;

6.4 (5) measures to address inspections of water-related equipment at public water
6.5 accesses for commercial entities and private riparian land owners; and

6.6 (6) other elements as required by the commissioner to ensure statewide consistency,
6.7 appropriate inspection and decontamination protocols, and protection of the state's
6.8 resources, public safety, and access to public waters.

6.9 (i) A government unit authorized to conduct inspections under this subdivision must
6.10 submit an annual report to the commissioner summarizing the results and issues related
6.11 to implementing the inspection program.

6.12 (j) The commissioner may waive the plan requirement in paragraph (g) for inspection
6.13 programs where authorized inspectors are placed directly at one or more water access
6.14 sites, with no requirement for a person to travel from the water access for inspection
6.15 or decontamination, and no local ordinance or other regulation requiring a mandatory
6.16 inspection before placing watercraft or water-related equipment into a water body or after
6.17 watercraft or water-related equipment are removed from a water body.

6.18 Sec. 7. Minnesota Statutes 2012, section 84D.11, is amended by adding a subdivision
6.19 to read:

6.20 Subd. 2b. **Transport of water.** The commissioner may issue a permit under this
6.21 section or an authorization under other licenses or permits pursuant to sections 97C.801,
6.22 97C.811, and 103G.271 to allow the transport of water in containers or water-related
6.23 equipment specifically designed and used for hauling water.

6.24 Sec. 8. Minnesota Statutes 2012, section 84D.11, is amended by adding a subdivision
6.25 to read:

6.26 Subd. 2c. **Transport of aquatic macrophytes.** The commissioner may issue a
6.27 permit to allow the transport of aquatic macrophytes to locations specified in the permit
6.28 for purposes of research, education, and decontaminating equipment.

6.29 Sec. 9. Minnesota Statutes 2012, section 84D.11, is amended by adding a subdivision
6.30 to read:

6.31 Subd. 2d. **Special permits.** The commissioner may issue special permits for the
6.32 activities in this section. A special permit may be issued in the form of a general permit

7.1 to a governmental subdivision or to the general public to conduct one or more activities
7.2 under a single permit.

7.3 Sec. 10. Minnesota Statutes 2012, section 84D.13, subdivision 2, is amended to read:

7.4 Subd. 2. **Cumulative remedy.** The authority of conservation officers and other
7.5 licensed peace officers to issue civil citations is in addition to other remedies available
7.6 under law, except that the state may not seek penalties under any other provision of law
7.7 for the incident subject to the citation.

7.8 Sec. 11. Minnesota Statutes 2012, section 84D.13, is amended by adding a subdivision
7.9 to read:

7.10 Subd. 9. **Training for offenders.** A person who is convicted of or subject to a final
7.11 order for a violation of chapter 84D involving water-related equipment must successfully
7.12 complete a training course as provided in section 86B.13.

7.13 **EFFECTIVE DATE.** This section is effective July 1, 2015.

7.14 Sec. 12. Minnesota Statutes 2012, section 86B.13, is amended by adding a subdivision
7.15 to read:

7.16 Subd. 1a. **Training for offenders.** A person who is convicted of or subject to
7.17 a final order for a violation of chapter 84D involving water-related equipment must
7.18 successfully complete the training course in subdivision 1 before continuing operation or
7.19 use of water-related equipment.

7.20 **EFFECTIVE DATE.** This section is effective July 1, 2015.

7.21 Sec. 13. **REPEALER.**

7.22 Minnesota Statutes 2012, section 84D.01, subdivision 22, is repealed.

APPENDIX
Repealed Minnesota Statutes: 13-0286

84D.01 DEFINITIONS.

Subd. 22. **Zebra mussel.** "Zebra mussel" means a species of the genus *Dreissena*.