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State of Minnesota
HOUSE OF REPRESENTATIVES
NINETIETH SESSION

H. F. No. 1292

02/16/2017 Authored by Fabian
The bill was read for the first time and referred to the Committee on Environment and Natural Resources Policy and Finance

1.1 A bill for an act
1.2 relating to natural resources; modifying timber sales requirements; modifying
1.3 requirements for outdoor recreation rules; amending Minnesota Statutes 2016,
1.4 sections 90.01, subdivisions 8, 12, by adding a subdivision; 90.101, subdivision
1.5 2; 90.14; 90.145, subdivision 2; 90.201, subdivision 1; Laws 1999, chapter 231,
1.6 section 204.

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

1.8 Section 1. Minnesota Statutes 2016, section 90.01, is amended by adding a subdivision
1.9 to read:

1.10 Subd. 1a. **Affiliate.** "Affiliate" means a person who:

1.11 (1) controls, is controlled by, or is under common control with any other person including,
1.12 without limitation, a partner, business entity with common ownership, or principal of any
1.13 business entity or a subsidiary, parent company, or holding company of any person; or

1.14 (2) bids as a representative for another person.

1.15 Sec. 2. Minnesota Statutes 2016, section 90.01, subdivision 8, is amended to read:

1.16 Subd. 8. **Permit holder.** "Permit holder" means the person or affiliate of the person who
1.17 is the signatory of a permit to cut timber on state lands.

1.18 Sec. 3. Minnesota Statutes 2016, section 90.01, subdivision 12, is amended to read:

1.19 Subd. 12. **Responsible bidder.** "Responsible bidder" means a person or affiliate of a
1.20 person who is financially responsible; demonstrates the judgment, skill, ability, capacity,
1.21 and integrity requisite and necessary to perform according to the terms of a permit issued

2.1 under this chapter; and is not currently debarred by ~~another~~ a government entity for any
 2.2 cause.

2.3 Sec. 4. Minnesota Statutes 2016, section 90.101, subdivision 2, is amended to read:

2.4 Subd. 2. **Sale list and notice.** At least 30 days before the date of sale, the commissioner
 2.5 shall compile a list containing a description of each tract of land upon which any timber to
 2.6 be offered is situated and a statement of the estimated quantity of timber and of the appraised
 2.7 price of each kind of timber thereon as shown by the report of the state appraiser. No
 2.8 description shall be added after the list is posted and no timber shall be sold from land not
 2.9 described in the list. Copies of the list ~~shall~~ must be furnished to all interested applicants.
 2.10 At least 30 days before the date of sale, a copy of the list shall must be posted on the Internet
 2.11 or conspicuously posted in the forest office or other public facility most accessible to potential
 2.12 bidders at least 30 days prior to the date of sale. The commissioner shall cause a notice to
 2.13 be published once not less than one week before the date of sale in a legal newspaper in the
 2.14 county or counties where the land is situated. The notice shall state the time and place of
 2.15 the sale and the location at which further information regarding the sale may be obtained.
 2.16 The commissioner may give other published or posted notice as the commissioner deems
 2.17 proper to reach prospective bidders.

2.18 Sec. 5. Minnesota Statutes 2016, section 90.14, is amended to read:

2.19 **90.14 AUCTION SALE PROCEDURE.**

2.20 (a) All state timber shall be offered and sold by the same unit of measurement as it was
 2.21 appraised. No tract shall be sold to any person other than the ~~purchaser~~ responsible bidder
 2.22 in whose name the bid was made. The commissioner may refuse to approve any and all bids
 2.23 received and cancel a sale of state timber for good and sufficient reasons.

2.24 (b) The purchaser at any sale of timber shall, immediately upon the approval of the bid,
 2.25 or, if unsold at public auction, at the time of purchase at a subsequent sale under section
 2.26 90.101, subdivision 1, pay to the commissioner a down payment of 15 percent of the
 2.27 appraised value. In case any purchaser fails to make such payment, the purchaser shall be
 2.28 liable therefor to the state in a civil action, and the commissioner may reoffer the timber
 2.29 for sale as though no bid or sale under section 90.101, subdivision 1, therefor had been
 2.30 made.

2.31 (c) In lieu of the scaling of state timber required by this chapter, a purchaser of state
 2.32 timber may, at the time of payment by the purchaser to the commissioner of 15 percent of
 2.33 the appraised value, elect in writing on a form prescribed by the attorney general to purchase

3.1 a permit based solely on the appraiser's estimate of the volume of timber described in the
 3.2 permit, provided that the commissioner has expressly designated the availability of such
 3.3 option for that tract on the list of tracts available for sale as required under section 90.101.
 3.4 A purchaser who elects in writing on a form prescribed by the attorney general to purchase
 3.5 a permit based solely on the appraiser's estimate of the volume of timber described on the
 3.6 permit does not have recourse to the provisions of section 90.281.

3.7 (d) In the case of a public auction sale conducted by a sealed bid process, tracts shall be
 3.8 awarded to the high bidder, who shall pay to the commissioner a down payment of 15
 3.9 percent of the appraised value that must be received or postmarked within 14 days of the
 3.10 date of the sealed bid opening. If a purchaser fails to make the down payment, the purchaser
 3.11 is liable for the down payment to the state and the commissioner may offer the timber for
 3.12 sale to the next highest bidder as though no higher bid had been made.

3.13 (e) Except as otherwise provided by law, at the time the purchaser signs a permit issued
 3.14 under section 90.151, the commissioner shall require the purchaser to make a bid guarantee
 3.15 payment to the commissioner in an amount equal to 15 percent of the total purchase price
 3.16 of the permit less the down payment amount required by paragraph (b) for any bid increase
 3.17 in excess of \$10,000 of the appraised value. If a required bid guarantee payment is not
 3.18 submitted with the signed permit, no harvesting may occur, the permit cancels, and the
 3.19 down payment for timber forfeits to the state. The bid guarantee payment forfeits to the
 3.20 state if the purchaser and successors in interest fail to execute an effective permit.

3.21 Sec. 6. Minnesota Statutes 2016, section 90.145, subdivision 2, is amended to read:

3.22 Subd. 2. **Purchaser registration.** To facilitate the sale of permits issued under section
 3.23 90.151, the commissioner may establish a registration system to verify the qualifications
 3.24 of a person or affiliate as a responsible bidder to purchase a timber permit. Any system
 3.25 implemented by the commissioner shall be limited in scope to only that information that is
 3.26 required for the efficient administration of the purchaser qualification requirements of this
 3.27 chapter. The registration system established under this subdivision is not subject to the
 3.28 rulemaking provisions of chapter 14 and section 14.386 does not apply.

3.29 Sec. 7. Minnesota Statutes 2016, section 90.201, subdivision 1, is amended to read:

3.30 Subdivision 1. **Void sales; refunds.** ~~Any~~ A sale of timber made by fraud or mistake or
 3.31 in violation of ~~the provisions of this chapter shall be~~ or other state or federal laws is void,
 3.32 the permit issued ~~thereon shall be of~~ on the sale has no effect, and the holder ~~shall be required~~
 3.33 ~~to~~ must surrender the ~~same~~ permit. In case of a sale made by mistake, the amount paid shall

4.1 must be refunded to the permit holder, or, at the request of the permit holder, the
4.2 commissioner may credit the refund as payment upon any other timber purchased by the
4.3 permit holder. If timber has been cut on a permit ~~which~~ that required cancellation ~~due to~~
4.4 because of error by the state, ~~it~~ the timber may be sold at single stumpage rate without
4.5 formalities. If possible, the original permit may be modified to comply with this chapter or
4.6 other state or federal laws. If the permit is modified, the commissioner must refund the
4.7 difference of the permit value to the permit holder.

4.8 Sec. 8. Laws 1999, chapter 231, section 204, is amended to read:

4.9 Sec. 204. **RULES FOR PUBLIC USE OF RECREATIONAL AREAS.**

4.10 (a) The commissioner of natural resources shall amend the proposed permanent rules
4.11 relating to public use of recreational areas, published in the State Register, volume 23, pages
4.12 751 to 763, October 5, 1998, according to this section and pursuant to Minnesota Statutes,
4.13 section 14.388.

4.14 (b) The proposed permanent rules may not be more restrictive than the following
4.15 provisions:

4.16 (1) "forest trail" means a trail that is either constructed, maintained, or located on forest
4.17 lands administered by the commissioner for recreational activities on forest lands. Forest
4.18 trail does not include state recreational trails as defined in Minnesota Statutes, section
4.19 85.015;

4.20 (2) no person may cut live merchantable trees on forest lands for constructing an elevated
4.21 scaffold, except that shrubs, the lateral branches of trees, and saplings measuring smaller
4.22 than four inches in diameter at 4-1/2 feet off the ground may be removed. This clause does
4.23 not apply to amendments adopted to the permanent rule after July 1, 2017;

4.24 (3) motor vehicles may operate on forest lands classified as managed on forest roads
4.25 and forest trails that are not posted and designated as closed, subject to the limitations and
4.26 exceptions in proposed Minnesota Rules, part 6100.1950;

4.27 (4) a public meeting shall be held in the county where the largest portion of the forest
4.28 lands are located to provide information to and receive comment from the public regarding
4.29 the proposed classification change;

4.30 (5) no person shall operate a motor vehicle on forest lands on or over the beds of lakes,
4.31 rivers, or streams when ice is not covering the water body, except on a bridge, culvert, or
4.32 similar structure or designated low water crossing; and

5.1 (6) motor vehicles may operate on forest lands classified as limited on forest roads that
5.2 are not posted and designated closed and on forest trails or areas that are posted and
5.3 designated to allow motor vehicle use, subject to the limitations and exceptions in proposed
5.4 Minnesota Rules, part 6100.1950.

5.5 (c) The commissioner shall remove the following provisions of the rules, as proposed:

5.6 (1) no person shall operate a motor vehicle on forest lands off a forest road or trail,
5.7 except:

5.8 (i) on forest lands classified as managed or limited during the seasons open for taking
5.9 big game, licensed hunters may use all terrain vehicles off forest trails to retrieve big game
5.10 animals by taking the most direct route between the carcass and the trail; and

5.11 (ii) inside the boundaries of a posted and designated scramble area;

5.12 (2) no person shall create an unauthorized trail on forest lands; and

5.13 (3) a person may not operate or be in control of a motor vehicle or snowmobile on forest
5.14 lands while under the influence of alcohol or a controlled or hazardous substance. Arrest
5.15 and testing procedures are according to Minnesota Statutes, section 84.91 to 84.911.