

CHAPTER 216D

ONE CALL EXCAVATION NOTICE SYSTEM

216D.01 Definitions.
216D.08 Civil penalties.

216D.09 Injunctive relief.

216D.01 DEFINITIONS.

[For text of subd 1, see M.S.1988]

Subd. 1a. **Commissioner.** "Commissioner" means the commissioner of public safety.

[For text of subds 2 to 8, see M.S.1988]

Subd. 9. **Operator.** "Operator" means a person who owns or operates an underground facility. A person is not considered an operator solely because the person is an owner or tenant of real property where underground facilities are located if the underground facilities are used exclusively to furnish services or commodities on that property, unless the person is the state, a state agency, or a local governmental unit.

Subd. 10. **Person.** "Person" means the state, a public agency, a local governmental unit, an individual, corporation, partnership, association, or other business or public entity or a trustee, receiver, assignee, or personal representative of any of them.

[For text of subd 11, see M.S.1988]

History: 1989 c 244 s 3-5

216D.08 CIVIL PENALTIES.

Subdivision 1. **Penalty.** A person who is engaged in excavation for remuneration or an operator other than an operator subject to section 299F.59, subdivision 1, who violates sections 216D.01 to 216D.07 is subject to a civil penalty to be imposed by the commissioner not to exceed \$500 for each violation per day of violation. An operator subject to section 299F.59, subdivision 1, who violates sections 216D.01 to 216D.07 is subject to a civil penalty to be imposed under section 299F.60.

Subd. 2. **Settlement.** The commissioner may negotiate a compromise settlement of a civil penalty. In determining the amount of the penalty, or the amount of the compromise settlement, the commissioner shall consider the appropriateness of the penalty to the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance, after notification of a violation. The contested case and judicial review provisions of chapter 14 apply to the orders of the commissioner imposing a penalty under sections 216D.01 to 216D.07. The amount of the penalty, when finally determined, may be deducted from sums owing by the state of Minnesota to the person charged.

Subd. 3. **Credited to pipeline safety account.** Penalties collected under this section must be deposited in the state treasury and credited to the pipeline safety account to be applied to the reduction of expenses or costs assessed by the commissioner against persons regulated under this chapter.

Subd. 4. **Rules.** The commissioner shall adopt rules establishing reasonable guidelines for imposing penalties. The rules must provide for notice that a penalty is assessed and may exempt activities from penalties unless the excavator or operator as defined in this section has evidenced a course of action in disregard of this chapter.

History: 1989 c 244 s 6

216D.09 INJUNCTIVE RELIEF.

Subdivision 1. **Jurisdiction.** The district courts of the state of Minnesota have

jurisdiction, subject to the provisions of the statutes and the rules of practice and procedure of the state of Minnesota relative to civil actions in the district courts, to restrain violations of sections 216D.01 to 216D.07, on petition by the attorney general on behalf of the state of Minnesota. When practicable, the commissioner shall give notice to a person against whom an action for injunctive relief is contemplated and afford the person an opportunity to present views and, except in the case of a knowing and willful violation, shall afford the person reasonable opportunity to achieve compliance. However, the failure to give the notice and afford an opportunity to present views does not preclude the granting of appropriate relief.

Subd. 2. **Venue.** Actions under this section must be brought in district court in the district where the defendant's principal place of business in the state is located, and process in these cases may be served in any other district in the state of Minnesota where the defendant may be found or in which the defendant is an inhabitant or transacts business.

History: 1989 c 244 s 7