

speed limit and moving between establishments where solid waste is to be collected.

Presented to the governor May 15, 1993

Signed by the governor May 19, 1993, 10:36 a.m.

CHAPTER 282—S.F.No. 1367

An act relating to the environment; authorizing administrative penalty orders for violations of provisions relating to hazardous chemical reporting requirements; amending Minnesota Statutes 1992, section 299K.10, by adding a subdivision.

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

Section 1. Minnesota Statutes 1992, section 299K.10, is amended by adding a subdivision to read:

Subd. 9. ADMINISTRATIVE PENALTY ORDERS. The commission may issue an order requiring a violation of the federal act to be corrected and administratively assessing monetary penalties. Except in the case of serious or repeated violations, the penalty assessed in the order must be forgiven if the person who is subject to the order corrects the violation before the 31st day after receiving the order. The procedures in section 116.072 must be followed when issuing administrative penalty orders under this subdivision. The maximum amount of an administrative penalty order under this subdivision is \$10,000 for all violations identified in an inspection or a review of compliance.

Sec. 2. **PLAN FOR USE OF ADMINISTRATIVE PENALTY ORDERS.**

The commission shall prepare a plan for use of the authority provided in section 1 by December 1, 1993. The commission shall publish a notice of the availability of a draft plan in the State Register and allow a 30-day period for public comment before finalizing the plan.

Presented to the governor May 15, 1993

Signed by the governor May 19, 1993, 8:20 a.m.

CHAPTER 283—S.F.No. 304

An act relating to agriculture; requiring aquatic pest control applicators to be licensed; establishing categories of commercial aquatic applicator and certified aquatic applicator; exempting certain applications from aquatic pest control licensure requirements; amending

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Minnesota Statutes 1992, sections 18B.32; 18B.33, subdivisions 1 and 4; and 18B.34, subdivisions 1 and 3.

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

Section 1. Minnesota Statutes 1992, section 18B.32, is amended to read:

18B.32 STRUCTURAL OR AQUATIC PEST CONTROL LICENSE.

Subdivision 1. **REQUIREMENT.** (a) A person may not engage in structural or aquatic pest control applications:

(1) for hire without a structural pest control license or, for an aquatic pest control application, an aquatic pest control license; and

(2) as a sole proprietorship, company, partnership, or corporation unless the person is or employs a licensed master in structural pest control operations or, for an aquatic pest control application, a commercial aquatic applicator.

(b) A structural or aquatic pest control licensee must have a valid license identification card when applying pesticides for hire and must display it upon demand by an authorized representative of the commissioner or a law enforcement officer. The license identification card must contain information required by the commissioner.

Subd. 2. **LICENSES.** (a) A structural or aquatic pest control license:

(1) expires on December 31 of the year for which the license is issued;

(2) is not transferable; and

(3) must be prominently displayed to the public in the structural or aquatic pest controller's place of business.

(b) The commissioner shall establish categories of master, journeyman, and fumigator for a person to be licensed under a structural pest control license and, for an aquatic pest control license, the categories of commercial aquatic applicator and certified aquatic applicator.

Subd. 3. **APPLICATION.** (a) A person must apply to the commissioner for a structural or aquatic pest control license ~~to be licensed as a master, journeyman, or fumigator~~ on forms and in the manner required by the commissioner. The commissioner shall require the applicant to pass a written, closed-book, monitored examination or oral examination, or both, and may also require a practical demonstration regarding structural or aquatic pest control. The commissioner shall establish the examination procedure, including the phases and contents of the examination.

(b) The commissioner may license a person as a master under a structural pest control license or, for aquatic pest control applications, as a commercial aquatic applicator if the person has the necessary qualifications through knowl-

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edge and experience to properly plan, determine, and supervise the selection and application of pesticides in structural or aquatic pest control. To demonstrate the qualifications and become licensed as a master under a structural pest control license or, for aquatic pest control applications, as a commercial aquatic applicator, a person must:

(1) pass closed-book testing administered by the commissioner; ~~and~~

(2) by have direct experience as a licensed journeyman under a structural pest control license or, for aquatic pest control applications, by direct experience as a certified aquatic applicator under a commercial aquatic applicator for at least two years by this state or a state with equivalent certification requirements or as a full-time licensed master in another state with equivalent certification requirements or, for aquatic pest control applications, have at least 1,600 hours of qualifying experience in the previous four years as determined by the commissioner; and

(3) show practical knowledge and field experience under clause (2) in the actual selection and application of pesticides under varying conditions.

(c) The commissioner may license a person as a journeyman under a structural pest control license or, for aquatic pest control applications, as a certified aquatic applicator if the person:

(1) has the necessary qualifications in the practical selection and application of pesticides;

(2) has passed a closed-book examination given by the commissioner; and

(3) is engaged as an employee of or is working under the direction of a person licensed as a master under a structural pest control license or, for aquatic pest control applications, under a commercial aquatic applicator.

(d) The commissioner may license a person as a fumigator under a structural pest control license if the person:

(1) has knowledge of the practical selection and application of fumigants;

(2) has passed a closed-book examination given by the commissioner; and

(3) is licensed by the commissioner as a master or journeyman under a structural pest control license.

(e) The licensing requirements of paragraph (b) for commercial aquatic applicators are satisfied if a person: (1) has at least two years direct experience with an aquatic category endorsement on a commercial applicator license; (2) can show practical knowledge and field experience in the actual selection and application of aquatic pesticides under varying conditions; and (3) applies for a license as a commercial aquatic applicator before August 1, 1994.

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Subd. 4. **RENEWAL.** (a) A structural or aquatic pest control applicator license may be renewed on or before the expiration of an existing license subject to reexamination, attendance at workshops approved by the commissioner, or other requirements imposed by the commissioner to provide the applicator with information regarding changing technology and to help assure a continuing level of competency and ability to use pesticides safely and properly. The commissioner may require an additional demonstration of applicator qualification if the applicator has had a license suspended or revoked or has otherwise had a history of violations of this chapter.

(b) If a person fails to renew a structural or aquatic pest control license within three months of its expiration, the person must obtain a structural or aquatic pest control license subject to the requirements, procedures, and fees required for an initial license.

Subd. 5. **FINANCIAL RESPONSIBILITY.** (a) A structural or aquatic pest control license may not be issued unless the applicant furnishes proof of financial responsibility. The financial responsibility may be demonstrated by:

(1) proof of net assets equal to or greater than \$50,000; or

(2) a performance bond or insurance of a kind and in an amount determined by the commissioner.

(b) The bond or insurance must cover a period of time at least equal to the term of the applicant's license. The commissioner must immediately suspend the license of a person who fails to maintain the required bond or insurance. The performance bond or insurance policy must contain a provision requiring the insurance or bonding company to notify the commissioner by ten days before the effective date of cancellation, termination, or any other change of the bond or insurance. If there is recovery against the bond or insurance, additional coverage must be secured to maintain financial responsibility equal to the original amount required.

(c) An employee of a licensed person is not required to maintain an insurance policy or bond during the time the employer is maintaining the required insurance or bond.

(d) Applications for reinstatement of a license suspended under the provisions of this section must be accompanied by proof of satisfaction of judgments previously rendered.

Subd. 6. **FEES.** (a) An applicant for a structural pest control license or aquatic pest control license for a business must pay a nonrefundable application fee of \$100. An employee of a licensed business must pay a nonrefundable application fee of \$50 for an individual structural or aquatic pest control license.

(b) An application received after expiration of the structural pest control license or aquatic pest control license is subject to a penalty fee of 50 percent of the application fee.

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(c) An applicant that meets renewal requirements by reexamination instead of attending workshops must pay the equivalent workshop fee for the reexamination as determined by the commissioner.

Sec. 2. Minnesota Statutes 1992, section 18B.33, subdivision 1, is amended to read:

Subdivision 1. **REQUIREMENT.** (a) A person may not apply a pesticide for hire without a commercial applicator license for the appropriate use categories ~~except a licensed structural pest control applicator or a structural pest control license or commercial aquatic pest control license.~~

(b) A person with a commercial applicator license may not apply pesticides on or into surface waters without ~~an a commercial aquatic category endorsement on a commercial applicator pest control license under section 18B.32, except a commercial aquatic pest control license is not required for licensed commercial applicators applying pesticides for the purposes of:~~

- (1) pest control on cultivated wild rice;
- (2) mosquito and black fly control operations;
- (3) pest control on rights-of-way;
- (4) aerial pest control operations for emergent vegetation control;
- (5) aerial application of piscicides; and
- (6) pest control for silvicultural operations.

(c) A commercial applicator licensee must have a valid license identification card when applying pesticides for hire and must display it upon demand by an authorized representative of the commissioner or a law enforcement officer. The commissioner shall prescribe the information required on the license identification card.

Sec. 3. Minnesota Statutes 1992, section 18B.33, subdivision 4, is amended to read:

Subd. 4. **APPLICATION.** (a) A person must apply to the commissioner for a commercial applicator license on forms and in the manner required by the commissioner. The commissioner must prescribe and administer a closed-book, monitored examination, or equivalent measure to determine if the applicant is eligible for the commercial applicator license.

(b) Aerial applicators must also fulfill applicable requirements in chapter 360.

~~(c) An applicant that desires an aquatic category endorsement must pass an examination prepared by the commissioner of natural resources and administered by the department of agriculture.~~

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Sec. 4. Minnesota Statutes 1992, section 18B.34, subdivision 1, is amended to read:

Subdivision 1. **REQUIREMENT.** (a) Except for a licensed commercial applicator, certified private applicator, a licensed aquatic pest control applicator, or licensed structural pest control applicator, a person, including a government employee, may not use a restricted use pesticide in performance of official duties without having a noncommercial applicator license for an appropriate use category.

(b) A licensed noncommercial applicator may not apply pesticides into or on surface waters without ~~an a certified aquatic category endorsement on the pest control license, except a certified aquatic pest control license is not required for licensed noncommercial applicators applying pesticides for the purposes of:~~

- (1) mosquito and black fly control operations;
- (2) pest control on rights-of-way;
- (3) pest control operations for purple loosestrife control;
- (4) application of piscicides; and
- (5) pest control for silvicultural operations.

(c) A licensee must have a valid license identification card when applying pesticides and must display it upon demand by an authorized representative of the commissioner or a law enforcement officer. The license identification card must contain information required by the commissioner.

Sec. 5. Minnesota Statutes 1992, section 18B.34, subdivision 3, is amended to read:

Subd. 3. **APPLICATION.** A person must apply to the commissioner for a noncommercial applicator license on forms and in the manner required by the commissioner. The commissioner must prescribe and administer a closed-book, monitored examination, or equivalent measure to determine if the applicant is eligible to acquire a noncommercial applicator license. ~~An applicant desiring to apply pesticides into or on surface waters must pass an examination prepared by the department of natural resources and administered by the commissioner.~~

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