

Presented to the governor May 15, 1993

Signed by the governor May 19, 1993, 2:06 p.m.

CHAPTER 287—S.F.No. 1275

An act relating to the environment; providing protection from liability for releases of hazardous substances to lenders and owners for redevelopment of property under an approved cleanup plan; providing authority to issue determinations regarding association with a release; appropriating money; amending Minnesota Statutes 1992, section 115B.175, subdivisions 4, 7, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 115B.

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

Section 1. Minnesota Statutes 1992, section 115B.175, subdivision 4, is amended to read:

Subd. 4. **PERFORMANCE OF RESPONSE ACTIONS DOES NOT ASSOCIATE PERSONS WITH RELEASE.** Persons specified in subdivision 6 or 6a, paragraph (c), do not associate themselves with, or aggravate or contribute to, any release or threatened release identified in an approved voluntary response action plan for the purpose of section 115B.03, subdivision 3, paragraph (d), or subdivision 7, clause (1), of this section as a result of performance of the response actions required in accordance with the plan and the direction of the commissioner. ~~This subdivision does not apply to a person specified in subdivision 7.~~ Nothing in this section relieves a person of any liability for failure to exercise due care in performing a response action.

Sec. 2. Minnesota Statutes 1992, section 115B.175, is amended by adding a subdivision to read:

Subd. 6a. VOLUNTARY RESPONSE ACTIONS BY RESPONSIBLE PERSONS. (a) Notwithstanding subdivision 1, paragraph (a), when a person who is responsible for a release or threatened release under sections 115B.01 to 115B.18 undertakes and completes response actions, the protection from liability provided by this section applies to persons described in paragraph (c) if the response actions are undertaken and completed in accordance with this subdivision.

(b) The response actions must be undertaken and completed in accordance with a voluntary response action plan approved as provided in subdivision 3. Notwithstanding subdivision 2, a voluntary response action plan submitted by a person who is responsible for the release or threatened release must require remedy or removal of all releases and threatened releases at the identified area of real property. The identified area of real property must correspond to the boundaries of a parcel that is either separately platted or is the entire parcel.

New language is indicated by underline, deletions by ~~strikeout~~.

(c) Subject to the provisions of subdivision 7, when the commissioner issues a certificate of completion under subdivision 5 for response actions completed at an identified area of real property in accordance with this subdivision, the liability protection under this section applies to:

(1) a person who acquires the identified real property after approval of the voluntary response action plan;

(2) a person providing financing for response actions or development at the identified real property after approval of the response action plan, whether the financing is provided to the person undertaking the response actions or other person who acquires or develops the property; and

(3) a successor or assign of a person to whom the liability protection applies under this paragraph.

Sec. 3. Minnesota Statutes 1992, section 115B.175, subdivision 7, is amended to read:

Subd. 7. **PERSONS NOT PROTECTED FROM LIABILITY.** The protection from liability provided by this section does not apply to:

(1) a person who aggravates or contributes to a release or threatened release that was not remedied under an approved voluntary response action plan;

(2) a person who was responsible under sections 115B.01 to 115B.18 for a release or threatened release identified in the approved voluntary response action plan before taking an action that would have made the person subject to the protection under subdivision 6 or 6a; or

(3) a person who obtains approval of a voluntary response action plan for purposes of this section by fraud or misrepresentation, or by knowingly failing to disclose material information, or who knows that approval was so obtained before taking an action that would have made the person subject to the protection under subdivision 6 or 6a.

Sec. 4. **[115B.178] ASSOCIATION WITH RELEASE; COMMISSIONER'S DETERMINATION.**

Subdivision 1. DETERMINATION. The commissioner may issue determinations that certain actions proposed to be taken at real property subject to a release or threatened release of a hazardous substance or pollutant or contaminant will not constitute conduct associating the person with the release or threatened release for the purpose of section 115B.03, subdivision 3, clause (d). Proposed actions that may be covered by a determination under this section include response actions approved by the commissioner to address the release or threatened release, actions to improve or develop the real property, or other similar actions. A determination may be subject to terms and conditions deemed reasonable by the commissioner. When a person takes actions in accordance with a determination issued under this subdivision, the actions do not associate the person with the release for the purpose of section 115B.03, subdivision 3, clause (d).

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2. SCOPE AND EFFECT OF DETERMINATION. Section 115B.177, subdivision 2, applies to a determination by the commissioner under this section.

Sec. 5. [115B.179] COMMISSIONER'S AUTHORITY NOT LIMITED.

The commissioner's authority to make a determination or enter into an agreement under section 115B.177 and to make a determination under section 115B.178 does not limit or preclude any other authority of the commissioner under any law.

Sec. 6. POLLUTION CONTROL AGENCY; APPROPRIATION; COMPLEMENT.

\$361,000 in fiscal year 1994 and \$327,000 in fiscal year 1995 is appropriated to the pollution control agency from the environmental response, compensation, and compliance account for the purposes of sections 1 to 5. Any amount not spent in the first year does not cancel but is available in the second year.

The complement of the pollution control agency is increased by five positions for the purposes of sections 1 to 5.

Presented to the governor May 15, 1993

Signed by the governor May 19, 1993, 10:38 a.m.

CHAPTER 288—S.F.No. 1315

An act relating to burial grounds; providing for a civil action; proposing coding for new law in Minnesota Statutes, chapter 307.

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

Section 1. [307.082] CIVIL ACTIONS.

The attorney general or the county attorney may maintain a civil action seeking a temporary or permanent injunction or other appropriate relief against a person who is alleged to have committed a violation of section 307.08, subdivision 2. The action must be brought within one year after the alleged violation is discovered and reported to the state archaeologist or the Indian affairs council. The action must be filed in either the district court of the county in which the alleged violation occurred or in which the alleged violator resides.

Presented to the governor May 15, 1993

Signed by the governor May 19, 1993, 8:26 a.m.

New language is indicated by underline, deletions by ~~strikeout~~.