

CHAPTER 186—S.F.No. 900

An act relating to environment; amending provisions regulating toxics in packaging; amending Minnesota Statutes 1996, section 115A.965, subdivisions 3, 7, and by adding a subdivision; repealing Minnesota Statutes 1996, section 115A.965, subdivision 6.

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

Section 1. Minnesota Statutes 1996, section 115A.965, subdivision 3, is amended to read:

Subd. 3. **EXEMPTIONS.** (a) Until January 1, 2000, the following packaging is exempt from the requirements of subdivisions 1 and 2:

(1) packaging that would not exceed the total toxics concentration levels under subdivision 2 but for the addition in the packaging of materials that have fulfilled their intended use and have been discarded by consumers; and

(2) packages that are reused but exceed the total toxics concentration levels in subdivision 2, provided that:

(i) the product being conveyed by the package is regulated under federal or state health or safety requirements;

(ii) transportation of the packaged product is regulated under federal or state transportation requirements; and

(iii) disposal of the package is performed according to federal or state radioactive or hazardous waste disposal requirements.

(b) Until January 1, 2000, packages that have a controlled distribution and reuse, but exceed the total toxics concentration levels in subdivision 2 and do not meet the requirements of paragraph (a), may be exempted from subdivisions 1 and 2 if the manufacturers or distributors of the packages petition for and receive approval from the commissioner. In granting approval, the commissioner shall ~~work with the Coalition of Northeastern Governors Toxics in Packaging Clearinghouse~~ and base the decision on satisfactory demonstrations that the environmental benefit of the controlled distribution and reuse is significantly greater compared to the same package manufactured in compliance with the total toxics concentration levels in subdivision 2, and on plans proposed by the manufacturer that include each of the following elements:

(1) a means of identifying the packaging in a permanent and visible manner;

(2) a method of regulatory and financial accountability so that a specified percentage of the packaging manufactured and distributed to other persons is not discarded by those persons after use but are returned to the manufacturer or the manufacturer's designee;

(3) a system of inventory and record maintenance to account for the packaging placed in, and removed from, service;

(4) a means of transforming packaging that is no longer reusable into recycled materials for manufacturing or into manufacturing wastes which are subject to existing federal or state laws or regulations governing such manufacturing wastes that ensure that these wastes do not enter the industrial or mixed municipal solid waste stream; and

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

(5) a system of annually reporting to the commissioner changes to the system and changes in designees.

(c) Packaging to which lead, cadmium, mercury, or hexavalent chromium has been intentionally introduced in the manufacturing process may be exempted from the requirements of subdivisions 1 and 2 by the commissioner of the pollution control agency if:

(1) the use of the toxic element in the packaging is required by federal or state health or safety laws; or

(2) there is no feasible alternative for the packaging because the toxic element used is essential to the protection, safe handling, or function of the contents of the package.

The commissioner may grant an exemption under this paragraph for a period not to exceed two years upon application by the packaging manufacturer that includes documentation showing that the criteria for an exemption are met. Exemptions granted by the commissioner may be renewed upon reapplication every two years.

Sec. 2. Minnesota Statutes 1996, section 115A.965, is amended by adding a subdivision to read:

Subd. 6a. IMPLEMENTATION. In the interests of promoting consistent, nationally applicable standards, the commissioner shall have discretion to coordinate efforts under this section with similar efforts in other jurisdictions.

Sec. 3. Minnesota Statutes 1996, section 115A.965, subdivision 7, is amended to read:

Subd. 7. **REPORT.** By September 1 of each odd-numbered year, the commissioner shall prepare and submit to the environment and natural resources committees of the senate and house of representatives, the finance division of the senate committee on environment and natural resources, and the house of representatives committee on environment and natural resources finance a report to include:

(1) enforcement actions taken by the commissioner under this section for the reporting period; and

(2) issues and disputes that have arisen under this section, the recommendations made by the Toxics in Packaging Clearinghouse for resolution of those issues and disputes, and how those issues and disputes were finally resolved by the commissioner; for each exemption granted, the identity of the party requesting the exemption, a brief description of the packaging, and the basis for granting the exemption.

Sec. 4. REPEALER.

Minnesota Statutes 1996, section 115A.965, subdivision 6, is repealed.

Presented to the governor May 19, 1997

Signed by the governor May 20, 1997, 10:35 a.m.

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