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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 2171

02/21/2023 Authored by Hansen, R.; Bierman; Fischer; Lee, F.; Vang and others
The bill was read for the first time and referred to the Committee on Environment and Natural Resources Finance and Policy

1.1 A bill for an act
1.2 relating to air quality; prohibiting emission of objectionable odors; requiring testing
1.3 based on odor complaints; requiring odor-management plans under certain
1.4 circumstances; proposing coding for new law in Minnesota Statutes, chapter 116.

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

1.6 Section 1. [116.062] ODOR MANAGEMENT.

1.7 Subdivision 1. Definitions. For the purposes of this section, the following terms have
1.8 the meanings given:

1.9 (1) "commissioner" means the commissioner of the Minnesota Pollution Control Agency;

1.10 (2) "objectionable odor" means air pollution consisting of an odor that, considering its
1.11 characteristics, intensity, frequency, and duration:

1.12 (i) is or can reasonably be expected to be injurious to public health or welfare; or

1.13 (ii) unreasonably interferes with the enjoyment of life or the use of property of persons
1.14 exposed to the odor; and

1.15 (3) "odor complaint" means a notification received and recorded by the commissioner
1.16 or by a political subdivision from an identifiable person that describes the nature, duration,
1.17 and location of an odor.

1.18 Subd. 2. Prohibition. A person may not cause or allow emission into the ambient air of
1.19 any substance or combination of substances in quantities that produce an objectionable odor
1.20 beyond the property line of the facility that is the source of the odor, unless the person has
1.21 implemented odor-control measures satisfactory to the commissioner to abate or control
1.22 the emissions.

2.1 Subd. 3. **Odor complaints; investigation.** (a) The commissioner must conduct a site  
2.2 investigation of any facility against which six or more verifiable odor complaints have been  
2.3 submitted to the commissioner or to a political subdivision within a six-month period. The  
2.4 investigation must include:

2.5 (1) an interview with the owner or operator of the facility against which the complaint  
2.6 was made;

2.7 (2) a physical examination of the facilities; equipment; operations; conditions; methods;  
2.8 storage areas for material inputs, chemicals, and waste; and any other factors that may  
2.9 contribute to or are designed to mitigate the emission of odors; and

2.10 (3) testing at locations identified in the odor complaints and at other locations beyond  
2.11 the property line of the facility that is the source of the odor using a precision instrument  
2.12 capable of measuring odors in ambient air.

2.13 (b) The commissioner, based upon the site investigation and the results of odor testing  
2.14 and considering the nature, intensity, frequency, and duration of the odor and other relevant  
2.15 factors, must determine whether the odor emitted from the facility constitutes an objectionable  
2.16 odor. In making the determination, the commissioner may consider the opinions of a random  
2.17 sample of persons exposed to samples of the odor taken from ambient air beyond the property  
2.18 line of the facility that is the source of the odor.

2.19 (c) The commissioner must notify officials in local jurisdictions that odor complaints  
2.20 filed with respect to properties located within those jurisdictions must be forwarded to the  
2.21 commissioner.

2.22 Subd. 4. **Objectionable odor; management plan.** (a) If the commissioner determines  
2.23 under subdivision 3 that the odor emitted from a facility is an objectionable odor, the  
2.24 commissioner must require the owner of the facility to develop an odor-management plan  
2.25 designed to mitigate odor emissions.

2.26 (b) The owner of the facility must submit a management plan required under paragraph  
2.27 (a) to the commissioner for review within 90 days. The commissioner may grant an extension  
2.28 for submitting the odor-management plan for up to an additional 90 days for good cause.

2.29 (c) The commissioner must provide technical assistance to the property owner in  
2.30 developing a management plan, including:

2.31 (1) identifying odor-control technology and equipment that may reduce odor emissions;  
2.32 and

3.1 (2) identifying alternative methods of operation or alternative materials that may reduce  
3.2 odor emissions.

3.3 (d) An odor-management plan must contain, at a minimum, for each odor source  
3.4 contributing to odor emissions:

3.5 (1) a description of plant operations and materials that generate odors;

3.6 (2) proposed changes in equipment, operations, or materials that are designed to mitigate  
3.7 odor emissions;

3.8 (3) the estimated effectiveness of the plan in reducing odor emissions;

3.9 (4) the estimated cost of implementing the plan;

3.10 (5) a schedule of plan implementation activities; and

3.11 (6) a description of any monitoring equipment that will be installed to measure odor  
3.12 emissions after the plan is implemented.

3.13 (e) The commissioner may accept, reject, or modify an odor-management plan submitted  
3.14 under this subdivision.

3.15 (f) No sooner than 60 days after final implementation of an odor-management plan  
3.16 approved by the commissioner, the commissioner must test ambient air to measure the  
3.17 efficacy of the odor-management plan in reducing odor emissions. At a minimum, the  
3.18 commissioner must test ambient air at the same locations where initial testing occurred  
3.19 under subdivision 3, paragraph (a), clause (3).

3.20 (g) If the commissioner determines, based upon the same factors considered under  
3.21 subdivision 3, paragraph (b), that implementing the odor-management plan has failed to  
3.22 reduce the facility's odor emissions to a level where the odor is no longer an objectionable  
3.23 odor, the commissioner must order the facility owner to revise the odor-management plan  
3.24 within 90 days of receipt of the commissioner's order.

3.25 (h) If the revised odor-management plan is not acceptable to the commissioner or is  
3.26 implemented but fails to reduce the facility's odor emissions to a level where the odor is no  
3.27 longer an objectionable odor, the commissioner may impose penalties under section 115.071  
3.28 or may modify or revoke the facility's permit under section 116.07, subdivision 4a, paragraph  
3.29 (d).

3.30 Subd. 5. Exemptions. This section does not apply to:

3.31 (1) on-farm animal and agricultural operations;

- 4.1 (2) motor vehicles and transportation facilities;
- 4.2 (3) municipal wastewater treatment plants;
- 4.3 (4) single-family dwellings not used for commercial purposes;
- 4.4 (5) materials odorized for safety purposes;
- 4.5 (6) painting and coating operations that are not required to be licensed; and
- 4.6 (7) temporary activities and operations.
- 4.7 **EFFECTIVE DATE.** This section is effective the day following final enactment.