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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 2791

03/09/2023 Authored by Pursell, Kozlowski, Fischer, Hornstein, Hollins 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 natural resources; protecting land, water quality, aquatic life, and wildlife
1.3 from effects of using certain motorized recreational trails; requiring environmental
1.4 assessment worksheet to construct or expand off-highway vehicle trails; requiring
1.5 rulemaking; amending Minnesota Statutes 2022, section 84.777; repealing
1.6 Minnesota Statutes 2022, section 84.926, subdivision 1; Laws 2003, chapter 128,
1.7 article 1, section 167, subdivision 1, as amended; Minnesota Rules, part 6100.0500,
1.8 subpart 8d.

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

1.10 Section 1. LEGISLATIVE FINDINGS.

1.11 (a) The legislature finds that the state of Minnesota has an abundance of natural resources
1.12 and that there is growing interest in the use of off-highway vehicles by its residents. The
1.13 legislature further finds that as the use of off-highway vehicles increasingly encroaches on
1.14 the state's natural resources, including aquatic and wildlife habitats, it is necessary to ensure
1.15 that the regulation of off-highway vehicles is undertaken in a manner that:

1.16 (1) protects these vital natural resources and habitats;

1.17 (2) ensures that off-highway vehicle users can easily discern where off-highway vehicles
1.18 may permissibly be used; and

1.19 (3) aids conservation officers in carrying out their law enforcement duties.

1.20 (b) The legislature further finds that, in accordance with the 2003 report of the Legislative
1.21 Auditor entitled State-Funded Trails for Motorized Recreation, creating and expanding
1.22 most off-highway vehicle trails and designated routes warrants completion of an
1.23 environmental assessment worksheet because of the significant potential environmental

2.1 impacts of those trails and the need to make environmental assessment transparent to the  
 2.2 public.

2.3 Sec. 2. Minnesota Statutes 2022, section 84.777, is amended to read:

2.4 **84.777 OFF-HIGHWAY VEHICLES AND SNOWMOBILES; USE OF STATE**  
 2.5 **PUBLIC LANDS RESTRICTED.**

2.6 Subdivision 1. **Designated trails.** (a) ~~Except as otherwise allowed by law or rules adopted~~  
 2.7 ~~by the commissioner, effective June 1, 2003,~~ Notwithstanding sections 84.787 to 84.804  
 2.8 and 84.92 to 84.928, the use of off-highway vehicles is prohibited on state land administered  
 2.9 by the commissioner of natural resources; and on county-administered forest land within  
 2.10 the boundaries of a state forest, except on roads and trails specifically designated and posted  
 2.11 by the commissioner for use by off-highway vehicles. The commissioner may limit the use  
 2.12 of off-highway vehicles under this subdivision to specific purposes or seasons but must  
 2.13 include these limitations in the designation and posting under this subdivision.

2.14 (b) Paragraph (a) does not apply to county-administered land within a state forest if the  
 2.15 county board adopts a resolution that modifies restrictions on the use of off-highway vehicles  
 2.16 on county-administered land within the forest.

2.17 (c) An off-highway vehicle trail or designated off-highway vehicle route that is on a  
 2.18 state forest road or trail, national forest road or trail, township road or trail, county road or  
 2.19 trail, or other state road or trail does not include:

2.20 (1) Tribal lands or Ceded Territory unless the appropriate Tribal government approves  
 2.21 inclusion in the trail or route;

2.22 (2) land that is not approved for inclusion in the trail or route by the county, township,  
 2.23 and road authority where the land is located;

2.24 (3) an unpaved road or trail that crosses over waters designated as outstanding resource  
 2.25 value waters or as exceptional habitat waters under Minnesota Rules, chapter 7050;

2.26 (4) land designated by the commissioner of agriculture or a county as containing  
 2.27 prohibited noxious weeds, restricted noxious weeds, or county noxious weeds under sections  
 2.28 18.76 to 18.91;

2.29 (5) an unpaved road that is less than 300 feet from a public water that supports aquatic  
 2.30 life; or

2.31 (6) an unpaved road that is less than 150 feet from a public water that does not support  
 2.32 aquatic life.

3.1 (d) Paragraph (c) must not be construed to affect roads or trails constructed or authorized  
3.2 before the effective date of that paragraph.

3.3 Subd. 2. **Seasonal restrictions.** (a) Except for designated forest roads, a person must  
3.4 not operate an off-highway vehicle or snowmobile on state forest lands during the firearms  
3.5 deer-hunting season in areas of the state where deer may be taken by rifle. This paragraph  
3.6 does not apply to a person in possession of a valid deer-hunting license operating an  
3.7 off-highway vehicle or snowmobile before or after legal shooting hours or from 11:00 a.m.  
3.8 to 2:00 p.m.

3.9 (b) The commissioner may designate and post winter trails on state forest lands for use  
3.10 by off-highway vehicles.

3.11 (c) For the purposes of this subdivision, "state forest lands" means forest lands under  
3.12 the authority of the commissioner as defined in section 89.001, subdivision 13, and lands  
3.13 managed by the commissioner under section 282.011.

3.14 Subd. 3. **Mapped trails.** ~~(a) Except as provided in sections 84.926 and 84.928, after~~  
3.15 ~~completion of official department off-highway vehicle maps for the area, a person must not~~  
3.16 ~~operate an off-highway vehicle on state land that is not mapped for the type of off-highway~~  
3.17 ~~vehicle. This paragraph does not apply to state forest land north of U.S. Highway 2 until~~  
3.18 ~~after June 30, 2009.~~

3.19 ~~(b) This subdivision does not apply to a forest access route in a managed forest north of~~  
3.20 ~~U.S. Highway 2 that the commissioner has not designated as a road or trail. Forest access~~  
3.21 ~~routes will not be signed or maintained and will not be included on published user maps of~~  
3.22 ~~the forest. Off-highway vehicle operation on forest access routes is subject to the prohibitions~~  
3.23 ~~on causing erosion, rutting, damage to trees or crops, and construction of unauthorized trails~~  
3.24 ~~contained in Minnesota Rules. Damaged routes are subject to closure to off-highway vehicle~~  
3.25 ~~use.~~

3.26 Subd. 4. **Rulemaking exemption.** Determinations of the commissioner under this section  
3.27 may be by written order published in the State Register and are exempt from the rulemaking  
3.28 provisions of chapter 14. Section 14.386 does not apply.

3.29 Subd. 5. **Exception by permit.** Notwithstanding subdivisions 1 to 4 and section 84.773,  
3.30 subdivision 1, on a case-by-case basis, the commissioner may issue a permit authorizing a  
3.31 person to operate an off-highway vehicle on individual public trails under the commissioner's  
3.32 jurisdiction during specified times and for specified purposes.

4.1 **EFFECTIVE DATE.** Subdivision 1, paragraph (c), clauses (1) and (2), are effective  
 4.2 the day following final enactment. The remainder of this section is effective August 1, 2023.

4.3 Sec. 3. **CONFORMING CHANGES TO RULE; FOREST CLASSIFICATIONS.**

4.4 (a) The commissioner of natural resources must amend Minnesota Rules, part 6100.1950,  
 4.5 to provide that, effective August 1, 2024, and in accordance with Minnesota Statutes, section  
 4.6 84.777, subdivision 1, use of off-highway vehicles is prohibited on state land administered  
 4.7 by the commissioner of natural resources and on county-administered forest land within  
 4.8 the boundaries of a state forest, except as provided in Minnesota Statutes, section 84.777.

4.9 (b) The commissioner may use the good cause exemption under Minnesota Statutes,  
 4.10 section 14.388, subdivision 1, clause (3), to adopt the rule required under this section, and  
 4.11 Minnesota Statutes, section 14.386, does not apply except as provided under Minnesota  
 4.12 Statutes, section 14.388.

4.13 Sec. 4. **MANDATORY ENVIRONMENTAL ASSESSMENT WORKSHEET**  
 4.14 **PREPARATION FOR OFF-HIGHWAY VEHICLE TRAILS.**

4.15 (a) The Environmental Quality Board must amend Minnesota Rules, part 4410.4300,  
 4.16 subpart 37, to make preparation of an environmental assessment worksheet mandatory for  
 4.17 any off-highway vehicle trail construction or expansion, except for rerouting one mile or  
 4.18 less of an existing off-highway vehicle trail.

4.19 (b) The board may use the good cause exemption under Minnesota Statutes, section  
 4.20 14.388, subdivision 1, clause (3), to adopt the rule required under this section, and Minnesota  
 4.21 Statutes, section 14.386, does not apply except as provided under Minnesota Statutes, section  
 4.22 14.388.

4.23 **EFFECTIVE DATE.** This section is effective August 1, 2023, and applies to  
 4.24 construction or expansion completed on or after that date.

4.25 Sec. 5. **COST ESTIMATE.**

4.26 By January 15, 2024, the commissioner of natural resources must submit to the chairs  
 4.27 and ranking minority members of the house of representatives and senate committees and  
 4.28 divisions with jurisdiction over environment and natural resources:

4.29 (1) an estimate of the signage, mapping, and related costs to the agency to implement  
 4.30 this act. It is the intent of the legislature to pay for these costs in the future with money from  
 4.31 the off-road vehicle account in the natural resources fund; and

5.1 (2) recommendations for amending Minnesota Statutes consistent with rules changes  
5.2 made, or anticipated to be made, under section 3.

5.3 Sec. 6. **REPEALER.**

5.4 (a) Minnesota Statutes 2022, section 84.926, subdivision 1, is repealed.

5.5 (b) Laws 2003, chapter 128, article 1, section 167, subdivision 1, as amended by Laws  
5.6 2005, First Special Session chapter 1, article 2, section 152, Laws 2007, chapter 57, article  
5.7 1, section 155, is repealed.

5.8 (c) Minnesota Rules, part 6100.0500, subpart 8d, is repealed.

5.9 **EFFECTIVE DATE.** This section is effective August 1, 2024.

**84.926 VEHICLE USE ON PUBLIC LANDS; EXCEPTIONS.**

Subdivision 1. **Exception by permit.** Notwithstanding sections 84.773, subdivision 1, and 84.777, on a case-by-case basis, the commissioner may issue a permit authorizing a person to operate an off-highway vehicle on individual public trails under the commissioner's jurisdiction during specified times and for specified purposes.

*Laws 2003, chapter 128, article 1, section 167, subdivision 1, as amended by Laws 2007, chapter 57, article 1, section 155;*

Sec. 167. **FOREST LAND OFF-HIGHWAY VEHICLE USE RECLASSIFICATION.**

Subdivision 1. **Forest classification status review.** (a) By December 31, 2006, the commissioner of natural resources shall complete a review of the forest classification status of all state forests classified as managed or limited, all forest lands under the authority of the commissioner as defined in Minnesota Statutes, section 89.001, subdivision 13, and lands managed by the commissioner under Minnesota Statutes, section 282.011. The review must be conducted on a forest-by-forest and area-by-area basis in accordance with the process and criteria under Minnesota Rules, part 6100.1950. Except as provided in paragraph (d), after each forest is reviewed, the commissioner must change ~~its~~ the status of the lands within each forest to limited or closed, and. The commissioner may classify portions of a limited forest as closed. The commissioner must also provide a similar status for each of the other areas subject to review under this section after each individual review is completed.

(b) If the commissioner determines on January 1, 2005, that the review required under this section cannot be completed by December 31, 2006, the completion date for the review shall be extended to December 31, 2008. By January 15, 2005, the commissioner shall report to the chairs of the legislative committees with jurisdiction over natural resources policy and finance regarding the status of the process required by this section.

(c) Until December 31, 2010, the state forests and areas subject to review under this section are exempt from Minnesota Statutes, section 84.777, unless an individual forest or area has been classified as limited or closed.

(d) Notwithstanding the restrictions in paragraph (a), and Minnesota Statutes, section 84.777, subdivision 1, all forest lands under the authority of the commissioner as defined in Minnesota Statutes, section 89.001, subdivision 13, and lands managed by the commissioner under Minnesota Statutes, section 282.011, that are north of U.S. Highway 2 shall maintain their present classification unless the commissioner reclassifies the lands under Minnesota Rules, part 6100.1950. The commissioner shall provide for seasonal trail closures when conditions warrant them. By December 31, 2008, the commissioner shall complete the review and designate trails on forest lands north of Highway 2 as provided in this section.

**6100.0500 DEFINITIONS.**

Subp. 8d. **Scramble area.** "Scramble area" means an area that is posted and designated to permit motor vehicles to operate unrestricted by the limitations imposed in part 6100.1950.