

CHAPTER 115

WATER POLLUTION CONTROL; SANITARY DISTRICTS

115.071 Enforcement.
115.32 Powers of board.

115.49 Cooperation between municipalities; contracts.

115.071 ENFORCEMENT.

[For text of subd 1, see M.S.1982]

Subd. 2. **Criminal penalties.** (a) **Violations of laws; orders; permits.** (1) Except as provided in subdivisions 2a and 2b, any person who willfully or negligently violates any provision of chapters 115 or 116, or any standard, regulation, variance, order, stipulation agreement, schedule of compliance or permit issued or adopted by the agency thereunder, which violation is not included in clause (2), shall upon conviction be guilty of a misdemeanor.

(2) Any person who willfully or negligently violates any effluent standard and limitation or water quality standard adopted by the agency, any National Pollutant Discharge Elimination System permit or any term or condition thereof, any duty to permit or carry out any recording, reporting, monitoring, sampling, information entry, access, copying, or other inspection or investigation requirement as provided under applicable provisions of this chapter and, with respect to the pollution of waters of the state, chapter 116, or any National Pollutant Discharge Elimination System filing requirement, shall upon conviction be punished by a fine of not less than \$2,500 in the event of a willful violation or not less than \$300 in the event of a negligent violation. In any case the penalty shall not be more than \$25,000 per day of violation or by imprisonment for not more than one year, or both. If the conviction is for conduct committed after a first conviction of such person under this subdivision, punishment shall be by fine of not more than \$50,000 per day of violation, or by imprisonment for not more than two years, or both.

(b) **Information and monitoring.** Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter and, with respect to the pollution of the waters of the state, chapter 116, or standards, regulations, orders, stipulation agreements, schedule of compliance or permits pursuant hereto, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this chapter and, with respect to the pollution of waters of the state, chapter 116, or standards, regulations, variances, orders, stipulation agreements, schedules of compliance, or

permits pursuant thereto, shall upon conviction, be punished by a fine of not more than \$10,000 per day of violation, or by imprisonment for not more than six months, or both.

(c) **Duty of law enforcement officials.** It shall be the duty of all county attorneys, sheriffs and other peace officers, and other officers having authority in the enforcement of the general criminal laws to take all action to the extent of their authority, respectively, that may be necessary or proper for the enforcement of said provisions, regulations, standards, orders, stipulation agreements, variances, schedule of compliance, or permits.

Subd. 2a. Hazardous waste; criminal penalties. A person shall be punished by a fine of not more than \$25,000 per day of violation or by imprisonment of not more than one year, or both, upon conviction of any of the following offenses:

(a) willfully or negligently violating any provision relating to hazardous waste of chapter 115 or 116, or any standard, rule, variance, order, stipulation agreement, schedule of compliance, permit, or term or condition of a permit issued or adopted by the agency under such a provision;

(b) willfully or negligently violating any duty to permit or carry out any recording, reporting, monitoring, sampling, information entry, access, copying or other inspection or investigation requirement as provided under any provision relating to hazardous waste of chapter 115 or 116, or any standard, rule, variance, order, stipulation agreement, schedule of compliance or permit issued or adopted by the agency under such a provision; or

(c) knowingly making any false material statement, representation or certification in any application, label, manifest, record, report, plan, permit or other document, or knowingly destroying, altering, or concealing any document, filed or required to be maintained with respect to hazardous waste under any provision of chapter 115 or 116, or under any standard, rule, order, stipulation agreement, schedule of compliance or permit issued or adopted by the agency under such a provision.

If the conviction is for conduct committed after a first conviction of the person under this subdivision, punishment shall be by a fine of not more than \$50,000 per day of violation or by imprisonment of not more than two years, or both.

Subd. 2b. Hazardous waste; unlawful disposal; criminal penalties. Any person who knowingly, or with reason to know, disposes of hazardous waste in a manner contrary to any provision of chapter 115 or 116, or any standard or rule adopted in accordance with those chapters relating to disposal, is guilty of a felony. Punishment shall be by a fine of not more than \$25,000 per day of violation or by imprisonment for not more than five years, or both.

For the purposes of this subdivision, the terms defined in this clause have the meanings given them.

(a) "Disposal" has the meaning given it in section 115A.03, subdivision 9.

(b) "Hazardous waste" has the meaning given it in section 116.06, subdivision 13.

Subd. 3. Civil penalties. Any person who violates any provision of chapters 115 or 116, except any provisions of chapter 116 relating to air and land pollution caused by agricultural operations which do not involve National Pollutant Discharge Elimination System permits, or of (1) any effluent standards and limitations or water quality standards, (2) any permit or term or condition thereof, (3) any National Pollutant Discharge Elimination System filing requirements, (4) any duty to permit or carry out inspection, entry or monitoring activities, or (5) any rules,

stipulation agreements, variances, schedules of compliance, or orders issued by the agency, shall forfeit and pay to the state a penalty, in an amount to be determined by the court, of not more than \$10,000 per day of violation except that if the violation relates to hazardous waste the person shall forfeit and pay to the state a penalty, in an amount to be determined by the court, of not more than \$25,000 per day of violation.

In addition, in the discretion of the court, the defendant may be required to:

(a) forfeit and pay to the state a sum which will adequately compensate the state for the reasonable value of cleanup and other expenses directly resulting from unauthorized discharge of pollutants, whether or not accidental;

(b) forfeit and pay to the state an additional sum to constitute just compensation for any loss or destruction to wildlife, fish or other aquatic life and for other actual damages to the state caused by an unauthorized discharge of pollutants.

As a defense to any of said damages, the defendant may prove that the violation was caused solely by (1) an act of God, (2) an act of war, (3) negligence on the part of the state of Minnesota, or (4) an act or failure to act which constitutes sabotage or vandalism, or any combination of the foregoing clauses.

The civil penalties and damages provided for in this subdivision may be recovered by a civil action brought by the attorney general in the name of the state.

[For text of subs 4 and 5, see M.S.1982]

History: 1983 c 373 s 1-4

115.32 POWERS OF BOARD.

[For text of subs 1 and 2, see M.S.1982]

Subd. 3. Arrest; prosecution. Violations of district ordinances may be prosecuted before any court having jurisdiction of misdemeanors. Any constable or other peace officer may make arrests for violations committed anywhere within the district in the same manner as for violations of city ordinances or for statutory misdemeanors.

All fines collected shall be deposited in the treasury of the district.

History: 1983 c 359 s 6

115.49 COOPERATION BETWEEN MUNICIPALITIES; CONTRACTS.

[For text of subs 1 to 4, see M.S.1982]

Subd. 5. Appeals. Any party to the contract aggrieved by a decision or order shall be entitled to judicial review by serving a petition for review upon the municipality making the decision or order, and filing it with proof of service in the office of the clerk of court within 30 days after the decision or order has been made and the parties notified of it. The petition shall state the nature of the petitioner's interest, and the ground or grounds upon which the petitioner contends the decision or order should be reversed or modified. The petition may be amended by leave of court, though the time for serving it has expired.

Within 20 days after service of the petition for review, the municipality shall serve upon the petitioner an answer stating its position with reference to the reversal or modification of the order or decision under review. The answer, with proof of service, shall be filed with the clerk of the district court within ten days after service. No further pleadings shall be necessary. The review shall be

noticed for trial as in the case of a civil action and shall take precedence over other civil cases for trial.

The institution of the proceeding for review shall not stay enforcement of the order or decision, but the court may order a stay upon such terms as it deems proper.

Within 30 days after service of the petition for review upon the municipality, or within such further time as the court may allow, the municipality shall transmit to the court the original or a certified copy of the entire record of the proceedings in which the order or decision under review was made. By stipulation of the parties to the review proceeding, the record may be shortened by eliminating any portion of it. The record may be typewritten or printed and the exhibits may be typewritten, photostated or otherwise reproduced, or upon motion of any party, or by order of the court, the original exhibits shall accompany the record. The court may require or permit substantial corrections or additions to the record when deemed desirable.

If, before the date set for trial, an application is made to the court for leave to present additional evidence on the issues in the case, and it is shown to the satisfaction of the court that the additional evidence is material, the court may order that the additional evidence be taken upon terms the court deems proper.

The review shall be conducted by the court without a jury. The court may affirm, reverse or modify the order or decision if the substantial rights of the petitioner have been prejudiced as a result of the order or decision being:

- (a) contrary to constitutional rights or privileges;
- (b) in excess of the statutory authority or jurisdiction of the agency, or affected by other error of law;
- (c) made or promulgated upon unlawful procedure;
- (d) unsupported by substantial evidence in view of the entire record as submitted; or
- (e) arbitrary or capricious.

Any party may appeal from the final judgment of the district court as in other civil cases.

No party to the review in any court is entitled to recover costs, attorney's fees, witness fees, or any other disbursement.

[For text of subds 6 to 9, see M.S.1982]

History: 1983 c 247 s 50