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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH SESSION

HOUSE FILE NO. 1183

February 19, 2007
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The bill was read for the first time and referred to the Committee on Environment and Natural Resources

A bill for an act

relating to natural resources; providing for community forest management; providing for control of forest and shade tree pests; amending Minnesota Statutes 2006, sections 18G.03, by adding a subdivision; 18G.11; 84D.14; 88.01, by adding a subdivision; 88.79, subdivisions 1, 2; 88.82; 89.001, subdivision 8, by adding subdivisions; 89.01, subdivisions 1, 2, 4; 89.51, subdivisions 1, 6, 9; 89.52; 89.53; 89.54; 89.55; 89.56, subdivisions 1, 3; 89.57; 89.58; 89.59; 89.60; 89.61; 97A.205; proposing coding for new law in Minnesota Statutes, chapter 89; repealing Minnesota Statutes 2006, sections 18G.16; 89.51, subdivision 8.

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

Section 1. Minnesota Statutes 2006, section 18G.03, is amended by adding a subdivision to read:

Subd. 5. **Certain species not subject to chapter 18G.** This chapter does not apply to exotic aquatic plants and wild animal species regulated under chapter 84D.

Sec. 2. Minnesota Statutes 2006, section 18G.11, is amended to read:

18G.11 COOPERATION WITH OTHER JURISDICTIONS.

Subdivision 1. **Detection and control agreements.** The commissioner may enter into cooperative agreements with organizations, persons, civic groups, governmental agencies, or other organizations to adopt and execute plans to detect and control areas infested or infected with harmful plant pests. The cooperative agreements may include provisions of joint funding of any control treatment.

If a harmful plant pest infestation or infection occurs and cannot be adequately controlled by individual persons, owners, tenants, or local units of government, the commissioner may conduct the necessary control measures independently or on a cooperative basis with federal or other units of government.

Subd. 2. **New and emerging plant pest programs.** The commissioner may make grants to municipalities or enter into contracts with municipalities, nurseries, colleges, universities, state or federal agencies in connection with new or emerging plant pests programs, including research, or any other organization with the legal authority to enter into contractual agreements.

Sec. 3. Minnesota Statutes 2006, section 84D.14, is amended to read:

84D.14 EXEMPTIONS.

This chapter does not apply to:

(1) pathogens and terrestrial arthropods regulated under sections 18G.01 to ~~18G.16~~ 18G.15; or

(2) mammals and birds defined by statute as livestock.

Sec. 4. Minnesota Statutes 2006, section 88.01, is amended by adding a subdivision to read:

Subd. 27. **Community forest.** "Community forest" means public and private trees and associated plants occurring individually, in small groups, or under forest conditions within a municipality.

Sec. 5. Minnesota Statutes 2006, section 88.79, subdivision 1, is amended to read:

Subdivision 1. **Employment of competent foresters; service to private owners.** The commissioner of natural resources may employ competent foresters to furnish owners of forest lands within the state of Minnesota who own not more than 1,000 acres of forest land, forest management services consisting of:

(1) advice in management and protection of timber, including written stewardship and forest management plans;

(2) selection and marking of timber to be cut;

(3) measurement of products;

(4) aid in marketing harvested products;

(5) provision of tree-planting equipment; ~~and~~

(6) advice in community forest management; and

(7) such other services as the commissioner of natural resources deems necessary or advisable to promote maximum sustained yield of timber and other benefits upon such forest lands.

Sec. 6. Minnesota Statutes 2006, section 88.79, subdivision 2, is amended to read:

Subd. 2. **Charge for service; receipts to special revenue fund.** The commissioner of natural resources may charge the owner receiving such services such sums as the commissioner shall determine to be fair and reasonable. The charges must account for differences in the value of timber and other benefits. The receipts from such services shall be credited to the special revenue fund and are annually appropriated to the commissioner for the purposes specified in subdivision 1.

Sec. 7. Minnesota Statutes 2006, section 88.82, is amended to read:

88.82 MINNESOTA RELEAF PROGRAM.

The Minnesota releaf program is established in the Department of Natural Resources to encourage, promote, and fund the inventory, planting, assessment, maintenance, ~~and~~ improvement, protection, and restoration of trees and forest resources in this state to enhance community forest ecosystem health and sustainability as well as to reduce atmospheric carbon dioxide levels and promote energy conservation.

Sec. 8. Minnesota Statutes 2006, section 89.001, subdivision 8, is amended to read:

Subd. 8. **Forest resources.** "Forest resources" means those natural assets of forest lands, including timber and other forest crops; biological diversity; recreation; fish and wildlife habitat; wilderness; rare and distinctive flora and fauna; air; water; soil; climate; and educational, aesthetic, and historic values.

Sec. 9. Minnesota Statutes 2006, section 89.001, is amended by adding a subdivision to read:

Subd. 15. **Forest pest.** "Forest pest" means any vertebrate or invertebrate animal, plant pathogen, or plant that is determined by the commissioner to be harmful, injurious, or destructive to forests or timber.

Sec. 10. Minnesota Statutes 2006, section 89.001, is amended by adding a subdivision to read:

Subd. 16. **Shade tree pest.** "Shade tree pest" means any vertebrate or invertebrate animal, plant pathogen, or plant that is determined by the commissioner to be harmful, injurious, or destructive to shade trees or community forests.

Sec. 11. Minnesota Statutes 2006, section 89.001, is amended by adding a subdivision to read:

Subd. 17. **Community forest.** "Community forest" has the meaning given under section 88.01, subdivision 27.

Sec. 12. Minnesota Statutes 2006, section 89.001, is amended by adding a subdivision to read:

Subd. 18. **Shade tree.** "Shade tree" means a woody perennial grown primarily for aesthetic or environmental purposes.

Sec. 13. Minnesota Statutes 2006, section 89.01, subdivision 1, is amended to read:

Subdivision 1. **Best methods.** The commissioner shall ascertain and observe the best methods of reforesting cutover and denuded lands, foresting waste lands, ~~preventing destruction~~ minimizing loss or damage of ~~forests and lands~~ forest resources by fire, forest pests, or shade tree pests, administering forests on forestry principles, encouraging private owners to preserve and grow trees or timber for commercial or other purposes, and conserving the forests around the head waters of streams and on the watersheds of the state.

Sec. 14. Minnesota Statutes 2006, section 89.01, subdivision 2, is amended to read:

Subd. 2. **General duties.** The commissioner shall execute all rules pertaining to forestry and forest protection within the jurisdiction of the state; have charge of the work of protecting all forests and lands from fire, forest pests, and shade tree pests; shall investigate the origin of all forest fires; and prosecute all violators as provided by law; shall prepare and print for public distribution an abstract of the forest fire laws of Minnesota, together with such rules as may be formulated.

The commissioner shall prepare printed notices calling attention to the dangers from forest fires and cause them to be posted in conspicuous places.

Sec. 15. Minnesota Statutes 2006, section 89.01, subdivision 4, is amended to read:

Subd. 4. **Forest plans.** The commissioner shall cooperate with the several departments of the state and federal governments and with counties, towns, municipalities, corporations, or individuals in the preparation of plans for forest protection~~,~~ and management~~,~~ and planting or replacement of trees~~,~~ in wood lots~~,~~ and community forests or on timber tracts, using such influence as time will permit toward the establishment of scientific forestry principles in the management, protection, and promotion of the forest resources of the state.

Sec. 16. Minnesota Statutes 2006, section 89.51, subdivision 1, is amended to read:

Subdivision 1. **Applicability.** For the purposes of sections 89.51 to ~~89.61~~ 89.64 the terms described in this section have the meanings ascribed to them.

Sec. 17. Minnesota Statutes 2006, section 89.51, subdivision 6, is amended to read:

Subd. 6. **Infestation.** "Infestation~~;~~" includes actual, potential, incipient, or ~~emergency~~ emergent infestation or infection by forest pests or shade tree pests.

Sec. 18. Minnesota Statutes 2006, section 89.51, subdivision 9, is amended to read:

Subd. 9. **Forest land or forest.** "Forest land" or "forest~~;~~" means land on which occurs a stand or potential stand of trees valuable for timber products, watershed or wildlife protection, recreational uses, community forest benefits, or other purposes, and shall include lands owned or controlled by the state of Minnesota.

Sec. 19. Minnesota Statutes 2006, section 89.52, is amended to read:

89.52 SURVEYS, INVESTIGATIONS.

The commissioner shall make surveys and investigations to determine the presence of infestations of forest pests or shade tree pests. For this purpose, duly designated representatives of the commissioner may enter at reasonable times on public and private lands ~~for the purpose of conducting such~~ to conduct the surveys and investigations.

Sec. 20. Minnesota Statutes 2006, section 89.53, is amended to read:

89.53 CONTROL OF FOREST PESTS AND SHADE TREE PESTS.

Subdivision 1. **Commissioner's duties; notice of control measures.** Whenever the commissioner finds that an area in the state is infested or threatened to be infested with forest pests or shade tree pests, the commissioner shall determine whether measures of control are needed ~~and are available~~, what control measures are to be applied, and the area over which the control measures shall be applied. The commissioner shall prescribe a proposed zone of infestation covering the area in which control measures are to be applied and shall publish notice of the proposal once a week, for two successive weeks in a newspaper having a general circulation in each county located in whole or in part in the proposed zone of infestation. Prescribing zones of infestation ~~is~~ and prescribing measures of control are exempt from the rulemaking provisions of chapter 14 and section 14.386 does not apply.

Subd. 2. **Notice requirements; public comment.** The notice shall include a description of the boundaries of the proposed zone of infestation, the control measures to be applied, and a time and place where municipalities and owners of forest lands or

shade trees in the zone may show cause orally or in writing why the zone and control measures should or should not be established. The commissioner shall consider any statements received in determining whether the zone shall be established and the control measures applied.

Subd. 3. **Experimental programs.** The commissioner may establish experimental programs for the control of forest pests or shade tree pests and for municipal reforestation.

Sec. 21. Minnesota Statutes 2006, section 89.54, is amended to read:

89.54 ZONES OF INFESTATION, ESTABLISHMENT.

Upon the decision by the commissioner that the establishment of a zone of infestation is necessary, the commissioner shall make a written order establishing ~~said~~ the zone, and upon making ~~said~~ the order, ~~said~~ the zone shall be established. Notice of the establishment of the zone shall thereupon be published in a newspaper having a general circulation in each county located in whole or in part in the proposed zone and posted on the Department of Natural Resources Web site.

Sec. 22. Minnesota Statutes 2006, section 89.55, is amended to read:

89.55 INFESTATION CONTROL, COSTS.

Upon the establishment of the zone of infestation, the commissioner may apply measures of infestation prevention and control on public and private forest and other lands within such zone and to any trees, ~~timber,~~ plants ~~or shrubs thereon~~, wood or wood products, or contaminated soil harboring or which may harbor the forest pests or shade tree pests. For this purpose, the duly authorized representatives of the commissioner are authorized to enter upon any lands, public or private within ~~such~~ the zone. The commissioner may enter into agreements with owners of the lands in the zone covering the control work on their lands, and fixing the pro rata basis on which the cost of ~~such~~ the work will be shared between the commissioner and ~~said~~ the owner.

Sec. 23. Minnesota Statutes 2006, section 89.56, subdivision 1, is amended to read:

Subdivision 1. **Statement of expenses; cost to owners.** At the end of each fiscal year and upon completion of the infestation control measures in any zone of infestation, the commissioner shall prepare a certified statement of expenses incurred in carrying out ~~such~~ the measures, including expenses of owners covered by agreements entered into pursuant to section 89.55. The statement shall show the amount ~~which~~ that the commissioner determines to be ~~its~~ the commissioner's share of the expenses. The share of the commissioner may include funds and the value of other contributions made available

by the federal government and other cooperators. The balance of ~~such~~ the costs shall constitute a charge on an acreage basis as provided herein against the owners of lands in the zone containing trees ~~valuable or potentially valuable for commercial timber purposes and~~ affected or likely to be affected by the forest pests or shade tree pests for which control measures were conducted. In fixing the rates at which charges shall be made against each owner, the commissioner shall consider the present commercial value of the trees on the land, the present and potential benefits to ~~such~~ the owner from the application of the control measures, ~~and~~ the cost of applying ~~such~~ the measures to the land, and such other factors as in the discretion of the commissioner will enable determination of an equitable distribution of the cost to all ~~such~~ owners. No charge shall be made against owners to the extent that they have individually or as members of a cooperative association contributed funds, supplies, or services pursuant to agreement under this section.

Sec. 24. Minnesota Statutes 2006, section 89.56, subdivision 3, is amended to read:

Subd. 3. **Collection.** The unpaid charges assessed under sections 89.51 to ~~89.61~~ 89.64 and the actions of the commissioner on any protests filed pursuant to subdivision 2, shall be reported to the tax levying authority for the county in which the lands for which the charges are assessed are situated and shall be made a public record. Any charges finally determined to be due shall become a special assessment and shall be payable in the same manner and with the same interest and penalty charges and with the same procedure for collection as apply to ad valorem property taxes. Upon collection of the charges, the county treasurer shall forthwith cause the amounts thereof to be paid to the forest pest and shade tree pest control ~~fund~~ account created by section 89.58. Any unpaid charge or lien against the lands shall not be affected by the sale thereof or by dissolution of the zone of infestation.

Sec. 25. Minnesota Statutes 2006, section 89.57, is amended to read:

89.57 DISSOLUTION OF ZONE INFESTATION.

Whenever the commissioner shall determine that forest pest or shade tree pest control work within an established zone of infestation is no longer necessary or feasible, the commissioner shall dissolve the zone.

Sec. 26. Minnesota Statutes 2006, section 89.58, is amended to read:

89.58 FOREST PEST AND SHADE TREE PEST CONTROL ACCOUNT.

All money collected under the provisions of sections 89.51 to ~~89.61~~ 89.64, together with such money as may be appropriated by the legislature or allocated by the Legislative

Advisory Commission for the purposes of sections 89.51 to ~~89.61~~ 89.64, and such money as may be contributed or paid by the federal government, or any other public or private agency, organization or individual, shall be deposited in the state treasury, to the credit of the forest pest and shade tree pest control account, which account is hereby created, and any moneys therein are appropriated to the commissioner for use in carrying out the purposes ~~hereof~~ of sections 89.51 to 89.64.

Sec. 27. Minnesota Statutes 2006, section 89.59, is amended to read:

89.59 COOPERATION.

The commissioner may cooperate with the United States or agencies thereof, other agencies of the state, county or municipal governments, agencies of neighboring states, or other public or private organizations or individuals and may accept such funds, equipment, supplies, or services from cooperators and others as ~~it~~ the commissioner may provide in agreements with the United States or its agencies for matching of federal funds as required under laws of the United States relating to forest pests and shade tree pests.

Sec. 28. Minnesota Statutes 2006, section 89.60, is amended to read:

89.60 DUTIES, RULES; COMMISSIONER.

The commissioner is authorized to employ personnel in accordance with the laws of this state, to procure necessary equipment, supplies, and service, to enter into contracts, to provide funds to any agency of the United States for work or services under sections 89.51 to ~~89.61~~ 89.64, and to designate or appoint, as ~~its~~ the commissioner's representatives, employees of ~~its~~ cooperators, including employees of the United States or any agency thereof. The commissioner may prescribe rules for carrying out the purposes ~~hereof~~ of this section.

Sec. 29. Minnesota Statutes 2006, section 89.61, is amended to read:

89.61 ACT SUPPLEMENTAL.

Provisions of sections 89.51 to ~~89.61~~ 89.64 are supplementary to and not to be construed to repeal existing legislation.

Sec. 30. **[89.62] SHADE TREE PEST CONTROL; GRANT PROGRAM.**

Subdivision 1. **Grants.** The commissioner may make grants to aid in the control of a shade tree pest. To be eligible, a grantee must have a pest control program approved by the commissioner that:

(1) defines tree ownership and who is responsible for the costs associated with control measures;

(2) defines the zone of infestation within which the control measures are to be applied;

(3) includes a tree inspector certified under section 89.63 and having the authority to enter and inspect private lands;

(4) has the means to enforce measures needed to limit the spread of shade tree pests; and

(5) provides that grant money received will be deposited in a separate fund to be spent only for the purposes authorized by this section.

Subd. 2. **Grant eligibility.** The following are eligible for grants under this section:

(1) a home rule charter or statutory city or a town that exercises municipal powers under section 368.01 or any general or special law;

(2) a special park district organized under chapter 398;

(3) a special-purpose park and recreation board;

(4) a soil and water conservation district;

(5) a county; or

(6) any other organization with the legal authority to enter into contractual agreements.

Subd. 3. **Rules; applicability to municipalities.** The rules and procedures adopted under this chapter by the commissioner apply in a municipality unless the municipality adopts an ordinance determined by the commissioner to be more stringent than the rules and procedures of the commissioner. The rules and procedures of the commissioner or the municipality apply to all state agencies, special purpose districts, and metropolitan commissions as defined in section 473.121, subdivision 5a, that own or control land adjacent to or within a zone of infestation.

Sec. 31. **[89.63] CERTIFICATION OF TREE INSPECTORS.**

(a) The governing body of a municipality may appoint a qualified tree inspector. Two or more municipalities may jointly appoint a tree inspector for the purpose of administering their respective pest control programs.

(b) Upon a determination by the commissioner that a candidate for the position of tree inspector is qualified, the commissioner shall issue a certificate of qualification to the tree inspector. The certificate is valid for one year. A person certified as a tree inspector by the commissioner may enter and inspect any public or private property that might harbor forest pests or shade tree pests. The commissioner shall offer an annual tree

inspector certification workshop, upon completion of which participants are qualified as tree inspectors.

(c) The commissioner may suspend and, upon notice and hearing, decertify a tree inspector if the tree inspector fails to act competently or in the public interest in the performance of duties.

Sec. 32. **[89.64] EXEMPTIONS.**

This chapter does not supersede the authority of the Department of Agriculture under chapter 18G.

Sec. 33. Minnesota Statutes 2006, section 97A.205, is amended to read:

97A.205 ENFORCEMENT OFFICER POWERS.

An enforcement officer is authorized to:

(1) execute and serve court issued warrants and processes relating to wild animals, wild rice, public waters, water pollution, conservation, and use of water, in the same manner as a sheriff;

(2) enter any land to carry out the duties and functions of the division;

(3) make investigations of violations of the game and fish laws;

(4) take an affidavit, if it aids an investigation;

(5) arrest, without a warrant, a person who is detected in the actual violation of the game and fish laws, a provision of chapters 84, 84A, 84D, 85, 86A, 88 to 97C, 103E, 103F, 103G, sections 86B.001 to 86B.815, 89.51 to ~~89.61~~ 89.64; or 609.66, subdivision 1, clauses (1), (2), (5), and (7); and 609.68; and

(6) take an arrested person before a court in the county where the offense was committed and make a complaint.

Nothing in this section grants an enforcement officer any greater powers than other licensed peace officers.

Sec. 34. **REPEALER.**

Minnesota Statutes 2006, sections 18G.16; and 89.51, subdivision 8, are repealed.