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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 2553

03/18/2019 Authored by Bernardy, Hornstein and Elkins
The bill was read for the first time and referred to the Committee on Ways and Means

1.1 A bill for an act
1.2 relating to transportation; regulating highway right-of-way mowing practices;
1.3 providing for pollinator habitat management; appropriating money; amending
1.4 Minnesota Statutes 2018, sections 160.23; 160.232.

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

1.6 Section 1. Minnesota Statutes 2018, section 160.23, is amended to read:

1.7 160.23 DESTRUCTION OF NOXIOUS WEEDS.

1.8 Road authorities, including road authorities of cities shall cause, must cut down, eradicate,
1.9 or otherwise destroy all noxious weeds on their respective highways and streets to be cut
1.10 down or otherwise destroyed or eradicated owned or controlled by the road authority. The
1.11 cutting, eradication, or destruction must occur as often as may be is necessary to prevent
1.12 the ripening or scattering of seed and other propagating parts of such the noxious weeds.
1.13 When destroying noxious weeds within a right-of-way, a road authority must use the most
1.14 effective integrated pest management method that is minimally disruptive to pollinators. If
1.15 noxious weed conditions do not merit full treatment of the entire right-of-way, spot treatment
1.16 must be used.

1.17 Sec. 2. Minnesota Statutes 2018, section 160.232, is amended to read:

1.18 160.232 MOWING DITCHES OUTSIDE CITIES; POLLINATOR
1.19 MANAGEMENT.

1.20 Subdivision 1. Definitions. (a) For purposes of this section, the following terms have
1.21 the meanings given.

2.1 (b) "Integrated roadside vegetation management" means an approach to right-of-way
 2.2 maintenance that combines a variety of techniques with sound ecological principles to
 2.3 establish and maintain safe, healthy, and functional roadsides. Integrated roadside vegetation
 2.4 management includes but is not limited to judicious use of herbicides, spot mowing,
 2.5 biological control, prescribed burning, mechanical tree and brush removal, erosion prevention
 2.6 and treatment, and prevention and treatment of other right-of-way disturbances.

2.7 (c) "Pollinator" has the meaning given in section 18B.01, subdivision 20a.

2.8 Subd. 2. **Applicability.** (a) The commissioner must comply with the provisions of this
 2.9 section with respect to trunk highways and other roadway rights-of-way owned or controlled
 2.10 by the Department of Transportation.

2.11 (b) Other road authorities, including counties, municipalities, and other local government
 2.12 units, may and are encouraged to comply with the provisions of this section with respect to
 2.13 highway and other roadway rights-of-way owned or controlled by the road authority.

2.14 Subd. 3. **Right-of-way mowing; maintenance.** (a) To provide enhanced roadside habitat
 2.15 for pollinators, nesting birds, and other small wildlife, a road ~~authorities may not mow or~~
 2.16 ~~the~~ authority is prohibited from mowing, burning, tilling, or haying the right-of-way of a
 2.17 highway located outside of a home rule charter or statutory city except as ~~allowed in~~ provided
 2.18 by this section and section 160.23.

2.19 (b) On any highway, ~~the first eight feet~~ an area equal to the width of the mowing
 2.20 equipment away from the road surface, or shoulder if one exists, may be mowed ~~at any time~~
 2.21 as necessary for use as a safety zone for vehicles to stop on the roadway or to maintain sight
 2.22 distance for safety. The mowing equipment may make only one pass over the mowed area.

2.23 (c) ~~One side of an entire right-of-way may be mowed after July 31. From August 31 to~~
 2.24 ~~the following July 31, the entire right-of-way may only be mowed~~ once per year. Mowing
 2.25 more than once per year is allowed if the road authority demonstrates via a management
 2.26 plan that doing so is necessary for safety or maintenance reasons, ~~but may not be mowed~~
 2.27 ~~to a height of less than 12 inches. A road authority is prohibited from mowing both sides~~
 2.28 of an entire right-of-way during the same calendar year unless allowed by a management
 2.29 plan.

2.30 (d) A right-of-way may be mowed as necessary to maintain sight distance for safety and
 2.31 ~~may be mowed at other times under rules of the commissioner, or by ordinance of a local~~
 2.32 ~~road authority not conflicting with the rules of the commissioner.~~

3.1 ~~(e)~~ (d) A right-of-way may be mowed, burned, ~~or tilled,~~ or hayed to prepare the
 3.2 right-of-way ~~for the establishment of~~ to establish or maintain permanent vegetative cover
 3.3 ~~or for prairie vegetation management,~~ including forbs and native flowering plants.

3.4 ~~(f)~~ When feasible, road authorities are encouraged to utilize low maintenance, native
 3.5 vegetation that reduces the need to mow, provides wildlife habitat, and maintains public
 3.6 safety.

3.7 ~~(g)~~ The commissioner of natural resources shall cooperate with the commissioner of
 3.8 transportation to provide enhanced roadside habitat for nesting birds and other small wildlife.

3.9 **Subd. 4. Pollinator habitat management practices; right-of-way mapping.** (a) In
 3.10 collaboration with the commissioners of agriculture and natural resources and the Board of
 3.11 Water and Soil Resources, the commissioner of transportation must establish pollinator
 3.12 habitat management best practices for public highway and roadway rights-of-way in
 3.13 Minnesota. The pollinator habitat management practices must include the establishment of
 3.14 native plantings and designated wildflower highways where mowing, tilling, burning, or
 3.15 haying is prohibited.

3.16 (b) When feasible, road authorities are encouraged to utilize low maintenance, native
 3.17 vegetation that reduces the need to mow, provides wildlife habitat, and maintains public
 3.18 safety. The commissioner of natural resources must cooperate with the commissioner of
 3.19 transportation to provide enhanced roadside habitat for nesting birds, pollinators, and other
 3.20 small wildlife.

3.21 (c) The commissioner of transportation must make available on a public website maps
 3.22 and management plans indicating where trunk highway rights-of-way subject to this section
 3.23 exist, including any newly constructed rights-of-way.

3.24 **Subd. 5. Pollinator habitat management performance plan.** (a) The commissioner
 3.25 must develop and implement a performance-based pollinator habitat management plan for
 3.26 the trunk highway system to improve the condition of existing pollinator habitat and enhance
 3.27 the effectiveness of pollinator habitat management. The performance plan must include
 3.28 strategies to achieve best practices for pollinator habitat management within all trunk
 3.29 highway rights-of-way.

3.30 (b) At a minimum, the performance plan must:

3.31 (1) measure, enhance, and restore acres of trunk highway rights-of-way as prairie lands,
 3.32 wetlands, and recreational lands such as parks, trails, and open space;

4.1 (2) measure and reduce pounds of pesticides and other chemicals applied within trunk
 4.2 highway rights-of-way;

4.3 (3) measure and reduce tons of greenhouse gases produced by the Department of
 4.4 Transportation mowing within trunk highway rights-of-way;

4.5 (4) measure and reduce energy consumption due to the Department of Transportation
 4.6 mowing within trunk highway rights-of-way;

4.7 (5) measure financial penalties and settlements paid due to environmental damage,
 4.8 worker safety violations, and worker health violations due to mowing; and

4.9 (6) reduce the number of instances of environmental damage, worker safety violations,
 4.10 and worker health violations due to mowing.

4.11 (c) The commissioner must include annual performance targets to be achieved by each
 4.12 district of the department for each measure under paragraph (b). Additional predictive and
 4.13 consequential performance measures and annual performance targets may be identified in
 4.14 collaboration with the public.

4.15 (d) Annually by December 15, the commissioner must submit the pollinator habitat
 4.16 management plan, including information detailing the department's progress on implementing
 4.17 the plan and an annual investment plan for each district of the department, to the chairs and
 4.18 ranking minority members of the legislative committees having jurisdiction over
 4.19 transportation policy and finance. The pollinator habitat management plan must be signed
 4.20 by the commissioner of transportation.

4.21 **Sec. 3. APPROPRIATION; TRUNK HIGHWAY RIGHTS-OF-WAY**
 4.22 **MANAGEMENT PLANS.**

4.23 \$..... in fiscal year 2020 is appropriated from the trunk highway fund to the commissioner
 4.24 of transportation for publicizing trunk highway rights-of-way management plans under
 4.25 Minnesota Statutes, section 160.232, subdivision 4.