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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. **3135**

03/17/2014 Authored by Hornstein

The bill was read for the first time and referred to the Committee on Environment and Natural Resources Policy

03/24/2014 Adoption of Report: Amended and re-referred to the Committee on Transportation Finance

1.1 A bill for an act
1.2 relating to transportation; public safety; environment; providing for railroad
1.3 and pipeline hazardous materials safety and emergency response preparedness;
1.4 establishing requirements related to preparedness; amending Minnesota
1.5 Statutes 2012, sections 115E.01, by adding subdivisions; 115E.08, by adding a
1.6 subdivision; proposing coding for new law in Minnesota Statutes, chapter 115E.

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

1.8 Section 1. Minnesota Statutes 2012, section 115E.01, is amended by adding a
1.9 subdivision to read:

1.10 Subd. 7a. **Listed sensitive area.** "Listed sensitive area" means an area or location
1.11 listed as an area of special economic or environmental importance in an Area Contingency
1.12 Plan or a Sub-Area Contingency Plan prepared under the federal Clean Water Act, United
1.13 States Code, title 33, section 1321(j)(4).

1.14 Sec. 2. Minnesota Statutes 2012, section 115E.01, is amended by adding a subdivision
1.15 to read:

1.16 Subd. 7b. **Local incident commander.** "Local incident commander" means the
1.17 most senior official at the site of a discharge who has the responsibility for controlling
1.18 operations at the site, beginning with the senior officer on the first piece of responding
1.19 emergency equipment to arrive at the discharge site. As more senior officers arrive at the
1.20 discharge site, the position of local incident commander is passed up the line of authority.

1.21 Sec. 3. Minnesota Statutes 2012, section 115E.01, is amended by adding a subdivision
1.22 to read:

2.1 Subd. 11d. **Unit train.** "Unit train" means a train with more than 25 tanker railcars
2.2 carrying oil or hazardous substance cargo.

2.3 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.4 Sec. 4. **[115E.042] PREPAREDNESS AND RESPONSE FOR CERTAIN**
2.5 **RAILROADS AND PIPELINES.**

2.6 Subdivision 1. **Application.** In addition to the requirements of section 115E.04,
2.7 a person who owns or operates railroad car rolling stock transporting a unit train must
2.8 comply with this section. A person who owns or operates pipeline facilities and is required
2.9 to show specific preparedness under section 115E.03, subdivision 2, must comply with
2.10 this section as applicable and with the provisions of chapters 299F and 299J.

2.11 Subd. 2. **Training.** (a) Each railroad must offer training to each fire department
2.12 having jurisdiction along the route of unit trains. Initial training under this subdivision
2.13 must be offered to each fire department by June 30, 2016, and refresher training must be
2.14 offered to each fire department at least once every three years thereafter.

2.15 (b) The training must address the general hazards of oil and hazardous substances,
2.16 techniques to assess hazards to the environment and to the safety of responders and the
2.17 public, factors a local incident commander must consider in determining whether to
2.18 attempt to suppress a fire or to evacuate the public and emergency responders from an
2.19 area, and other strategies for initial response by local emergency responders. The training
2.20 must include suggested protocol or practices for local responders to safely accomplish
2.21 these tasks.

2.22 Subd. 3. **Coordination.** Beginning June 30, 2015, each railroad and pipeline
2.23 company must communicate at least annually with each county or city emergency
2.24 manager and a senior fire department officer of each fire department having jurisdiction
2.25 along the route of a unit train or a pipeline to ensure coordination of emergency response
2.26 activities between the railroad or pipeline company and local responders.

2.27 Subd. 4. **Response capabilities, time limits, drills.** (a) Following a discharge, a
2.28 railroad or pipeline company must deliver and deploy sufficient equipment and trained
2.29 personnel to contain and recover discharged oil or hazardous substances and to protect the
2.30 environment and public safety.

2.31 (b) Within one hour of a discharge, a railroad or pipeline company must provide a
2.32 qualified company employee to advise the local incident commander. The employee may
2.33 be made available by telephone, and must be authorized to deploy all necessary response
2.34 resources of the railroad or pipeline company.

3.1 (c) Within three hours of a discharge, a railroad or pipeline company must be
3.2 capable of delivering monitoring equipment and a trained operator to a local incident
3.3 commander to assist in protection of responder and public safety. A plan to ensure
3.4 delivery of monitoring equipment and an operator to a discharge site must be provided
3.5 each year to the commissioner of public safety.

3.6 (d) Within three hours of a discharge, a railroad or pipeline company must provide
3.7 qualified personnel at a discharge site to assess the discharge and to advise the local
3.8 incident commander.

3.9 (e) A railroad or pipeline company must be capable of deploying a containment
3.10 boom from land across sewer outfalls, creeks, ditches, and other places where oil or
3.11 hazardous substances may drain, in order to contain leaked material before it reaches those
3.12 resources. The arrangement to provide the containment boom and staff may be made by:

3.13 (1) training and caching equipment with local jurisdictions;

3.14 (2) training and caching equipment with a fire mutual-aid group;

3.15 (3) means of an industry cooperative or mutual-aid group;

3.16 (4) deployment of a contractor;

3.17 (5) deployment of a response organization under state contract; or

3.18 (6) other dependable means acceptable to the Pollution Control Agency.

3.19 (f) Each arrangement under paragraph (e) must be confirmed each year. Each
3.20 arrangement must be tested by drill at least once every five years.

3.21 (g) Within eight hours of a discharge, a railroad or pipeline company must be
3.22 capable of delivering and deploying oil spill containment booms, boats, oil recovery
3.23 equipment, trained staff, and all other materials needed to provide:

3.24 (1) on-site containment and recovery of a volume of oil equal to ten percent of the
3.25 calculated worst case discharge at any location along the route; and

3.26 (2) protection of listed sensitive areas and potable water intakes within one mile of
3.27 a discharge site and within eight hours of water travel time downstream in any river
3.28 or stream that the right-of-way intersects.

3.29 (h) Within 60 hours of a discharge, a railroad or pipeline company must be capable
3.30 of delivering and deploying additional oil spill containment booms, boats, oil recovery
3.31 equipment, trained staff, and all other materials needed to provide containment and
3.32 recovery of a worst-case oil discharge and to protect listed sensitive areas and potable
3.33 water intakes at any location along the route.

3.34 (i) Each railroad and pipeline must conduct at least one full-scale oil containment,
3.35 recovery, and sensitive area protection drill every three years, at a location and time
3.36 chosen by the Pollution Control Agency.

4.1 Subd. 5. **Prevention and response plans; approval.** (a) By June 30, 2015, a
4.2 railroad or pipeline company shall submit the prevention and response plan required under
4.3 section 115E.04 as necessary to comply with the requirements of this section, and submit
4.4 the plan to the commissioner of the Pollution Control Agency on a form designated by
4.5 the commissioner.

4.6 (b) By June 30 of every third year following a plan submission under this
4.7 subdivision, a railroad and pipeline company must update and resubmit the prevention and
4.8 response plan for approval by the commissioner.

4.9 **EFFECTIVE DATE.** Subdivisions 1 to 3 and 5 are effective the day following final
4.10 enactment. Subdivision 4 is effective July 1, 2015.

4.11 Sec. 5. Minnesota Statutes 2012, section 115E.08, is amended by adding a subdivision
4.12 to read:

4.13 Subd. 3a. **Railroad and pipeline preparedness; pollution control.** The Pollution
4.14 Control Agency shall carry out environmental protection activities related to railroad
4.15 and pipeline discharge preparedness. Duties under this subdivision include, but are not
4.16 limited to:

4.17 (1) assisting local emergency managers and fire officials in understanding the
4.18 hazards of oil and hazardous substances, as well as general strategies for containment and
4.19 environmental protection;

4.20 (2) assisting railroads and pipeline companies to identify natural resources and
4.21 sensitive areas, and to devise strategies to contain and recover oil and hazardous
4.22 substances from land and waters along routes;

4.23 (3) facilitating cooperation between railroad and pipeline companies for mutual aid
4.24 arrangements that provide training, staff, and equipment as required by this chapter;

4.25 (4) participating in drills and training sessions;

4.26 (5) reviewing each railroad and pipeline company's prevention and response plans
4.27 for compliance with the requirements of this chapter, and assessing each company's
4.28 readiness to protect the environment;

4.29 (6) conducting inspections and drills as necessary to determine the railroad or
4.30 pipeline company's compliance with the requirements of this chapter and ability to protect
4.31 the environment; and

4.32 (7) conducting follow-up corrective action directives, orders, and enforcement as
4.33 necessary based on a finding of inadequate environmental protection preparedness.

4.34 **EFFECTIVE DATE.** This section is effective the day following final enactment.