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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 3389

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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 mining; providing for denial and revocation of nonferrous mining permit,
1.3 license, or lease to bad actors; requiring rulemaking; proposing coding for new
1.4 law in Minnesota Statutes, chapter 93.

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

1.6 Section 1. **[93.005] NONFERROUS ORE PERMITS, LICENSES, AND LEASES;**
1.7 **BAD ACTORS.**

1.8 Subdivision 1. Denying permit, license, or lease. (a) To protect the public health and
1.9 safety and the environment of the state, the commissioner of natural resources must not
1.10 issue, renew, assign, approve, or transfer a permit, license, or lease to mine nonferrous ore
1.11 under this chapter to an applicant that:

1.12 (1) in the last 15 years, has been convicted of violating a state, federal, Tribal, or foreign
1.13 law for the protection of the natural environment;

1.14 (2) is party to or the subject of a consent decree, consent agreement and final order,
1.15 stipulated penalty, or administrative order on consent entered in the last 15 years in
1.16 connection with a civil administrative action or civil judicial action for violating an
1.17 environmental law;

1.18 (3) in the last 15 years, has been convicted of violating a state, federal, Tribal, or foreign
1.19 law against bribery or corruption, including but not limited to the federal Foreign Corrupt
1.20 Practices Act;

2.1 (4) in the last 15 years, has entered into a settlement resolving claims of violating a state,
2.2 federal, Tribal, or foreign law against bribery or corruption, including but not limited to the
2.3 federal Foreign Corrupt Practices Act;

2.4 (5) is found by the commissioner to be a subsidiary, affiliate, or related party to a business
2.5 concern described under clauses (1) to (4);

2.6 (6) is found by the commissioner to have common ownership with a business concern
2.7 described under clauses (1) to (4);

2.8 (7) is found by the commissioner to hold, or previously to have held, a beneficial business
2.9 interest in a business concern that:

2.10 (i) is required to be listed on the applicant's disclosure statement under subdivision 2;
2.11 and

2.12 (ii) is a person described under clauses (1) to (4); or

2.13 (8) is found by the commissioner to employ as an officer or director a person described
2.14 under clauses (1) to (4).

2.15 (b) The commissioner must determine whether to deny an application according to
2.16 paragraph (a) no later than six months after a person submits a disclosure statement under
2.17 subdivision 2.

2.18 (c) The commissioner must not deny an application under paragraph (a) if the applicant
2.19 demonstrates by clear and convincing evidence that the applicant has been rehabilitated.

2.20 Factors that the commissioner may consider in reviewing the evidence include:

2.21 (1) the nature and seriousness of the offense;

2.22 (2) the applicant's relationship to the person that committed the offense;

2.23 (3) the circumstances under which the offense occurred;

2.24 (4) the date of the offense;

2.25 (5) whether the offense was an isolated or repeated incident;

2.26 (6) the nature and responsibility of the position a convicted individual would hold;

2.27 (7) the age of a convicted individual when the offense was committed;

2.28 (8) the history and nature of the applicant's environmental, anticorruption, and federal
2.29 Foreign Corrupt Practices Act compliance program, if any; and

3.1 (9) when an applicant is a business concern, the existence of formal management controls
3.2 to minimize and prevent the occurrence of violations and activities that will or may result
3.3 in denial of an application under paragraph (a), clause (1), and whether the applicant has
3.4 formalized those controls as a result of a revocation or denial of a permit or license.
3.5 Management controls include but are not limited to instituting environmental auditing
3.6 programs to help ensure the adequacy of internal systems to achieve, maintain, and monitor
3.7 compliance with applicable environmental laws and standards.

3.8 Subd. 2. **Disclosure statement.** (a) For purposes of enforcing subdivision 1, a person
3.9 submitting an application to obtain, renew, assign, or transfer a permit, license, or lease to
3.10 mine nonferrous ore must submit a disclosure statement according to paragraph (b) to the
3.11 commissioner when the application is submitted.

3.12 (b) A disclosure statement must include:

3.13 (1) in the case of an individual, the full name and business address of the individual;

3.14 (2) in the case of a business concern:

3.15 (i) the full name and business address of any officers, directors, partners, or key
3.16 employees of the business concern;

3.17 (ii) the full name and business address of all individuals or entities holding equity in or
3.18 debt liability of the business concern or, if the business concern is a publicly traded
3.19 corporation, all individuals or entities holding more than five percent of the equity in or
3.20 debt liability of the business concern; and

3.21 (iii) the full name and business address of any parent, subsidiary, or affiliate of the
3.22 business concern;

3.23 (3) the full name and business address of all officers, directors, or partners of any business
3.24 concern disclosed in the statement and the names and addresses of all individuals or entities
3.25 holding equity in or debt liability of any disclosed business concern or, if the business
3.26 concern is a publicly traded corporation, all individuals or entities holding more than five
3.27 percent of the equity in or debt liability of the business concern;

3.28 (4) a listing and explanation of any notice of violation or prosecution, administrative
3.29 order, or license or permit revocation that:

3.30 (i) was issued by a state, federal, Tribal, or foreign authority in the 15 years immediately
3.31 preceding submission of the disclosure statement against a person identified under clauses
3.32 (1) to (3) for violating an environmental law or the federal Foreign Corrupt Practices Act;
3.33 and

4.1 (ii) is pending at the time the disclosure statement is submitted or resulted in a finding,
4.2 consent decree, consent agreement and final order, stipulated penalty, administrative order
4.3 on consent, or other settlement;

4.4 (5) a listing and explanation of any civil administrative action or civil judicial action
4.5 that:

4.6 (i) occurred in the 15 years immediately preceding submission of the disclosure statement
4.7 against a person identified under clauses (1) to (3) for violating an environmental law or
4.8 the federal Foreign Corrupt Practices Act; and

4.9 (ii) is pending at the time the disclosure statement is submitted or resulted in a finding,
4.10 consent decree, consent agreement and final order, stipulated penalty, administrative order
4.11 on consent, or other settlement;

4.12 (6) a listing and explanation of any judgment of liability or conviction that was rendered
4.13 under a state, federal, Tribal, or foreign law or local ordinance for the protection of the
4.14 natural environment or under the federal Foreign Corrupt Practices Act against a person
4.15 identified under clauses (1) to (3); and

4.16 (7) any other information the commissioner may require that relates to the competency,
4.17 reliability, or good character of the applicant.

4.18 (c) If any information required to be included in a disclosure statement changes after an
4.19 applicant submits a disclosure statement or if the commissioner requires additional
4.20 information after an applicant submits a disclosure statement, the applicant must provide
4.21 the information to the commissioner in writing no later than 30 days after the change or
4.22 addition.

4.23 **Subd. 3. Enforcement; public records.** (a) The commissioner must enforce subdivision
4.24 1 by examining the disclosure statements required under subdivision 2 and by such other
4.25 means, including record and field investigations, as the commissioner considers necessary.

4.26 (b) A person that applies to obtain, renew, assign, or transfer a permit, license, or lease
4.27 to mine nonferrous ore under this chapter must, upon request of the commissioner:

4.28 (1) furnish any information relating to the application and disclosure statement; and

4.29 (2) permit the commissioner at all reasonable times to have access to and to copy all
4.30 records relating to the application and disclosure statement.

4.31 (c) Except as provided under chapter 13, disclosure statements, records, and other
4.32 information obtained from a person under this section must be available to the public.

5.1 Subd. 4. **Revocation.** The commissioner may refuse to renew or may suspend or revoke
5.2 a permit, license, or lease subject to subdivision 1, paragraph (a), of a person that fails to
5.3 disclose or falsely states any information required under subdivision 2.

5.4 Subd. 5. **Contested case hearing.** A person whose application is denied under this
5.5 section must be granted a contested case hearing under chapter 14 if the person makes a
5.6 written request for a hearing to the commissioner no later than 30 days after the
5.7 commissioner's denial.

5.8 Subd. 6. **Rulemaking.** The commissioner must adopt rules to administer this section.