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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. **4932**

03/14/2024 Authored by Hornstein

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 solid waste; providing for management of wasted food; proposing coding
1.3 for new law in Minnesota Statutes, chapter 115A.

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

1.5 Section 1. **[115A.395] DEFINITIONS.**

1.6 Subdivision 1. **Applicability.** For purposes of sections 115A.395 to 115A.3953, the
1.7 terms in this section have the meanings given.

1.8 Subd. 2. **Anaerobic digestion.** "Anaerobic digestion" means the process through which
1.9 microorganisms break down organic material, such as yard waste, food, food waste, or
1.10 compostable materials, in the absence of oxygen and generate usable products such as biogas
1.11 and digestate.

1.12 Subd. 3. **Biogas.** "Biogas" means a gas that is:

1.13 (1) produced when organic materials, such as manure and food waste, break down; and

1.14 (2) mainly composed of methane and carbon dioxide, with various amounts of other
1.15 gases.

1.16 Subd. 4. **Composting.** "Composting" means controlled, aerobic biological decomposition
1.17 of organic material, such as yard waste, food, food waste, or compostable materials, to
1.18 produce a nutrient-rich material.

1.19 Subd. 5. **Digestate.** "Digestate" means the solid or liquid residual material left after the
1.20 anaerobic digestion process.

2.1 Subd. 6. **Food.** "Food" means any raw, cooked, processed, or prepared substance,
2.2 beverage, or ingredient used or intended for human consumption.

2.3 Subd. 7. **Food recovery organization.** "Food recovery organization" means a person
2.4 that primarily engages in collecting, transporting, or distributing surplus food that is
2.5 ultimately provided to humans for consumption, such as a food pantry, food bank, soup
2.6 kitchen, or shelter.

2.7 Subd. 8. **Food scraps.** "Food scraps" means inedible food, trimmings from preparing
2.8 food, surplus food that is not donated, and food-processing waste. Food scraps does not
2.9 include used cooking oil, grease, or any food that is subject to a recall.

2.10 Subd. 9. **Food waste.** "Food waste" means all discarded food, food subject to
2.11 governmental or producer recall due to food safety, and food scraps.

2.12 Subd. 10. **Land application of food waste.** "Land application of food waste" means
2.13 the direct application of food waste from food manufacturing or processing activities onto
2.14 or below the surface of the land to enhance soil health.

2.15 Subd. 11. **Leave crops unharvested.** "Leave crops unharvested" means to not harvest
2.16 crops that are otherwise ready for harvesting and to instead leave them in the field or till
2.17 them into the soil.

2.18 Subd. 12. **Receiving organization.** "Receiving organization" means the person accepting
2.19 surplus food or food waste from the person that generated the surplus food or food waste
2.20 for the purpose of managing or disposing of the surplus food or food waste, including but
2.21 not limited to a food recovery organization, composting facility, or landfill. Receiving
2.22 organization does not include a person transporting the surplus food or food waste to the
2.23 receiving organization, such as a food recovery transportation service provider or a solid
2.24 waste collector or transporter.

2.25 Subd. 13. **Sampling weight and scaling.** "Sampling weight and scaling" means
2.26 quantifying the total weight of surplus food or food waste generated or managed by a person
2.27 by:

2.28 (1) weighing at quarterly intervals in a calendar year the total weight of surplus food or
2.29 food waste generated or managed daily by the person over the course of a week, reflective
2.30 of the person's typical operation schedule, to calculate a weekly average; and

2.31 (2) scaling the measurement obtained under clause (1) in a fixed ratio to estimate the
2.32 total weight of surplus food or food waste generated or managed by the person over a period,
2.33 such as a month or year.

3.1 Subd. 14. **Surplus food.** "Surplus food" means food that is not sold or used and that is
 3.2 still safe to be consumed. Surplus food does not include food damaged by pests, mold,
 3.3 bacteria, or other contamination or food subject to governmental or producer recall due to
 3.4 food safety.

3.5 Subd. 15. **Tracking volume and scaling.** "Tracking volume and scaling" means
 3.6 quantifying the total weight of surplus food or food waste generated or managed by a person
 3.7 by:

3.8 (1) tracking at quarterly intervals in a calendar year the total volume of surplus food or
 3.9 food waste generated or managed daily by the person over the course of a week, reflective
 3.10 of the person's typical operation schedule, to calculate a weekly average; and

3.11 (2) converting the measurement obtained according to clause (1) from volume to weight
 3.12 and then scaling the calculated weight in a fixed ratio to estimate the total weight of surplus
 3.13 food or food waste generated or managed by the person over a period, such as a month or
 3.14 year.

3.15 Subd. 16. **Upcycling.** "Upcycling" means capturing, processing, and remaking parts of
 3.16 food and food scraps into new food products for human consumption, when the parts of
 3.17 food and food scraps are safe for human consumption and would otherwise have been
 3.18 managed.

3.19 Sec. 2. **[115A.3951] SURPLUS FOOD AND FOOD WASTE MANAGEMENT**
 3.20 **REQUIREMENTS.**

3.21 Subdivision 1. **Applicability.** Except as otherwise provided in this section, sections
 3.22 115A.395 to 115A.3953 apply on the following schedule to a person who, during the
 3.23 preceding calendar year, per site, generated surplus food, food waste, or a combination of
 3.24 surplus food and food waste in the following threshold amounts:

3.25 (1) beginning January 1, 2026: 104 tons or more;

3.26 (2) beginning January 1, 2028: 52 tons or more;

3.27 (3) beginning January 1, 2030: 26 tons or more;

3.28 (4) beginning January 1, 2032: 18 tons or more; and

3.29 (5) beginning January 1, 2033: six tons or more.

3.30 Subd. 2. **Wasted food hierarchy.** A person generating surplus food, food waste, or a
 3.31 combination of surplus food and food waste that meets the thresholds in subdivision 1 must
 3.32 separate surplus food and food waste from other solid waste and manage the generated

4.1 surplus food and food waste according to the following methods and order of priority while
4.2 acting in accordance with all applicable laws:

4.3 (1) reduce the amount generated at the source;

4.4 (2) upcycle or donate for human consumption;

4.5 (3) divert for consumption by animals or leave crops unharvested;

4.6 (4) use anaerobic digestion, when the biogas and digestate are not disposed of and are
4.7 used as a salable product, or composting; and

4.8 (5) use anaerobic digestion, when the biogas is used as a salable product but the digestate
4.9 is disposed of, or land application of food waste.

4.10 **Subd. 3. Duty to determine and quantify weight of surplus food and food**
4.11 **waste.** Notwithstanding subdivision 1, beginning January 1, 2025, a person that annually
4.12 generates five tons or more of surplus food, food waste, or a combination of surplus food
4.13 and food waste must determine and quantify the weight of the surplus food and food waste
4.14 that the person generates during each calendar year by using one or more of the methods
4.15 in section 115A.3952.

4.16 **Subd. 4. Required information.** Notwithstanding subdivision 1, beginning January 1,
4.17 2025, a person generating surplus food, food waste, or a combination of surplus food and
4.18 food waste in an amount equal to or exceeding the thresholds specified in subdivision 1
4.19 must record and maintain the following information:

4.20 (1) the weight of surplus food and food waste generated during each calendar year by
4.21 using one or more of the methods in section 115A.3952;

4.22 (2) the weight of the surplus food and food waste managed through each method of the
4.23 wasted food hierarchy under subdivision 2 and any subcategories required by the
4.24 commissioner, calculated according to section 115A.3952;

4.25 (3) the receiving organization that accepted the surplus food or food waste and the weight
4.26 of the generated surplus food or food waste that was received, calculated according to section
4.27 115A.3952; and

4.28 (4) any additional information requested by the commissioner.

4.29 **Subd. 5. Annual report.** (a) Notwithstanding subdivision 1, by April 1, 2026, and by
4.30 April 1 annually thereafter, a person who, during the preceding calendar year, generated
4.31 surplus food, food waste, or a combination of surplus food and food waste in an amount

5.1 equal to or exceeding the thresholds specified in subdivision 1, clause (1) or (2), must submit
5.2 an annual report to the commissioner in a form and manner determined by commissioner.

5.3 (b) A person required to annually report under this subdivision must do so each year
5.4 until the person demonstrates through an annual report that, in the preceding year, the person
5.5 generated an amount less than the threshold specified in subdivision 1, clause (2).

5.6 (c) An annual report must include the information recorded and maintained under
5.7 subdivision 4.

5.8 Subd. 6. Supplemental information required. (a) A person who, during the preceding
5.9 calendar year, generated surplus food, food waste, or a combination of surplus food and
5.10 food waste in an amount equal to or exceeding the thresholds specified in subdivision 1,
5.11 clause (1) or (2), must record and maintain the following supplemental information:

5.12 (1) the methods used to determine the information reported under subdivision 5, including
5.13 but not limited to:

5.14 (i) a description of the method, the calculations used, and the period over which the data
5.15 was collected; and

5.16 (ii) a qualitative description or a quantitative assessment of any uncertainties pertaining
5.17 to information reported under subdivision 5; and

5.18 (2) the steps taken to manage surplus food and food waste at each level of the wasted
5.19 food hierarchy under subdivision 2, including but not limited to:

5.20 (i) a description of the steps taken at each level of the wasted food hierarchy to comply
5.21 with that level;

5.22 (ii) the contact information for the persons engaged to manage surplus food and food
5.23 waste during the steps described in item (i); and

5.24 (iii) as applicable, information on why a management method lower in the wasted food
5.25 hierarchy was chosen over a management method higher in the hierarchy.

5.26 (b) A person required to record supplemental information under this subdivision must
5.27 do so each year until the person is no longer required under subdivision 5 to report annually
5.28 to the commissioner.

5.29 (c) A person required to record supplemental information under this subdivision must
5.30 report the information when requested by the commissioner.

5.31 Subd. 7. Education. (a) A person who, during the preceding calendar year, generated
5.32 surplus food, food waste, or a combination of surplus food and food waste in an amount

6.1 equal to or exceeding the thresholds specified in subdivision 1 must provide education
6.2 regarding the requirements of this section and section 115A.3952 to individuals under the
6.3 person's management who procure or handle food, surplus food, or food waste.

6.4 (b) A person required to provide education must maintain a record of providing the
6.5 education.

6.6 **Subd. 8. Food recovery organizations; reporting.** (a) A food recovery organization
6.7 may contract with persons to manage surplus food and may refuse food for any reason.
6.8 Beginning January 1, 2025, a food recovery organization that receives surplus food from a
6.9 person subject to subdivision 5, with or without a contract in place, must record and maintain
6.10 the following information:

6.11 (1) the total weight of surplus food the organization receives each calendar year from
6.12 the person; and

6.13 (2) information describing, by weight and category, the types of food the organization
6.14 receives from the person each calendar year, including nonmeat and meat.

6.15 (b) The food recovery organization receiving surplus food from a person subject to
6.16 subdivision 5 must report the information in paragraph (a) to the person providing the surplus
6.17 food if the person requests it. The food recovery organization must report the information
6.18 within 60 days of the request.

6.19 **Subd. 9. Alternative management practices.** (a) In lieu of the requirements of
6.20 subdivision 2, a person generating surplus food, food waste, or a combination of surplus
6.21 food and food waste that meets the thresholds in subdivision 1 may apply to the commissioner
6.22 for approval to manage the generated surplus food or food waste according to the
6.23 management practices specified in section 115A.02, paragraph (b), clauses (4) to (6). The
6.24 application must include:

6.25 (1) information on all steps that the person has taken to adhere to the wasted food
6.26 hierarchy in subdivision 2;

6.27 (2) information on the circumstances that prevent the person from managing surplus
6.28 food or food waste according to subdivision 2;

6.29 (3) information on the steps the person will take to prevent a future need to use the
6.30 management practices under section 115A.02;

6.31 (4) contact information for the receiving organization that accepts the surplus food or
6.32 food waste for management; and

7.1 (5) the weight of the generated surplus food or food waste that was received by the
 7.2 receiving organization.

7.3 (b) The commissioner may grant approval for a person to manage surplus food or food
 7.4 waste according to the management practices specified in section 115A.02, paragraph (b),
 7.5 clauses (4) to (6), if the commissioner determines from the information provided in the
 7.6 application that there are circumstances beyond the person's control that make compliance
 7.7 with this section impracticable or impossible, such as:

7.8 (1) lack of available or accessible infrastructure for collecting and managing surplus
 7.9 food or food waste;

7.10 (2) proximity to a facility or operation accepting the surplus food or food waste is greater
 7.11 than 50 miles from the site where the surplus food or food waste was generated;

7.12 (3) capacity to accept surplus food or food waste has been reached at food recovery
 7.13 organizations, composting facilities, and other operations providing services for the
 7.14 management methods under the wasted food hierarchy in subdivision 2;

7.15 (4) surplus food or food waste is determined to be unfit or otherwise not acceptable for
 7.16 use by multiple providers of the management methods under the wasted food hierarchy in
 7.17 subdivision 2, if the person who rendered the surplus food or food waste unfit takes actions
 7.18 necessary to prevent a recurrence of the conditions that led the surplus food or food waste
 7.19 to be unfit;

7.20 (5) the provider of a management method under the wasted food hierarchy in subdivision
 7.21 2 to whom the surplus food or food waste is normally sent declined to accept the surplus
 7.22 food or food waste, temporarily stopped operations, or is prohibited from accepting the
 7.23 surplus food or food waste, and a provider of another management method cannot be found
 7.24 in a reasonable time;

7.25 (6) a natural disaster or other temporary, extraneous, and unforeseen event; or

7.26 (7) other similar circumstances as determined by the commissioner.

7.27 Subd. 10. **Record keeping.** A person must maintain a record of the data and information
 7.28 required under subdivisions 3 to 7 for five years after collection.

7.29 Sec. 3. **[115A.3952] METHODS FOR QUANTIFYING SURPLUS FOOD AND**
 7.30 **FOOD WASTE.**

7.31 Subdivision 1. **Methods.** A person must use one or more of the following methods to
 7.32 determine the weight of the person's generated and managed surplus food and food waste,

8.1 including the weight managed at each level of the wasted food hierarchy under section
8.2 115A.3951, subdivision 2:

8.3 (1) directly quantifying the annual weight in pounds or tons of generated surplus food
8.4 or food waste with an instrument or device, such as a scale;

8.5 (2) sampling weight and scaling, which must include maintaining records containing,
8.6 at a minimum, a description of the sampling process, the sampling logs used during sampling,
8.7 and the period over which the sampling occurred;

8.8 (3) tracking volume and scaling, which must include maintaining records containing, at
8.9 a minimum, a description of the tracking process, the tracking logs used during tracking,
8.10 and the period over which the tracking occurred;

8.11 (4) data or information that is provided by persons collecting or accepting surplus food
8.12 or food waste for transportation or management for the person generating the surplus food
8.13 or food waste and that can be used to quantify the weight of the surplus food or food waste,
8.14 such as:

8.15 (i) a food recovery organization collecting or accepting surplus food;

8.16 (ii) a receiving organization that accepts surplus food or food waste for upcycling into
8.17 another product;

8.18 (iii) a processor of food waste into animal feed that meets the Board of Animal Health
8.19 requirements;

8.20 (iv) a processor of food waste; or

8.21 (v) a solid waste collector or transporter;

8.22 (5) other information, such as warehouse records, that:

8.23 (i) is saved and routinely collected for reasons other than quantifying surplus food or
8.24 food waste;

8.25 (ii) provides data and information that can be used to determine the weight of the surplus
8.26 food or food waste; and

8.27 (iii) is as accurate as the methods described under clauses (1) to (4); or

8.28 (6) other quantification methods approved by the commissioner that are as accurate as
8.29 the methods described under clauses (1) to (4).

8.30 Subd. 2. **Data.** All results must be calculated in pounds or tons. The agency must supply
8.31 persons with volume-to-weight conversions.

9.1 Subd. 3. **Record keeping.** A person must maintain a record of the data, methodology,
9.2 and records used under this section for five years after collection.

9.3 **Sec. 4. [115A.3953] COMMISSIONER AUTHORITIES.**

9.4 Subdivision 1. **Education and support.** The commissioner may develop and make
9.5 available educational materials and resources pertaining to:

9.6 (1) the federal Bill Emerson Good Samaritan Food Donation Act;

9.7 (2) surplus food and food waste prevention and management;

9.8 (3) methodologies for quantifying surplus food and food waste; and

9.9 (4) the requirements of sections 115A.395 to 115A.3952.

9.10 Subd. 2. **Information.** Upon request of the commissioner for purposes of determining
9.11 compliance with sections 115A.395 to 115A.3952, a person must furnish to the commissioner
9.12 any information that the person has or may reasonably obtain.