A bill for an act

relating to environment; modifying certain requirements for labeling items as biodegradable or compostable; amending Minnesota Statutes 2018, section 325E.046.

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

Section 1. Minnesota Statutes 2018, section 325E.046, is amended to read:

325E.046 STANDARDS FOR LABELING ~~PLASTIC~~ BAGS, FOOD OR BEVERAGE PRODUCTS, AND PACKAGING.

Subdivision 1. **~~"~~Biodegradable~~"~~ label.** A ~~manufacturer, distributor, or wholesaler~~ person may not sell or offer for sale in this state a ~~plastic bag~~ covered product labeled "biodegradable," "degradable," "decomposable," or any form of those terms, or in any way imply that the ~~bag~~ covered product will ~~chemically decompose into innocuous elements in a reasonably short period of time in a landfill, composting, or other terrestrial environment unless a scientifically based standard for biodegradability is developed and the bags are certified as meeting the standard.~~ break down, fragment, degrade, biodegrade, or decompose in a landfill or other environment, unless an ASTM standard specification is adopted for the term claimed and the specification is approved by the legislature.

Subd. 2. **~~"~~Compostable~~"~~ label.** (a) A ~~manufacturer, distributor, or wholesaler~~ person may not sell or offer for sale in this state a ~~plastic bag~~ covered product labeled "compostable" unless, at the time of sale or offer for sale, the ~~bag~~ covered product:

(1) meets the ASTM Standard Specification for ~~Compostable~~ Labeling of Plastics Designed to be Aerobically Composted in Municipal or Industrial Facilities (D6400)~~. Each bag must be labeled to reflect that it meets the standard. For purposes of this subdivision, "ASTM" has the meaning given in section 296A.01, subdivision 6.~~ or its successor or the ASTM Standard Specification for Labeling of End Items that Incorporate Plastics and Polymers as Coatings or Additives with Paper and Other Substrates Designed to be Aerobically Composted in Municipal or Industrial Facilities (D6868) or its successor, and the covered product is labeled to reflect that it meets the specification;

(2) is comprised of only wood without any coatings or additives; or

(3) is comprised of only paper ~~fiber~~ without any coatings or additives.

(b) Each covered product must be clearly and prominently labeled on the product where possible, and~~or~~ on the

product's smallest unit of sale, to reflect that it is intended for an industrial or commercial compost facility. The label required under this paragraph must be in legible text size and font. If it is not feasible for manufacturing technology to label the individual product with the term compostable, then the product must:

1. Have brown or green labeling, or

~~1.~~2. Use descriptive color schemes, green or brown color striping, or other adopted symbols, colors, marks or design patterns that help differentiate compostable items from noncompostable materials.

Subd. 2a. **Certification of compostable products.** Beginning January 1, 2024~~2~~, a person may not sell or offer for sale a covered product labeled as "compostable" unless the person obtains certification that the product meets the requirements of subdivision 2 from an entity that:

(1) is a nonprofit corporation;

(2) as its primary focus of operation, promotes the production, use, and appropriate end of life for materials and products that are designed to fully biodegrade in specific biologically active environments such as industrial composting; and

(3) is technically capable of and willing to perform analysis necessary to determine a product's compliance with subdivision 2.

Subd. 3. **Enforcement; civil penalty; injunctive relief.** (a) A ~~manufacturer, distributor, or wholesaler~~ person who violates ~~subdivision 1 or 2~~ this section is subject to a civil or administrative penalty of $100 for each prepackaged saleable unit sold or offered for sale up to a maximum of $5,000 and may be enjoined from those violations.

(b) The attorney general may bring an action in the name of the state in a court of competent jurisdiction for recovery of civil penalties or for injunctive relief as provided in this subdivision. The attorney general may accept an assurance of discontinuance of acts in violation of ~~subdivision 1 or 2~~ this section in the manner provided in section 8.31, subdivision 2b.

(c) The commissioner of the Pollution Control Agency may enforce this section under sections 115.071 and 116.072.

(d) When requested by the attorney general or the commissioner of the Pollution Control

Agency, a person selling or offering for sale a covered product labeled as compostable must furnish to the attorney general or the commissioner any information that the person may have or may reasonably obtain that is relevant to show compliance with this section.

Subd. 4. **Definitions.** For purposes of this section, the following terms have the meanings given them:

(1) "ASTM" has the meaning given in section 296A.01, subdivision 6;

(2) "covered product" means a bag, food or beverage product, or packaging;

(3) "food or beverage product" means a product that is used to wrap, package, contain, serve, store, prepare, or consume a food or beverage, such as plates, bowls, cups, lids, trays, straws, utensils, and hinged or lidded containers; and

(4) "packaging" has the meaning given in section 115A.03, subdivision 22b.

EFFECTIVE DATE. This section is effective January 1, 2023~~1~~.

Definition here for reference only:

•"Packaging" has the meaning given in section 115A.03, subdivision 22b
…a container or any appurtenant material that provides a means of transporting, marketing, protecting, or handling a product. "Packaging" includes pallets and packaging such as blocking, bracing, cushioning, weatherproofing, strapping, coatings, closures, inks, dyes, pigments, and labels."