

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 1698

(SENATE AUTHORS: JENSEN)

DATE	D-PG	OFFICIAL STATUS
03/12/2015	780	Introduction and first reading Referred to Commerce
03/18/2015	917	Comm report: To pass
	963	Second reading
05/06/2015	3301	Special Order
	3301	Third reading Passed See HF1554, Sec. 31 (diesel fuel advertisement sign requirement)

A bill for an act

relating to commerce; weights and measures; modifying the commissioner of commerce's powers; clarifying diesel fuel advertisement sign requirements; modifying the definition for ethanol flex fuels; updating fuel standard references; correcting cross-references; amending Minnesota Statutes 2014, sections 239.011, subdivision 2; 239.44; 239.751, by adding a subdivision; 239.761, subdivisions 3, 4, 6, 10, 11, 13, by adding a subdivision; 296A.01, subdivisions 7, 8, 19, 23, 24.

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

Section 1. Minnesota Statutes 2014, section 239.011, subdivision 2, is amended to read:

Subd. 2. **Duties and powers.** To carry out the responsibilities in section 239.01 and subdivision 1, the director:

(1) shall take charge of, keep, and maintain in good order the standard of weights and measures of the state and keep a seal so formed as to impress, when appropriate, the letters "MINN" and the date of sealing upon the weights and measures that are sealed;

(2) has general supervision of the weights, measures, and weighing and measuring devices offered for sale, sold, or in use in the state;

(3) shall maintain traceability of the state standards to the national standards of the National Institute of Standards and Technology;

(4) shall enforce this chapter;

(5) shall grant variances from department rules, within the limits set by rule, when appropriate to maintain good commercial practices or when enforcement of the rules would cause undue hardship;

(6) shall conduct investigations to ensure compliance with this chapter;

(7) may audit and make copies of product shipping, receiving, and invoice documents and records to determine compliance with this chapter;

2.1 ~~(7)~~ (8) may delegate to division personnel the responsibilities, duties, and powers
2.2 contained in this section;

2.3 ~~(8)~~ (9) shall test annually, and approve when found to be correct, the standards of
2.4 weights and measures used by the division, by a town, statutory or home rule charter city,
2.5 or county within the state, or by a person using standards to repair, adjust, or calibrate
2.6 commercial weights and measures;

2.7 ~~(9)~~ (10) shall inspect and test weights and measures kept, offered, or exposed for sale;

2.8 ~~(10)~~ (11) shall inspect and test, to ascertain if they are correct, weights and measures
2.9 commercially used to:

2.10 (i) determine the weight, measure, or count of commodities or things sold, offered,
2.11 or exposed for sale, on the basis of weight, measure, or count; and

2.12 (ii) compute the basic charge or payment for services rendered on the basis of
2.13 weight, measure, or count;

2.14 ~~(11)~~ (12) shall approve for use and mark weights and measures that are found to
2.15 be correct;

2.16 ~~(12)~~ (13) shall reject, and mark as rejected, weights and measures that are found to
2.17 be incorrect and may seize them if those weights and measures:

2.18 (i) are not corrected within the time specified by the director;

2.19 (ii) are used or disposed of in a manner not specifically authorized by the director; or

2.20 (iii) are found to be both incorrect and not capable of being made correct, in which
2.21 case the director shall condemn those weights and measures;

2.22 ~~(13)~~ (14) shall weigh, measure, or inspect packaged commodities kept, offered, or
2.23 exposed for sale, sold, or in the process of delivery, to determine whether they contain the
2.24 amount represented and whether they are kept, offered, or exposed for sale in accordance
2.25 with this chapter and department rules. In carrying out this section, the director must
2.26 employ recognized sampling procedures, such as those contained in National Institute of
2.27 Standards and Technology Handbook 133, "Checking the Net Contents of Packaged
2.28 Goods";

2.29 ~~(14)~~ (15) shall prescribe the appropriate term or unit of weight or measure to be used
2.30 for a specific commodity when an existing term or declaration of quantity does not facilitate
2.31 value comparisons by consumers, or creates an opportunity for consumer confusion;

2.32 ~~(15)~~ (16) shall allow reasonable variations from the stated quantity of contents,
2.33 including variations caused by loss or gain of moisture during the course of good
2.34 distribution practice or by unavoidable deviations in good manufacturing practice, only
2.35 after the commodity has entered commerce within the state;

3.1 ~~(16)~~ (17) shall inspect and test petroleum products in accordance with this chapter
3.2 and chapter 296A;

3.3 ~~(17)~~ (18) shall collect inspection fees in accordance with sections 239.10 and
3.4 239.101; and

3.5 ~~(18)~~ (19) shall provide metrological services and support to businesses and
3.6 individuals in the United States who wish to market products and services in the member
3.7 nations of the European Economic Community, and other nations outside of the United
3.8 States by:

3.9 (i) meeting, to the extent practicable, the measurement quality assurance standards
3.10 described in the International Standards Organization ISO 17025;

3.11 (ii) maintaining, to the extent practicable, certification of the metrology laboratory
3.12 by an internationally accepted accrediting body such as the National Voluntary Laboratory
3.13 Accreditation Program (NVLAP); and

3.14 (iii) providing calibration and consultation services to metrology laboratories in
3.15 government and private industry in the United States.

3.16 Sec. 2. Minnesota Statutes 2014, section 239.44, is amended to read:

3.17 **239.44 MISDEMEANOR VIOLATION.**

3.18 Whoever in selling gives a lower number or, in buying, takes a greater number of
3.19 pounds or cubic feet to the bushel, ~~barrel~~, ton, or cord, as the case may be, than is allowed
3.20 and provided in sections 239.32 ~~and 239.33~~ to 239.34, or in selling, gives a lower number,
3.21 is guilty of a misdemeanor.

3.22 Sec. 3. Minnesota Statutes 2014, section 239.751, is amended by adding a subdivision
3.23 to read:

3.24 Subd. 4a. **Use of term "diesel fuel."** For the purposes of this section, the term
3.25 "diesel fuel" may be used to advertise or identify a dispenser used to dispense any
3.26 fuel approved by the United States Environmental Protection Agency for use in a
3.27 compression-ignition engine.

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

3.29 Sec. 4. Minnesota Statutes 2014, section 239.761, subdivision 3, is amended to read:

3.30 Subd. 3. **Gasoline.** (a) Gasoline that is not blended with biofuel must not be
3.31 contaminated with water or other impurities and must comply with ASTM specification

4.1 ~~D4814-11b~~ D4814-14b. Gasoline that is not blended with biofuel must also comply with
 4.2 the volatility requirements in Code of Federal Regulations, title 40, part 80.

4.3 (b) After gasoline is sold, transferred, or otherwise removed from a refinery or
 4.4 terminal, a person responsible for the product:

4.5 (1) may blend the gasoline with agriculturally derived ethanol as provided in
 4.6 subdivision 4;

4.7 (2) shall not blend the gasoline with any oxygenate other than biofuel;

4.8 (3) shall not blend the gasoline with other petroleum products that are not gasoline
 4.9 or biofuel;

4.10 (4) shall not blend the gasoline with products commonly and commercially known
 4.11 as casinghead gasoline, absorption gasoline, condensation gasoline, drip gasoline, or
 4.12 natural gasoline; and

4.13 (5) may blend the gasoline with a detergent additive, an antiknock additive, or an
 4.14 additive designed to replace tetra-ethyl lead, that is registered by the EPA.

4.15 Sec. 5. Minnesota Statutes 2014, section 239.761, subdivision 4, is amended to read:

4.16 Subd. 4. **Gasoline blended with ethanol; general.** (a) Gasoline may be blended
 4.17 with agriculturally derived, denatured ethanol that complies with the requirements of
 4.18 subdivision 5.

4.19 (b) A gasoline-ethanol blend must:

4.20 (1) comply with the volatility requirements in Code of Federal Regulations, title
 4.21 40, part 80;

4.22 (2) comply with ASTM specification ~~D4814-11b~~ D4814-14b, or the gasoline base
 4.23 stock from which a gasoline-ethanol blend was produced must comply with ASTM
 4.24 specification ~~D4814-11b~~ D4814-14b; and

4.25 (3) not be blended with casinghead gasoline, absorption gasoline, condensation
 4.26 gasoline, drip gasoline, or natural gasoline after the gasoline-ethanol blend has been sold,
 4.27 transferred, or otherwise removed from a refinery or terminal.

4.28 Sec. 6. Minnesota Statutes 2014, section 239.761, subdivision 6, is amended to read:

4.29 Subd. 6. **Gasoline blended with nonethanol oxygenate.** (a) A person responsible
 4.30 for the product shall comply with the following requirements:

4.31 (1) after July 1, 2000, gasoline containing in excess of one-third of one percent, in
 4.32 total, of nonethanol oxygenates listed in paragraph (b) must not be sold or offered for
 4.33 sale at any time in this state; and

5.1 (2) after July 1, 2005, gasoline containing any of the nonethanol oxygenates listed in
5.2 paragraph (b) must not be sold or offered for sale in this state.

5.3 (b) The oxygenates prohibited under paragraph (a) are:

5.4 (1) methyl tertiary butyl ether, as defined in section 296A.01, subdivision 34;

5.5 (2) ethyl tertiary butyl ether, as defined in section 296A.01, subdivision 18; or

5.6 (3) tertiary amyl methyl ether.

5.7 (c) Gasoline that is blended with a nonethanol oxygenate must comply with ASTM
5.8 specification ~~D4814-11b~~ D4814-14b. Nonethanol oxygenates must not be blended into
5.9 gasoline after the gasoline has been sold, transferred, or otherwise removed from a
5.10 refinery or terminal.

5.11 Sec. 7. Minnesota Statutes 2014, section 239.761, subdivision 10, is amended to read:

5.12 Subd. 10. **Aviation gasoline.** Aviation gasoline must comply with ASTM
5.13 specification ~~D910-11~~ D910-14.

5.14 Sec. 8. Minnesota Statutes 2014, section 239.761, subdivision 11, is amended to read:

5.15 Subd. 11. **Aviation turbine fuel, jet fuel.** Aviation turbine fuel and jet fuel must
5.16 comply with ASTM specification ~~D1655-12~~ D1655-14.

5.17 Sec. 9. Minnesota Statutes 2014, section 239.761, subdivision 13, is amended to read:

5.18 Subd. 13. **E85.** A blend of ethanol and gasoline, containing not more than 85 percent
5.19 ethanol, produced for use as a motor fuel in alternative fuel vehicles as defined in section
5.20 296A.01, subdivision 5, must comply with ASTM specification ~~D5798-11~~ D5798-14.

5.21 Sec. 10. Minnesota Statutes 2014, section 239.761, is amended by adding a subdivision
5.22 to read:

5.23 Subd. 13a. **Ethanol flex fuel.** (a) Ethanol flex fuel containing 51 to 83 volume
5.24 percent ethanol must comply with ASTM D5798-14, "Standard Specifications for Ethanol
5.25 Fuel Blends for Flexible Fuel Automotive Spark-Ignition Engines."

5.26 (b) Ethanol flex fuel containing 16 to 50 volume percent must comply with the
5.27 blending, storage, and conveyance for consumption standards of ASTM D7794-14,
5.28 "Standard Practice for Blending Mid-Level Ethanol Fuel Blends for Flexible Fuel Vehicles
5.29 with Automotive Spark-Ignition Engines."

5.30 Sec. 11. Minnesota Statutes 2014, section 296A.01, subdivision 7, is amended to read:

6.1 Subd. 7. **Aviation gasoline.** "Aviation gasoline" means any gasoline that is
 6.2 capable of use for the purpose of producing or generating power for propelling internal
 6.3 combustion engine aircraft, that meets the specifications in ASTM specification ~~D910-11~~
 6.4 D910-14, and that either:

6.5 (1) is invoiced and billed by a producer, manufacturer, refiner, or blender to a
 6.6 distributor or dealer, by a distributor to a dealer or consumer, or by a dealer to consumer,
 6.7 as "aviation gasoline"; or

6.8 (2) whether or not invoiced and billed as provided in clause (1), is received, sold,
 6.9 stored, or withdrawn from storage by any person, to be used for the purpose of producing
 6.10 or generating power for propelling internal combustion engine aircraft.

6.11 Sec. 12. Minnesota Statutes 2014, section 296A.01, subdivision 8, is amended to read:

6.12 Subd. 8. **Aviation turbine fuel and jet fuel.** "Aviation turbine fuel" and "jet
 6.13 fuel" mean blends of hydrocarbons derived from crude petroleum, natural gasoline, and
 6.14 synthetic hydrocarbons, intended for use in aviation turbine engines, and that meet the
 6.15 specifications in ASTM specification ~~D1655-12~~ D1655-14.

6.16 Sec. 13. Minnesota Statutes 2014, section 296A.01, subdivision 19, is amended to read:

6.17 Subd. 19. **E85.** "E85" means a petroleum product that is a blend of agriculturally
 6.18 derived denatured ethanol and gasoline or natural gasoline that contains not more than 85
 6.19 percent ethanol by volume, but at a minimum must contain greater than 50 percent ethanol
 6.20 by volume. For the purposes of this chapter, the energy content of E85 will be considered to
 6.21 be 82,000 BTUs per gallon. E85 produced for use as a motor fuel in alternative fuel vehicles
 6.22 as defined in subdivision 5 must comply with ASTM specification ~~D5798-11~~ D5798-14.

6.23 Sec. 14. Minnesota Statutes 2014, section 296A.01, subdivision 23, is amended to read:

6.24 Subd. 23. **Gasoline.** (a) "Gasoline" means:

6.25 (1) all products commonly or commercially known or sold as gasoline regardless of
 6.26 their classification or uses, except casinghead gasoline, absorption gasoline, condensation
 6.27 gasoline, drip gasoline, or natural gasoline that under the requirements of section 239.761,
 6.28 subdivision 3, must not be blended with gasoline that has been sold, transferred, or
 6.29 otherwise removed from a refinery or terminal; and

6.30 (2) any liquid prepared, advertised, offered for sale or sold for use as, or commonly
 6.31 and commercially used as, a fuel in spark-ignition, internal combustion engines, and that
 6.32 when tested by the Weights and Measures Division meets the specifications in ASTM
 6.33 specification ~~D4814-11b~~ D4814-14b.

7.1 (b) Gasoline that is not blended with ethanol must not be contaminated with water or
7.2 other impurities and must comply with both ASTM specification ~~D4814-11b~~ D4814-14b
7.3 and the volatility requirements in Code of Federal Regulations, title 40, part 80.

7.4 (c) After gasoline is sold, transferred, or otherwise removed from a refinery or
7.5 terminal, a person responsible for the product:

7.6 (1) may blend the gasoline with agriculturally derived ethanol, as provided in
7.7 subdivision 24;

7.8 (2) must not blend the gasoline with any oxygenate other than denatured,
7.9 agriculturally derived ethanol;

7.10 (3) must not blend the gasoline with other petroleum products that are not gasoline
7.11 or denatured, agriculturally derived ethanol;

7.12 (4) must not blend the gasoline with products commonly and commercially known
7.13 as casinghead gasoline, absorption gasoline, condensation gasoline, drip gasoline, or
7.14 natural gasoline; and

7.15 (5) may blend the gasoline with a detergent additive, an antiknock additive, or an
7.16 additive designed to replace tetra-ethyl lead, that is registered by the EPA.

7.17 Sec. 15. Minnesota Statutes 2014, section 296A.01, subdivision 24, is amended to read:

7.18 Subd. 24. **Gasoline blended with nonethanol oxygenate.** "Gasoline blended with
7.19 nonethanol oxygenate" means gasoline blended with ETBE, MTBE, or other alcohol
7.20 or ether, except denatured ethanol, that is approved as an oxygenate by the EPA, and
7.21 that complies with ASTM specification ~~D4814-11b~~ D4814-14b. Oxygenates, other than
7.22 denatured ethanol, must not be blended into gasoline after the gasoline has been sold,
7.23 transferred, or otherwise removed from a refinery or terminal.