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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. **3699**

02/24/2020 Authored by Poppe, Anderson, Tabke, Davids, Brand and others
The bill was read for the first time and referred to the Agriculture and Food Finance and Policy Division
03/04/2020 Adoption of Report: Re-referred to the Committee on Commerce

- 1.1 A bill for an act
- 1.2 relating to agriculture; increasing the minimum biofuel content in gasoline to 15
- 1.3 percent; requiring fuel retailers to offer blends of ten percent biofuel for use by
- 1.4 certain motorists; modifying certain dates; amending Minnesota Statutes 2018,
- 1.5 section 239.791.
- 1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.7 Section 1. Minnesota Statutes 2018, section 239.791, is amended to read:
- 1.8 **239.791 OXYGENATED GASOLINE.**
- 1.9 Subdivision 1. **Minimum biofuel content required standard.** (a) Except as provided
- 1.10 in subdivisions 10 to ~~14~~ 17, a person responsible for the product shall ensure that all gasoline
- 1.11 sold or offered for sale in Minnesota ~~must contain~~ contains at least the quantity of biofuel
- 1.12 required by clause (1) or (2), at the option of the person responsible for the product:
- 1.13 (1) the greater of:
- 1.14 (i) ~~10.0~~ 15.0 percent conventional biofuel by volume; or
- 1.15 (ii) the maximum percent of conventional biofuel by volume authorized in a waiver
- 1.16 granted by the United States Environmental Protection Agency under United States Code,
- 1.17 title 42, section 7545; or
- 1.18 (2) ~~10.0~~ 15.0 percent of a biofuel, other than a conventional biofuel, by volume authorized
- 1.19 in a waiver granted by the United States Environmental Protection Agency or a biofuel
- 1.20 formulation registered by the United States Environmental Protection Agency under United
- 1.21 States Code, title 42, section 7545.

2.1 (b) ~~For purposes of enforcing the requirement of paragraph (a), clause (1), item (i),~~ A
 2.2 gasoline/biofuel blend will be construed to be in compliance with paragraph (a), clause (1),
 2.3 item (i), or clause (2) if the biofuel content, exclusive of denaturants and other permitted
 2.4 components, comprises not less than ~~9.2~~ 13.8 percent by volume and not more than ~~10.0~~
 2.5 15.0 percent by volume of the blend as determined by an appropriate United States
 2.6 Environmental Protection Agency or American Society of Testing Materials standard method
 2.7 of analysis.

2.8 (c) ~~The aggregate~~ Of the total amount of biofuel blended pursuant to this subdivision
 2.9 ~~may be any biofuel; however~~ each year, conventional biofuel must comprise no less than
 2.10 the portion specified on and after the specified dates:

2.11	(1)	July 1, 2013 <u>2020</u>	90 percent
2.12	(2)	January 1, 2015 <u>2022</u>	80 percent
2.13	(3)	January 1, 2017 <u>2024</u>	70 percent
2.14	(4)	January 1, 2020 <u>2027</u>	60 percent
2.15	(5)	January 1, 2025 <u>2032</u>	no minimum

2.16 Subd. 2a. **Federal Clean Air Act waivers; conditions.** (a) Before a waiver granted by
 2.17 the United States Environmental Protection Agency under United States Code, title 42,
 2.18 section 7545, may alter the minimum content level required by subdivision 1, paragraph
 2.19 (a), clause (1), item (ii), the waiver must:

2.20 ~~(1) apply to all gasoline-powered motor vehicles irrespective of model year; and~~

2.21 ~~(2)~~ allow for special regulatory treatment of Reid vapor pressure under Code of Federal
 2.22 Regulations, title 40, section 80.27, paragraph (d), for blends of gasoline and ~~ethanol~~
 2.23 conventional biofuel up to the maximum percent of denatured ethanol conventional biofuel
 2.24 by volume authorized under the waiver.

2.25 (b) The minimum biofuel requirement in subdivision 1, paragraph (a), clause (1), item
 2.26 (ii), shall, upon the grant of the federal waiver, be effective the day after the commissioner
 2.27 of commerce publishes notice in the State Register. In making this determination, the
 2.28 commissioner shall consider the amount of time required by refiners, retailers, pipeline and
 2.29 distribution terminal companies, and other fuel suppliers, acting expeditiously, to make the
 2.30 operational and logistical changes required to supply fuel in compliance with the minimum
 2.31 biofuel requirement.

2.32 Subd. 2b. **Limited liability waiver.** No motor fuel shall be deemed to be a defective
 2.33 product by virtue of the fact that the motor fuel is formulated or blended pursuant to the
 2.34 requirements of subdivision 1, ~~paragraph (a), clause (1), item (ii),~~ under any theory of

3.1 liability except for simple or willful negligence or fraud. This subdivision does not preclude
 3.2 an action for negligent, fraudulent, or willful acts. This subdivision does not affect a person
 3.3 whose liability arises under chapter 115, water pollution control; 115A, waste management;
 3.4 115B, environmental response and liability; 115C, leaking underground storage tanks; or
 3.5 299J, pipeline safety; under public nuisance law for damage to the environment or the public
 3.6 health; under any other environmental or public health law; or under any environmental or
 3.7 public health ordinance or program of a municipality as defined in section 466.01.

3.8 Subd. 2c. **Fuel dispensing equipment; blends over ten percent ~~ethanol~~**
 3.9 **biofuel.** Notwithstanding any other law or rule, fuel dispensing equipment authorized to
 3.10 dispense ~~fuel under subdivision 1, paragraph (a), clause (1),~~ gasoline/biofuel blends
 3.11 containing up to ten percent biofuel is authorized to dispense fuel under subdivision 1;
 3.12 ~~paragraph (a), clause (2), or subdivision 1a.~~

3.13 Subd. 3. **Blending restriction.** When gasoline contains an oxygenate, a person responsible
 3.14 for the product shall not blend the product with ~~ethanol~~ biofuel or with any other oxygenate
 3.15 after it is transferred or otherwise removed from a refinery or terminal.

3.16 Subd. 7. **~~Ethanol~~ Biofuel records; state audit.** The director shall audit the records of
 3.17 registered ~~ethanol~~ biofuel blenders to ensure that each blender has met all requirements in
 3.18 this chapter. Specific information or data relating to sales figures or to processes or methods
 3.19 of production unique to the blender or that would tend to adversely affect the competitive
 3.20 position of the blender must be only for the confidential use of the director, unless otherwise
 3.21 specifically authorized by the registered blender.

3.22 Subd. 8. **Disclosure.** (a) A refinery or terminal, shall provide, at the time gasoline is
 3.23 sold or transferred from the refinery or terminal, a bill of lading or shipping manifest to the
 3.24 person who receives the gasoline. For oxygenated gasoline, the bill of lading or shipping
 3.25 manifest must include the identity and the volume percentage or gallons of oxygenate
 3.26 included in the gasoline, and it must state: "This fuel contains an oxygenate. Do not blend
 3.27 this fuel with ethanol or with any other oxygenate." For nonoxygenated gasoline ~~sold or~~
 3.28 ~~transferred after September 30, 1997,~~ the bill or manifest must state: "This fuel is not
 3.29 oxygenated. It must not be sold at retail in Minnesota." This subdivision does not apply to
 3.30 sales or transfers of gasoline between refineries, between terminals, or between a refinery
 3.31 and a terminal.

3.32 (b) A delivery ticket required under section 239.092 for biofuel blended with gasoline
 3.33 must state the volume percentage of biofuel blended into gasoline delivered through a meter

4.1 into a storage tank used for dispensing by persons not exempt under subdivisions 10 to ~~14~~
4.2 16.

4.3 Subd. 10. **Exemption for airport.** A person responsible for the product may offer for
4.4 sale, sell, or dispense at an airport, for use in airplanes, gasoline that is not oxygenated in
4.5 accordance with subdivision 1 if the gasoline is unleaded premium grade as defined in
4.6 section 239.751, subdivision 4.

4.7 Subd. 10a. **Exemption for resorts, marinas, and houseboat rental companies.** A
4.8 person responsible for the product may offer for sale, sell, or dispense at a resort, marina,
4.9 or houseboat rental company gasoline that is not oxygenated in accordance with subdivision
4.10 1 if the gasoline has an octane rating of 87 or higher; is delivered into onsite bulk storage;
4.11 and is not used for a licensed motor vehicle as defined in section 168.002, subdivision 18.

4.12 Subd. 11. **Exemption for motor sports racing.** A person responsible for the product
4.13 may offer for sale, sell, or dispense at a public or private racecourse, gasoline that is not
4.14 oxygenated in accordance with subdivision 1 if the gasoline is intended to be used exclusively
4.15 as a fuel for off-highway motor sports racing events.

4.16 Subd. 12. **Exemption for collector vehicle and off-road use.** (a) A person responsible
4.17 for the product may offer for sale, sell, or dispense at a retail gasoline station for use in
4.18 collector vehicles or vehicles eligible to be licensed as collector vehicles, off-road vehicles,
4.19 motorcycles, boats, snowmobiles, or small engines, gasoline that is not oxygenated in
4.20 accordance with subdivision 1 if the person meets the conditions in paragraphs (b) to (d).
4.21 If the nonoxygenated gasoline is for use in a small engine, it must be dispensed into a can
4.22 with a capacity of six or fewer gallons.

4.23 (b) The nonoxygenated gasoline must be unleaded premium grade as defined in section
4.24 239.751, subdivision 4.

4.25 (c) No more than one storage tank on the premises of the retail gasoline station may be
4.26 used for storage of the nonoxygenated gasoline offered for sale, sold, or dispensed by the
4.27 station.

4.28 (d) The pump stands must be posted with a permanent notice stating:
4.29 "NONOXYGENATED GASOLINE. FOR USE IN COLLECTOR VEHICLES OR
4.30 VEHICLES ELIGIBLE TO BE LICENSED AS COLLECTOR VEHICLES, OFF-ROAD
4.31 VEHICLES, MOTORCYCLES, BOATS, SNOWMOBILES, OR SMALL ENGINES
4.32 ONLY."

5.1 This notice must be posted at least two feet above the ground. A retail gasoline station that
5.2 sells nonoxygenated premium gasoline as defined in section 239.791, subdivision 15, must
5.3 register every two years with the director, or an entity appointed by the director, on forms
5.4 approved by the director, the total amount of nonoxygenated premium gasoline sold annually.

5.5 Subd. 13. **Exemption for certain riparian landowners.** (a) A person responsible for
5.6 the product may offer for sale, sell, and deliver directly to a bulk fuel storage tank gasoline
5.7 that is not oxygenated in accordance with subdivision 1 if the conditions in paragraphs (b)
5.8 to (e) are met.

5.9 (b) The nonoxygenated gasoline must be unleaded premium grade as defined in section
5.10 239.751, subdivision 4.

5.11 (c) The bulk fuel storage tank must be stationary or permanent.

5.12 (d) The bulk fuel storage tank must be under the control of an owner of littoral or riparian
5.13 property and located on that littoral or riparian property.

5.14 (e) The nonoxygenated gasoline must be purchased for use in vehicles that would qualify
5.15 for an exemption under subdivision 12, paragraph (a).

5.16 Subd. 14. **Exemption for aircraft operator.** A person responsible for the product may
5.17 offer for sale, sell, and deliver directly to a bulk fuel storage tank gasoline that is not
5.18 oxygenated in accordance with subdivision 1 for use in aircraft if the nonoxygenated gasoline
5.19 is unleaded premium grade as defined in section 239.751, subdivision 4.

5.20 Subd. 15. **Exemption for certain blend pumps.** (a) A person responsible for the product,
5.21 who offers for sale, sells, or dispenses nonoxygenated premium gasoline under one or more
5.22 of the exemptions in subdivisions 10 to 14, may sell, offer for sale, or dispense oxygenated
5.23 gasoline that contains less than the minimum amount of ~~ethanol~~ biofuel required under
5.24 subdivision 1 if all of the following conditions are met:

5.25 (1) the blended gasoline has an octane rating of 88 or greater;

5.26 (2) the gasoline is a blend of oxygenated gasoline meeting the requirements of subdivision
5.27 1 with nonoxygenated premium gasoline;

5.28 (3) the blended gasoline contains not more than ten percent nonoxygenated premium
5.29 gasoline;

5.30 (4) the blending of oxygenated gasoline with nonoxygenated gasoline occurs within the
5.31 gasoline dispenser; and

6.1 (5) the gasoline station at which the gasoline is sold, offered for sale, or delivered is
6.2 equipped to store gasoline in not more than two storage tanks.

6.3 (b) This subdivision applies only to those persons who met the conditions in paragraph
6.4 (a), clauses (1) through (5), on August 1, 2004, and registered with the director by November
6.5 1, 2004.

6.6 Subd. 16. **Exemption for recreational vehicle manufacturer.** A person responsible
6.7 for the product may offer for sale, sell, or dispense gasoline that is not oxygenated according
6.8 to subdivision 1 if the gasoline is intended to be used exclusively for research and
6.9 development by a manufacturer of snowmobiles, all-terrain vehicles, motorcycles, or
6.10 recreational vehicles.

6.11 Subd. 17. **Exemption for vehicles not approved to use more than ten percent**
6.12 **biofuel.** A person responsible for the product who offers for sale or sells gasoline/biofuel
6.13 blends at retail must provide one fuel pump with a dedicated hose and nozzle dispensing a
6.14 gasoline/biofuel blend containing 9.2 to 10.0 percent biofuel for use by motorists who cannot
6.15 lawfully use a gasoline/biofuel blend containing more than ten percent biofuel pursuant to
6.16 waivers granted by the United States Environmental Protection Agency under United States
6.17 Code, title 42, section 7545.