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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 2441

02/27/2014 Authored by Halverson, Erhardt, Rosenthal, Hoppe and Holberg
The bill was read for the first time and referred to the Committee on Agriculture Policy

1.1 A bill for an act
1.2 relating to commerce; consumer protection; modifying biodiesel content
1.3 requirements and related regulations; eliminating a sunset; amending Minnesota
1.4 Statutes 2012, section 239.77, subdivisions 2, 3.

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

1.6 Section 1. Minnesota Statutes 2012, section 239.77, subdivision 2, is amended to read:

1.7 Subd. 2. **Minimum Biodiesel content requirements.** (a) Except as otherwise
1.8 provided in this section, all diesel fuel sold or offered for sale in Minnesota for use in
1.9 internal combustion engines must contain ~~at least~~ no more than the stated percentage of
1.10 biodiesel fuel oil by volume on and after the following dates:

- 1.11 (1) September 29, 2005 2 percent
- 1.12 (2) May 1, 2009 5 percent
- 1.13 (3) May 1, ~~2012~~ 2020 10 percent
- 1.14 (4) ~~May 1, 2015~~ 20 percent

1.15 (b) ~~The minimum content levels level in paragraph (a), clauses clause (3) and (4)~~
1.16 ~~are~~ is effective during the months of ~~April~~, May, June, July, August, and September;
1.17 ~~and October~~ only. The ~~minimum~~ content for the remainder of the year is five percent.
1.18 ~~However, if the commissioners of agriculture, commerce, and pollution control determine,~~
1.19 ~~after consultation with the biodiesel task force and other technical experts, that an~~
1.20 ~~American Society for Testing and Materials specification or equivalent federal standard~~
1.21 ~~exists for the specified biodiesel blend level in those clauses that adequately addresses~~
1.22 ~~technical issues associated with Minnesota's cold weather and publish a notice in the State~~
1.23 ~~Register to that effect, the commissioners may allow the specified biodiesel blend level in~~
1.24 ~~those clauses to be effective year-round.~~

2.1 ~~(b)~~ (c) The ~~minimum content levels~~ level in paragraph (a), ~~elauses~~ clause (3) and
 2.2 ~~(4)~~, ~~become~~ becomes effective on the date specified only if after a contested case hearing
 2.3 under chapter 14 the commissioners of agriculture, commerce, and pollution control
 2.4 publish notice in the State Register and provide written notice to the chairs of the house of
 2.5 representatives and senate committees with jurisdiction over agriculture, commerce, and
 2.6 transportation policy and finance, at least 270 days prior to the date of each scheduled
 2.7 increase, that all of the following conditions have been met and the state is prepared to
 2.8 move to the next scheduled ~~minimum~~ content level:

2.9 (1) an American Society for Testing and Materials specification or equivalent federal
 2.10 standard exists for the next ~~minimum~~ diesel-biodiesel blend;

2.11 (2) a sufficient supply of biodiesel is available and the amount of biodiesel produced
 2.12 in this state from feedstock with at least 75 percent that is produced in the United States
 2.13 and Canada is equal to at least 50 percent of anticipated demand at the next ~~minimum~~
 2.14 content level;

2.15 (3) adequate blending infrastructure and regulatory protocol are in place in order to
 2.16 promote biodiesel quality and avoid any potential economic disruption; ~~and~~

2.17 (4) at least five percent of the amount of biodiesel necessary for that ~~minimum~~
 2.18 content level will be produced from a biological resource other than an agricultural
 2.19 resource traditionally grown or raised in the state, including, but not limited to, algae
 2.20 cultivated for biofuels production, waste oils, and tallow; and

2.21 (5) the commissioner of public safety certifies that the quality and proposed
 2.22 maximum biodiesel content by volume meets manufacturer recommendations for all
 2.23 diesel-powered motor vehicles registered in Minnesota, regardless of model year.

2.24 The condition in clause (2) may be waived if the commissioner finds that, due to
 2.25 weather-related conditions, the necessary feed stock is unavailable.

2.26 The condition in clause (4) may be waived if the commissioners find that the use of
 2.27 these nontraditional feedstocks would be uneconomic under market conditions existing at
 2.28 the time notice is given under this paragraph.

2.29 ~~(e)~~ (d) The commissioners of agriculture, commerce, and pollution control must
 2.30 consult with the biodiesel task force when assessing and certifying conditions in paragraph
 2.31 ~~(b)~~ (c), and in general must seek the guidance of the biodiesel task force regarding
 2.32 biodiesel labeling, enforcement, and other related issues.

2.33 ~~(d)~~ (e) During a period of biodiesel fuel shortage or a problem with biodiesel quality
 2.34 that negatively affects the availability of biodiesel fuel, the commissioner of commerce
 2.35 may temporarily suspend the ~~minimum~~ content requirement in subdivision 2 until there

3.1 is sufficient biodiesel fuel, as defined in subdivision 1, available to fulfill the ~~minimum~~
 3.2 content requirement.

3.3 ~~(e) By February 1, 2012, and periodically thereafter, (f) The commissioner of~~
 3.4 commerce shall annually determine the wholesale diesel price at various pipeline and
 3.5 refinery terminals in the region, and the biodiesel price determined after credits and
 3.6 incentives are subtracted at biodiesel plants in the region. The commissioner shall report
 3.7 wholesale price differences to the governor who, after consultation with the commissioners
 3.8 of commerce and agriculture, ~~may~~ must by executive order adjust the biodiesel mandate if
 3.9 a price disparity reported by the commissioner is greater than ten cents per retail gallon or
 3.10 will cause economic hardship to retailers or consumers of diesel fuel in this state. Any
 3.11 adjustment must be for a specified period of time, after which the percentage of biodiesel
 3.12 fuel to be blended into diesel fuel returns to the amount required in subdivision 2. ~~The~~
 3.13 ~~biodiesel mandate must not be adjusted to less than five percent.~~

3.14 **EFFECTIVE DATE.** This section is effective retroactively from January 1, 2013,
 3.15 and applies to any increase in biodiesel content published in the State Register on or
 3.16 after that date.

3.17 Sec. 2. Minnesota Statutes 2012, section 239.77, subdivision 3, is amended to read:

3.18 Subd. 3. **Exceptions.** (a) The ~~minimum~~ content requirements of subdivision 2 do
 3.19 not apply to fuel used in the following equipment:

- 3.20 (1) motors located at an electric generating plant regulated by the Nuclear
 3.21 Regulatory Commission;
- 3.22 (2) railroad locomotives;
- 3.23 (3) off-road taconite and copper mining equipment and machinery;
- 3.24 (4) off-road logging equipment and machinery; and
- 3.25 (5) vessels of the United States Coast Guard and vessels subject to inspection under
 3.26 United States Code, title 46, section 3301, subsection (1), (9), (10), (13), or (15).

3.27 (b) The exemption in paragraph (a), clause (1), expires 30 days after the Nuclear
 3.28 Regulatory Commission has approved the use of biodiesel fuel in motors at electric
 3.29 generating plants under its regulation.

3.30 (c) The ~~minimum~~ content requirements of subdivision 2 do not apply to Number 1
 3.31 diesel fuel sold or offered for sale during the months of October, November, December,
 3.32 January, February, and March.

3.33 ~~(d) This subdivision expires May 1, 2015.~~

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