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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 462

02/11/2013 Authored by Poppe and Kiel

The bill was read for the first time and referred to the Committee on Agriculture Policy

02/28/2013 Adoption of Report: Pass as Amended and re-referred to the Committee on Government Operations

03/06/2013 Adoption of Report: Pass and re-referred to the Committee on Commerce and Consumer Protection Finance and Policy

1.1 A bill for an act
1.2 relating to renewable energy; establishing definitions; providing a sunset date for
1.3 the cellulosic ethanol production goal; converting the ethanol minimum content
1.4 requirement to a biofuel requirement; expanding the petroleum replacement
1.5 goal; requiring a biofuels task force; repealing E20 mandate language;
1.6 amending Minnesota Statutes 2012, sections 41A.10, subdivision 2, by adding a
1.7 subdivision; 116J.437, subdivision 1; 239.051, by adding subdivisions; 239.791,
1.8 subdivisions 1, 2a, 2b; 239.7911; 296A.01, by adding a subdivision; repealing
1.9 Minnesota Statutes 2012, section 239.791, subdivision 1a.

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

1.11 Section 1. Minnesota Statutes 2012, section 41A.10, subdivision 2, is amended to read:

1.12 Subd. 2. **Cellulosic biofuel production goal.** The state cellulosic biofuel production
1.13 goal is one-quarter of the total amount necessary for ~~ethanol~~ biofuel use required under
1.14 section 239.791, subdivision ~~1a~~ 1, by 2015 or when cellulosic biofuel facilities in the state
1.15 attain a total annual production level of 60,000,000 gallons, whichever is first.

1.16 Sec. 2. Minnesota Statutes 2012, section 41A.10, is amended by adding a subdivision
1.17 to read:

1.18 Subd. 3. **Expiration.** This section expires January 1, 2015.

1.19 Sec. 3. Minnesota Statutes 2012, section 116J.437, subdivision 1, is amended to read:

1.20 Subdivision 1. **Definitions.** (a) For the purpose of this section, the following terms
1.21 have the meanings given.

1.22 (b) "Green economy" means products, processes, methods, technologies, or services
1.23 intended to do one or more of the following:

2.1 (1) increase the use of energy from renewable sources, including through achieving
2.2 the renewable energy standard established in section 216B.1691;

2.3 (2) achieve the statewide energy-savings goal established in section 216B.2401,
2.4 including energy savings achieved by the conservation investment program under section
2.5 216B.241;

2.6 (3) achieve the greenhouse gas emission reduction goals of section 216H.02,
2.7 subdivision 1, including through reduction of greenhouse gas emissions, as defined in
2.8 section 216H.01, subdivision 2, or mitigation of the greenhouse gas emissions through,
2.9 but not limited to, carbon capture, storage, or sequestration;

2.10 (4) monitor, protect, restore, and preserve the quality of surface waters, including
2.11 actions to further the purposes of the Clean Water Legacy Act as provided in section
2.12 114D.10, subdivision 1;

2.13 (5) expand the use of biofuels, including by expanding the feasibility or reducing the
2.14 cost of producing biofuels or the types of equipment, machinery, and vehicles that can
2.15 use biofuels, including activities to achieve the ~~biofuels 25 by 2025 initiative in sections~~
2.16 ~~41A.10, subdivision 2, and 41A.11~~ petroleum replacement goal in section 239.7911; or

2.17 (6) increase the use of green chemistry, as defined in section 116.9401.

2.18 For the purpose of clause (3), "green economy" includes strategies that reduce carbon
2.19 emissions, such as utilizing existing buildings and other infrastructure, and utilizing mass
2.20 transit or otherwise reducing commuting for employees.

2.21 Sec. 4. Minnesota Statutes 2012, section 239.051, is amended by adding a subdivision
2.22 to read:

2.23 Subd. 1a. **Advanced biofuel.** "Advanced biofuel" has the meaning given in Public
2.24 Law 110-140, title 2, subtitle A, section 201.

2.25 Sec. 5. Minnesota Statutes 2012, section 239.051, is amended by adding a subdivision
2.26 to read:

2.27 Subd. 5a. **Biofuel.** "Biofuel" means a renewable fuel with an approved pathway
2.28 under authority of the federal Energy Policy Act of 2005, Public Law 109-58, as amended
2.29 by the federal Energy Independence and Security Act of 2007, Public Law 110-140, and
2.30 approved for sale by the United States Environmental Protection Agency. As such, biofuel
2.31 includes both advanced and conventional biofuels.

2.32 Sec. 6. Minnesota Statutes 2012, section 239.051, is amended by adding a subdivision
2.33 to read:

3.1 Subd. 7a. **Conventional biofuel.** "Conventional biofuel" means ethanol derived
 3.2 from cornstarch, as defined in Public Law 110-140, title 2, subtitle A, section 201.

3.3 Sec. 7. Minnesota Statutes 2012, section 239.791, subdivision 1, is amended to read:

3.4 Subdivision 1. **Minimum ethanol biofuel content required.** (a) Except as provided
 3.5 in subdivisions 10 to 14, a person responsible for the product shall ensure that all gasoline
 3.6 sold or offered for sale in Minnesota must contain at least the quantity of ethanol biofuel
 3.7 required by clause (1) or (2), ~~whichever is greater:~~

3.8 (1) 10.0 percent ~~denatured ethanol~~ biofuel by volume; or

3.9 (2) the maximum percent of ~~denatured ethanol~~ biofuel by volume authorized
 3.10 in a waiver granted by the United States Environmental Protection Agency or a fuel
 3.11 formulation registered by the United States Environmental Protection Agency under
 3.12 United States Code, title 42, section 7545.

3.13 (b) For purposes of enforcing the ~~minimum ethanol~~ requirement of paragraph (a),
 3.14 clause (1), a ~~gasoline/ethanol~~ gasoline/biofuel blend will be construed to be in compliance
 3.15 if the ethanol biofuel content, exclusive of denaturants and other permitted components,
 3.16 comprises not less than 9.2 percent by volume and not more than 10.0 percent by volume
 3.17 of the blend as determined by an appropriate United States Environmental Protection
 3.18 Agency or American Society of Testing Materials standard method of analysis ~~of~~
 3.19 ~~alcohol/ether content in engine fuels.~~

3.20 (c) ~~The provisions of this subdivision are suspended during any period of time that~~
 3.21 ~~subdivision 1a, paragraph (a), is in effect.~~ Biofuel blended pursuant to this subdivision
 3.22 may be any biofuel; however, conventional biofuel must comprise no less than the portion
 3.23 specified on and after the specified dates:

3.24	(1)	<u>July 1, 2013</u>	<u>90 percent</u>
3.25	(2)	<u>January 1, 2015</u>	<u>80 percent</u>
3.26	(3)	<u>January 1, 2017</u>	<u>70 percent</u>
3.27	(4)	<u>January 1, 2020</u>	<u>60 percent</u>
3.28	(5)	<u>January 1, 2025</u>	<u>no minimum</u>

3.29 Sec. 8. Minnesota Statutes 2012, section 239.791, subdivision 2a, is amended to read:

3.30 Subd. 2a. **Federal Clean Air Act waivers; conditions.** (a) Before a waiver granted
 3.31 by the United States Environmental Protection Agency under ~~section 211(f)(4) of the~~
 3.32 ~~Clean Air Act, United States Code, title 42, section 7545, subsection (f), paragraph (4),~~
 3.33 may alter the minimum content level required by subdivision 1, paragraph (a), clause (2);
 3.34 ~~or subdivision 1a, paragraph (a), clause (2),~~ the waiver must:

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

4.1 (2) allow for special regulatory treatment of Reid vapor pressure under Code of
4.2 Federal Regulations, title 40, section 80.27, paragraph (d), for blends of gasoline and
4.3 ethanol up to the maximum percent of denatured ethanol by volume authorized under
4.4 the waiver.

4.5 (b) The minimum ~~ethanol~~ biofuel requirement in subdivision 1, paragraph (a), clause
4.6 (2), ~~or subdivision 1a, paragraph (a), clause (2)~~, shall, upon the grant of the federal waiver
4.7 or authority specified in United States Code, title 42, section 7545, that allows for greater
4.8 blends of gasoline and biofuel in this state, be effective the day after the commissioner
4.9 of commerce publishes notice in the State Register. In making this determination, the
4.10 commissioner shall consider the amount of time required by refiners, retailers, pipeline
4.11 and distribution terminal companies, and other fuel suppliers, acting expeditiously, to
4.12 make the operational and logistical changes required to supply fuel in compliance with
4.13 the minimum ~~ethanol~~ biofuel requirement.

4.14 Sec. 9. Minnesota Statutes 2012, section 239.791, subdivision 2b, is amended to read:

4.15 Subd. 2b. **Limited liability waiver.** No motor fuel shall be deemed to be a defective
4.16 product by virtue of the fact that the motor fuel is formulated or blended pursuant to
4.17 the requirements of subdivision 1, paragraph (a), clause (2), ~~or subdivision 1a~~, under
4.18 any theory of liability except for simple or willful negligence or fraud. This subdivision
4.19 does not preclude an action for negligent, fraudulent, or willful acts. This subdivision
4.20 does not affect a person whose liability arises under chapter 115, water pollution control;
4.21 115A, waste management; 115B, environmental response and liability; 115C, leaking
4.22 underground storage tanks; or 299J, pipeline safety; under public nuisance law for damage
4.23 to the environment or the public health; under any other environmental or public health
4.24 law; or under any environmental or public health ordinance or program of a municipality
4.25 as defined in section 466.01.

4.26 Sec. 10. Minnesota Statutes 2012, section 239.7911, is amended to read:

4.27 **239.7911 PETROLEUM REPLACEMENT PROMOTION.**

4.28 Subdivision 1. **Petroleum replacement goal.** The tiered petroleum replacement
4.29 goal of the state of Minnesota is that biofuel comprises at least the specified portion of
4.30 total gasoline sold or offered for sale in this state by each specified year:

4.31 (1) ~~at least 20 percent of the liquid fuel sold in the state is derived from renewable~~
4.32 ~~sources by December 31, 2015; and~~

4.33 (2) ~~at least 25 percent of the liquid fuel sold in the state is derived from renewable~~
4.34 ~~sources by December 31, 2025.~~

5.1	<u>(1)</u>	<u>2015</u>	<u>14 percent</u>
5.2	<u>(2)</u>	<u>2017</u>	<u>18 percent</u>
5.3	<u>(3)</u>	<u>2020</u>	<u>25 percent</u>
5.4	<u>(4)</u>	<u>2025</u>	<u>30 percent</u>

5.5 Subd. 2. **Promotion of renewable liquid fuels.** (a) The commissioner of agriculture,
 5.6 in consultation with the commissioners of commerce and the Pollution Control Agency,
 5.7 shall identify and implement activities necessary ~~for the widespread use of renewable~~
 5.8 ~~liquid fuels in the state~~ to achieve the goals in subdivision 1. Beginning November
 5.9 1, 2005, and continuing through 2015, the commissioners, or their designees, shall
 5.10 ~~work with~~ convene a task force pursuant to section 15.014 that includes representatives
 5.11 from the renewable fuels industry, petroleum retailers, refiners, automakers, small
 5.12 engine manufacturers, and other interested groups; ~~to.~~ The task force shall assist the
 5.13 commissioners in carrying out the activities in paragraph (b) and eliminating barriers to the
 5.14 use of greater biofuel blends in this state. The task force must coordinate efforts with the
 5.15 NextGen Energy Board, the biodiesel task force, and the Renewable Energy Roundtable
 5.16 and develop annual recommendations for administrative and legislative action.

5.17 (b) The activities of the commissioners under this subdivision shall include, but not
 5.18 be limited to:

5.19 (1) developing recommendations for specific, cost-effective incentives necessary
 5.20 to expedite the use of greater biofuel blends in this state including, but not limited to,
 5.21 incentives for retailers to install equipment necessary ~~for dispensing~~ to dispense renewable
 5.22 liquid fuels to the public;

5.23 (2) expanding the renewable-fuel options available to Minnesota consumers by
 5.24 obtaining federal approval for the use of ~~E20 and~~ additional blends that contain a greater
 5.25 percentage of ~~ethanol, including but not limited to E30 and E50, as gasoline biofuel;~~

5.26 (3) developing recommendations ~~for ensuring~~ to ensure that motor vehicles and
 5.27 small engine equipment have access to an adequate supply of fuel;

5.28 (4) working with the owners and operators of large corporate automotive fleets in the
 5.29 state to increase their use of renewable fuels; ~~and~~

5.30 (5) working to maintain an affordable retail price for liquid fuels; and

5.31 (6) facilitating the production and use of advanced biofuels in this state.

5.32 (c) Notwithstanding section 15.014, the task force required under paragraph (a)
 5.33 expires on December 31, 2015.

5.34 Sec. 11. Minnesota Statutes 2012, section 296A.01, is amended by adding a
 5.35 subdivision to read:

6.1 Subd. 8b. **Biobutanol.** "Biobutanol" means isobutyl alcohol produced by
6.2 fermenting agriculturally generated organic material that is to be blended with gasoline,
6.3 and meets either:

6.4 (1) the initial ASTM Standard Specification for Butanol for Blending with Gasoline
6.5 for use as an Automotive Spark-Ignition Engine Fuel once it has been released by ASTM
6.6 for general distribution; or

6.7 (2) in the absence of an ASTM Standard Specification, the following list of
6.8 requirements:

6.9 (i) visually free of sediment and suspended matter;

6.10 (ii) clear and bright at the ambient temperature of 21 degrees Celsius or the ambient
6.11 temperature whichever is higher;

6.12 (iii) free of any adulterant or contaminant that can render it unacceptable for its
6.13 commonly used applications;

6.14 (iv) contains not less than 96 volume percent isobutyl alcohol;

6.15 (v) contains not more than 0.4 volume percent methanol;

6.16 (vi) contains not more than 1.0 volume percent water as determined by ASTM
6.17 standard test method E203 or E1064;

6.18 (vii) acidity (as acetic acid) of not more than 0.007 mass percent as determined
6.19 by ASTM standard test method D1613;

6.20 (viii) solvent washed gum content of not more than 5.0 milligrams per 100 milliliters
6.21 as determined by ASTM standard test method D381;

6.22 (ix) sulfur content of not more than 30 parts per million as determined by ASTM
6.23 standard test method D2622 or D5453; and

6.24 (x) contains not more than 4 parts per million total inorganic sulfate.

6.25 **Sec. 12. REPEALER.**

6.26 Minnesota Statutes 2012, section 239.791, subdivision 1a, is repealed.

239.791 OXYGENATED GASOLINE.

Subd. 1a. **Minimum ethanol content required.** (a) Except as provided in subdivisions 10 to 14, on August 30, 2015, and thereafter, a person responsible for the product shall ensure that all gasoline sold or offered for sale in Minnesota must contain at least the quantity of ethanol required by clause (1) or (2), whichever is greater:

(1) 20 percent denatured ethanol by volume; or

(2) the maximum percent of denatured ethanol by volume authorized in a waiver granted by the United States Environmental Protection Agency.

(b) For purposes of enforcing the minimum ethanol requirement of paragraph (a), clause (1), a gasoline/ethanol blend will be construed to be in compliance if the ethanol content, exclusive of denaturants and other permitted components, comprises not less than 18.4 percent by volume and not more than 20 percent by volume of the blend as determined by an appropriate United States Environmental Protection Agency or American Society of Testing Materials standard method of analysis of alcohol content in motor fuels.

(c) This subdivision expires on December 31, 2014, if by that date:

(1) the commissioner of agriculture certifies and publishes the certification in the State Register that at least 20 percent of the volume of gasoline sold in the state is denatured ethanol; or

(2) federal approval has not been granted under paragraph (a), clause (1). The United States Environmental Protection Agency's failure to act on an application shall not be deemed approval under paragraph (a), clause (1), or a waiver under section 211(f)(4) of the Clean Air Act, United States Code, title 42, section 7545, subsection (f), paragraph (4).