

CHAPTER 28—S.F.No. 1069

An act relating to motor fuels; requiring notice for unavailability of motor fuels; providing for a waiver of the penalty for retailers who do not carry ethanol or biodiesel blends under certain circumstances; amending Minnesota Statutes 2006, sections 239.75, subdivision 1; 239.80, subdivisions 1, 2; proposing coding for new law in Minnesota Statutes, chapter 239.

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

Section 1. Minnesota Statutes 2006, section 239.75, subdivision 1, is amended to read:

Subdivision 1. **Inspection to be made.** The director shall:

(1) take samples, free of charge, of petroleum products wherever processed, blended, held, stored, imported, transferred, offered for sale or use, or sold in Minnesota, limiting each sample to one-half gallon;

(2) inspect and test petroleum product samples according to the methods of ASTM or other valid test methods adopted by rule, to determine whether the products comply with the specifications in section 239.761;

(3) inspect petroleum product storage tanks to ensure that the products are free from water and impurities;

(4) inspect and test samples submitted to the department by a licensed distributor, making the test results available to the distributor;

(5) inspect the labeling, price posting, and price advertising of petroleum product dispensers and advertising signs at businesses or locations where petroleum products are sold, offered for sale or use, or dispensed into motor vehicles;

(6) maintain records of all inspections and tests according to the records retention policies of the Department of Administration;

(7) delegate to division personnel, at the director's discretion, any or all of the responsibilities, duties, and powers in sections 239.75 to 239.80;

(8) publish test data and information to assist persons who use, produce, distribute, or sell petroleum-based heating and engine fuels;

(9) audit the records of any person responsible for the product to determine compliance with sections 239.75 to 239.792;

(10) after consulting with the commissioner, grant a temporary exemption from the gasoline-ethanol blending requirements in section 239.791 if the supply of ethanol is insufficient to produce gasoline-ethanol blends; ~~and~~

(11) after consulting with the commissioner, grant a temporary exemption from the diesel-biodiesel blending requirements in section 239.77, if the supply of biodiesel is insufficient to produce diesel-biodiesel blends; and

~~(H)~~ (12) adopt, as an enforcement policy for the division, reasonable margins of uncertainty for the tests used to determine compliance with the specifications in section 239.761, the oxygen percentages in section 239.791, and the octane requirements in section 239.792 and apply the margins of uncertainty to only tests performed by the division, not by adding the margins to uncertainties in tests performed by any person responsible for the product.

Sec. 2. **[239.754] NOTIFICATION OF PRODUCT UNAVAILABILITY; TERMINAL OPERATORS.**

A person who operates a terminal where petroleum products are loaded into transport trucks for subsequent distribution, shall notify the director when regular grade gasoline, number 1 diesel, number 2 diesel, kerosene, heating oil, ethanol, and biodiesel are physically not available for sale to licensed distributors.

Sec. 3. Minnesota Statutes 2006, section 239.80, subdivision 1, is amended to read:

Subdivision 1. **Violations; actions of department.** (a) The director, or any delegated employee shall use the methods in section 239.75 to enforce sections 239.10; 239.101, subdivision 3; 239.761; 239.77; 239.79; 239.791; and 239.792.

(b) The director or any delegated employee may waive a penalty for a violation under section 239.77 or 239.791 on a retailer when ethanol or biodiesel are not available at a pipeline or refinery to meet the blending requirements of this chapter, and the terminal has had ethanol or biodiesel blended products available to the licensed distributor for 20 of the previous 30 days. The director or delegated employee shall use the reports required in section 239.754 or other available information in making a determination under this paragraph. The commissioner shall work with the commissioner of agriculture, biodiesel producers, ethanol producers, pipeline operators, and terminal operators, to ensure that biodiesel and ethanol are available for blending at pipeline and refinery terminals where diesel fuel and gasoline are sold and destined for use in Minnesota.

Sec. 4. Minnesota Statutes 2006, section 239.80, subdivision 2, is amended to read:

Subd. 2. **Penalty.** A person who fails to comply with any provision of section 239.10; 239.101, subdivision 3; 239.761; 239.77; 239.79; 239.791, subdivisions 1 to 11; or 239.792, is guilty of a misdemeanor.

Presented to the governor April 26, 2007

Signed by the governor April 30, 2007, 2:38 p.m.