

CHAPTER 181--H.F.No. 2746

An act relating to agriculture; weights and measures; removing obsolete, redundant, and unnecessary laws administered by the Department of Agriculture; modifying biodiesel fuel requirements; amending Minnesota Statutes 2012, sections 17.03, subdivision 1; 17.101, subdivision 5; 17.54, subdivision 11; 17.63; 28A.05; 28A.08, subdivision 3; 32.645, subdivision 1; 239.77, subdivisions 2, 3, by adding a subdivision; 609B.105; Minnesota Statutes 2013 Supplement, section 28A.0752, subdivision 1; repealing Minnesota Statutes 2012, sections 17.03, subdivision 2; 17.038; 17.045; 17.1161; 17.138; 17.14, subdivisions 1, 3, 4; 17.15; 17.16; 17.17; 17.18; 17.181; 17.19; 17.42; 17.43; 17.44; 17.452, subdivisions 1, 2; 18.011; 18.62; 18.63; 18.64; 18.65; 18.66; 18.67; 18.68; 18.69; 18.70; 18.71; 30.003; 30.01, subdivisions 1, 6; 30.099; 30.10; 30.102; 30.103; 30.104; 30.15; 30.151; 30.152; 30.16; 30.161; 30.17; 30.19; 30.20; 30.201; 30.55; 30.56; 30.57; 30.58; 30.59; 32.104; 32.411, subdivisions 1, 2, 3, 4, 5; 32.417; 32.57; 32.59.

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

Section 1. Minnesota Statutes 2012, section 17.03, subdivision 1, is amended to read:

Subdivision 1. **Development of agricultural industries.** The commissioner shall encourage and promote the development of agricultural industries, investigate marketing conditions affecting the marketing of farm products, and assist farmers, producers, and consumers in the organization and management of cooperative enterprises and the cooperative marketing of farm products; advise and assist in the location and establishment of local markets when the commissioner determines that the public necessity or the welfare of the community requires such markets, if satisfied that such markets will be successfully operated by a cooperative company or municipality. It shall be the duty of the Department of Agriculture and ~~the Department of Agriculture~~ of the University of Minnesota to cooperate in all ways that may be beneficial to the agricultural interests of the state. It is intended that police and organizational powers in reference to agriculture shall be exercised by the state Department of Agriculture and that ~~the Department of Agriculture~~ of the University of Minnesota shall retain its present powers and duties relating to obtaining and disseminating agricultural information and conducting agricultural research, and shall retain custody of scientific collections.

Sec. 2. Minnesota Statutes 2012, section 17.101, subdivision 5, is amended to read:

Subd. 5. **Value-added agricultural product processing and marketing grant program.** (a) For purposes of this section:

(1) "agricultural commodity" means a material produced for use in or as food, feed, seed, or fiber and includes crops for fiber, food, oilseeds, seeds, livestock, livestock products, dairy, dairy products, poultry, poultry products, and other products or by-products of the farm produced for the same or similar use, except ethanol; and

(2) "agricultural product processing facility" means land, buildings, structures, fixtures, and improvements located or to be located in Minnesota and used or operated primarily for the processing or production of marketable products from agricultural commodities produced in Minnesota.

~~(b) The commissioner shall establish and implement a value-added agricultural product processing and marketing grant program to help farmers finance new cooperatives that organize for the purposes of operating agricultural product processing facilities, forming marketing cooperatives, and marketing activities related to the sale and distribution of processed agricultural products.~~

~~(c) To be eligible for this program a grantee must:~~

~~(1) be a cooperative organized under chapter 308A;~~

~~(2) certify that all of the control and equity in the cooperative is from farmers, family farm partnerships, family farm limited liability companies, or family farm corporations as defined in section 500.24, subdivision 2, who are actively engaged in agricultural commodity production;~~

~~(3) be operated primarily for the processing of agricultural commodities produced in Minnesota;~~

~~(4) receive agricultural commodities produced primarily by shareholders or members of the cooperative; and~~

~~(5) have no direct or indirect involvement in the production of agricultural commodities.~~

~~(d) The commissioner may receive applications from and make grants up to \$50,000 for feasibility, marketing analysis, assistance with organizational development, financing and managing new cooperatives, product development, development of business and marketing plans, and predesign of facilities including site analysis, development of bid specifications, preliminary blueprints and schematics, and completion of purchase agreements and other necessary legal documents to eligible cooperatives. The commissioner shall give priority to applicants who use the grants for planning costs related to an application for financial assistance from the United States Department of Agriculture, Rural Business - Cooperative Service.~~

Sec. 3. Minnesota Statutes 2012, section 17.54, subdivision 11, is amended to read:

Subd. 11. **Membership and terms; area potato councils.** Notwithstanding subdivisions 3, 4, and 5, any area potato council which continues in existence pursuant to subdivision 10 shall include one voting member ~~who is a private processor of potatoes and one voting member who represents potato wash plants. These two members~~ This member shall be appointed by the governor for a four-year term ~~terms~~ coterminous with that of the governor.

Sec. 4. Minnesota Statutes 2012, section 17.63, is amended to read:

17.63 REFUND OF FEES.

(a) Any producer, except a producer of potatoes in area number one, as listed in section 17.54, subdivision 9, a producer of wheat or barley, a producer of canola, or a producer of cultivated wild rice, may, by the use of forms to be provided by the commissioner and upon presentation of such proof as the commissioner requires, have the checkoff fee paid pursuant to sections 17.51 to 17.69 fully or partially refunded, provided the checkoff fee was remitted on a timely basis. The request for refund must be received in the office of the commissioner within the time specified in the promotion order following the payment of the checkoff fee. In no event shall these requests for refund be accepted more often than 12 times per year. Refund shall be made by the commissioner and council within 30 days of the request for refund provided that the checkoff fee sought to be refunded has been received. Rules governing the refund of checkoff fees for all commodities shall be formulated by the commissioner, shall be fully outlined in the promotion order, and shall be available for the information of all producers concerned with the referendum.

(b) The commissioner must allow partial refund requests from corn producers who have checked off and must allow for assignment of payment to the Minnesota Corn Growers Association if the Minnesota Corn Research and Promotion Council requests such action by the commissioner.

(c) The Minnesota Corn Research and Promotion Council shall not elect to impose membership on any individual producer not requesting a partial refund or assignment of payment to the association.

(d) For any wheat, barley, or cultivated wild rice for which the checkoff fee must be paid pursuant to sections 17.51 to 17.69 and for which a checkoff fee or fee that serves a comparable purpose in a jurisdiction outside Minnesota had been previously paid for the same wheat, barley, or cultivated wild rice, the producer of the wheat, barley, or cultivated wild rice is exempt from payment of the checkoff fee. The commissioner, in consultation with the Wheat Research and Promotion Council, Barley Research and Promotion Council, and Cultivated Wild Rice Research and Promotion Council, shall determine jurisdictions outside of Minnesota which collect a checkoff fee or fee that serves a comparable purpose. In order to qualify for the exemption, the producer must demonstrate to the first purchaser that a checkoff fee or fee has been paid to such a jurisdiction.

Sec. 5. Minnesota Statutes 2012, section 28A.05, is amended to read:

28A.05 CLASSIFICATION.

All persons required to have a license under section 28A.04 shall be classified into one of the following classes of food handlers, according to their principal mode of business.

(a) Retail food handlers are persons who sell or process and sell food directly to the ultimate consumer or who custom process meat or poultry. The term includes a person who sells food directly to the ultimate consumer through the use of vending machines, and a person who sells food for consumption on site or off site if the sale is conducted on the premises that are part of a grocery or convenience store operation.

(b) Wholesale food handlers are persons who sell to others for resale. A person who handles food in job lots (jobbers) is included in this classification.

(c) Wholesale food processors or manufacturers are persons who process or manufacture raw materials and other food ingredients into food items, or who reprocess food items, or who package food for sale to others for resale, or who commercially slaughter animals or poultry. Included herein are persons who can, extract, ferment, distill, pickle, bake, freeze, dry, smoke, grind, mix, stuff, pack, bottle, recondition, or otherwise treat or preserve food for sale to others for resale, cold storage warehouse operators as defined in section 28.01, subdivision 3, salvage food processors as defined in section 31.495, subdivision 1, and dairy plants as defined in section 32.01, subdivision 6, and nonresident manufacturers of frozen foods as described in section 32.59.

(d) A food broker is a person who buys and sells food and who negotiates between a buyer and a seller of food, but who at no time has custody of the food being bought and sold.

Sec. 6. Minnesota Statutes 2013 Supplement, section 28A.0752, subdivision 1, is amended to read:

Subdivision 1. **Agreements to perform duties of the commissioner.** (a) Agreements to delegate licensing and inspection duties pertaining to retail grocery or convenience stores shall include licensing, inspection, reporting, and enforcement duties authorized under sections 17.04, 29.21, 29.23, 29.235, 29.236, 29.237, 29.24, 29.25, 29.26, 29.27, 30.003, 30.01, 30.099, 30.103, 30.104, 30.15, 30.19, and 30.49, 30.55,

~~30.56, 30.57, 30.58, and 30.59~~, appropriate sections of the Minnesota Food Law, chapters 31 and 34A, and applicable Minnesota food rules.

(b) Agreements are subject to subdivision 3.

(c) This subdivision does not affect agreements entered into under section 28A.075 or current cooperative agreements which base inspections and licensing responsibility on the firm's most predominant mode of business.

Sec. 7. Minnesota Statutes 2012, section 28A.08, subdivision 3, is amended to read:

Subd. 3. Fees effective July 1, 2003.

Type of food handler	License Fee Effective July 1, 2003	Penalties	
		Late Renewal	No License
1. Retail food handler			
(a) Having gross sales of only prepackaged nonperishable food of less than \$15,000 for the immediately previous license or fiscal year and filing a statement with the commissioner	\$ 50	\$ 17	\$ 33
(b) Having under \$15,000 gross sales or service including food preparation or having \$15,000 to \$50,000 gross sales or service for the immediately previous license or fiscal year	\$ 77	\$ 25	\$ 51
(c) Having \$50,001 to \$250,000 gross sales or service for the immediately previous license or fiscal year	\$155	\$ 51	\$102
(d) Having \$250,001 to \$1,000,000 gross sales or service for the immediately previous license or fiscal year	\$276	\$ 91	\$ 182
(e) Having \$1,000,001 to \$5,000,000 gross sales or service for the immediately previous license or fiscal year	\$799	\$264	\$527
(f) Having \$5,000,001 to \$10,000,000 gross sales or service for the immediately previous license or fiscal year	\$1,162	\$383	\$767
(g) Having \$10,000,001 to \$15,000,000 gross sales or service for the immediately previous license or fiscal year	\$1,376	\$454	\$908
(h) Having \$15,000,001 to \$20,000,000 gross sales or service for the immediately previous license or fiscal year	\$1,607	\$530	\$1,061

(i) Having \$20,000,001 to \$25,000,000 gross sales or service for the immediately previous license or fiscal year	\$1,847	\$610	\$1,219
(j) Having over \$25,000,001 gross sales or service for the immediately previous license or fiscal year	\$2,001	\$660	\$1,321
2. Wholesale food handler			
(a) Having gross sales or service of less than \$25,000 for the immediately previous license or fiscal year	\$ 57	\$ 19	\$ 38
(b) Having \$25,001 to \$250,000 gross sales or service for the immediately previous license or fiscal year	\$284	\$ 94	\$187
(c) Having \$250,001 to \$1,000,000 gross sales or service from a mobile unit without a separate food facility for the immediately previous license or fiscal year	\$444	\$147	\$293
(d) Having \$250,001 to \$1,000,000 gross sales or service not covered under paragraph (c) for the immediately previous license or fiscal year	\$590	\$195	\$389
(e) Having \$1,000,001 to \$5,000,000 gross sales or service for the immediately previous license or fiscal year	\$769	\$254	\$508
(f) Having \$5,000,001 to \$10,000,000 gross sales or service for the immediately previous license or fiscal year	\$920	\$304	\$607
(g) Having \$10,000,001 to \$15,000,000 gross sales or service for the immediately previous license or fiscal year	\$990	\$327	\$653
(h) Having \$15,000,001 to \$20,000,000 gross sales or service for the immediately previous license or fiscal year	\$1,156	\$381	\$763
(i) Having \$20,000,001 to \$25,000,000 gross sales or service for the immediately previous license or fiscal year	\$1,329	\$439	\$877
(j) Having over \$25,000,001 or more gross sales or service for the immediately previous license or fiscal year	\$1,502	\$496	\$991
3. Food broker	\$150	\$ 50	\$ 99
4. Wholesale food processor or manufacturer			

(a) Having gross sales or service of less than \$125,000 for the immediately previous license or fiscal year	\$169	\$ 56	\$112
(b) Having \$125,001 to \$250,000 gross sales or service for the immediately previous license or fiscal year	\$392	\$129	\$259
(c) Having \$250,001 to \$1,000,000 gross sales or service for the immediately previous license or fiscal year	\$590	\$195	\$389
(d) Having \$1,000,001 to \$5,000,000 gross sales or service for the immediately previous license or fiscal year	\$769	\$254	\$508
(e) Having \$5,000,001 to \$10,000,000 gross sales or service for the immediately previous license or fiscal year	\$920	\$304	\$607
(f) Having \$10,000,001 to \$15,000,000 gross sales or service for the immediately previous license or fiscal year	\$1,377	\$454	\$909
(g) Having \$15,000,001 to \$20,000,000 gross sales or service for the immediately previous license or fiscal year	\$1,608	\$531	\$1,061
(h) Having \$20,000,001 to \$25,000,000 gross sales or service for the immediately previous license or fiscal year	\$1,849	\$610	\$1,220
(i) Having \$25,000,001 to \$50,000,000 gross sales or service for the immediately previous license or fiscal year	\$2,090	\$690	\$1,379
(j) Having \$50,000,001 to \$100,000,000 gross sales or service for the immediately previous license or fiscal year	\$2,330	\$769	\$1,538
(k) Having \$100,000,000 or more gross sales or service for the immediately previous license or fiscal year	\$2,571	\$848	\$1,697
5. Wholesale food processor of meat or poultry products under supervision of the U.S. Department of Agriculture			
(a) Having gross sales or service of less than \$125,000 for the immediately previous license or fiscal year	\$112	\$ 37	\$ 74

(b) Having \$125,001 to \$250,000 gross sales or service for the immediately previous license or fiscal year	\$214	\$ 71	\$141
(c) Having \$250,001 to \$1,000,000 gross sales or service for the immediately previous license or fiscal year	\$333	\$110	\$220
(d) Having \$1,000,001 to \$5,000,000 gross sales or service for the immediately previous license or fiscal year	\$425	\$140	\$281
(e) Having \$5,000,001 to \$10,000,000 gross sales or service for the immediately previous license or fiscal year	\$521	\$172	\$344
(f) Having over \$10,000,001 gross sales or service for the immediately previous license or fiscal year	\$765	\$252	\$505
(g) Having \$15,000,001 to \$20,000,000 gross sales or service for the immediately previous license or fiscal year	\$893	\$295	\$589
(h) Having \$20,000,001 to \$25,000,000 gross sales or service for the immediately previous license or fiscal year	\$1,027	\$339	\$678
(i) Having \$25,000,001 to \$50,000,000 gross sales or service for the immediately previous license or fiscal year	\$1,161	\$383	\$766
(j) Having \$50,000,001 to \$100,000,000 gross sales or service for the immediately previous license or fiscal year	\$1,295	\$427	\$855
(k) Having \$100,000,001 or more gross sales or service for the immediately previous license or fiscal year	\$1,428	\$471	\$942
6. Wholesale food processor or manufacturer operating only at the State Fair	\$125	\$ 40	\$ 50
7. Wholesale food manufacturer having the permission of the commissioner to use the name Minnesota Farmstead cheese	\$ 30	\$ 10	\$ 15
8. Nonresident frozen dairy manufacturer	\$200	\$ 50	\$ 75
9. Wholesale food manufacturer processing less than 700,000 pounds per year of raw milk	\$ 30	\$ 10	\$ 15
10. A milk marketing organization without 9. facilities for processing or manufacturing that purchases milk from milk producers for delivery	\$ 50	\$ 15	\$ 25

to a licensed wholesale food processor or manufacturer

Sec. 8. Minnesota Statutes 2012, section 32.645, subdivision 1, is amended to read:

Subdivision 1. **Gross misdemeanor; license revocation.** Any person licensed under the provisions of sections 28A.04, 28A.14, and 32.56, ~~and 32.59~~, who knowingly violates, or who directs or knowingly permits any officer, agent, or employee to violate, section 32.62, subdivision 2, clause (1) or (3), is guilty of a gross misdemeanor. For each subsequent offense, in addition to any fine or imprisonment imposed under this subdivision, upon conviction thereof, the commissioner of agriculture shall revoke or withhold issuing to such offender any license required under the provisions of sections 28A.04, 28A.14, and 32.56; ~~and 32.59~~, and in such case of revocation of license the commissioner shall not issue any license for the operation of such frozen food manufacturing plant for a period of one year from the date of such revocation.

Sec. 9. Minnesota Statutes 2012, section 239.77, subdivision 2, is amended to read:

Subd. 2. **Minimum content.** (a) Except as otherwise provided in this section, all diesel fuel sold or offered for sale in Minnesota for use in internal combustion engines must contain at least the stated percentage of biodiesel fuel oil by volume on and after the following dates:

(1)	September 29, 2005	2 percent
(2)	May 1, 2009	5 percent
(3)	May 1, 2012	10 percent
(4)	May 1, 2015 <u>2018</u>	20 percent

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

(b) The minimum content levels in paragraph (a), clauses (3) and (4), become effective on the date specified only if the commissioners of agriculture, commerce, and pollution control publish notice in the State Register and provide written notice to the chairs of the house of representatives and senate committees with jurisdiction over agriculture, commerce, and transportation policy and finance, at least 270 days prior to the date of each scheduled increase, that all of the following conditions have been met and the state is prepared to move to the next scheduled minimum content level:

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

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

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

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

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

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

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

(d) During a period of biodiesel fuel shortage or a problem with biodiesel quality that negatively affects the availability of biodiesel fuel, the commissioner of commerce may temporarily suspend the minimum content requirement in subdivision 2 until there is sufficient biodiesel fuel, as defined in subdivision 1, available to fulfill the minimum content requirement.

(e) By February 1, 2012, and periodically thereafter, the commissioner of commerce shall determine the wholesale diesel price at various pipeline and refinery terminals in the region, and the biodiesel price determined after credits and incentives are subtracted at biodiesel plants in the region. The commissioner shall report wholesale price differences to the governor who, after consultation with the commissioners of commerce and agriculture, may by executive order adjust the biodiesel mandate if a price disparity reported by the commissioner will cause economic hardship to retailers of diesel fuel in this state. Any adjustment must be for a specified period of time, after which the percentage of biodiesel fuel to be blended into diesel fuel returns to the amount required in subdivision 2. The biodiesel mandate must not be adjusted to less than five percent.

Sec. 10. Minnesota Statutes 2012, section 239.77, subdivision 3, is amended to read:

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

- (1) motors located at an electric generating plant regulated by the Nuclear Regulatory Commission;
- (2) railroad locomotives;
- (3) off-road taconite and copper mining equipment and machinery;
- (4) off-road logging equipment and machinery; ~~and~~

(5) vessels of the United States Coast Guard and vessels subject to inspection under United States Code, title 46, section 3301, subsection (1), (9), (10), (13), or (15); and

(6) generators tested and validated by an entity that designs and manufactures the generators for use in jurisdictions where biodiesel use is not required.

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

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

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

Sec. 11. Minnesota Statutes 2012, section 239.77, is amended by adding a subdivision to read:

Subd. 3a. **Number 1 diesel fuel exempt.** (a) The minimum content requirements of subdivision 2 do not apply to Number 1 diesel fuel.

(b) This subdivision expires May 1, 2020.

Sec. 12. Minnesota Statutes 2012, section 609B.105, is amended to read:

609B.105 VIOLATION OF CONTAINER LABEL INFORMATION LAWS; LICENSE REVOCATION.

Section 32.645 requires the commissioner of agriculture to revoke or withhold issuing any license required under sections 28A.04, 28A.14, and 32.56, and 32.59 to a person convicted of a subsequent offense under section 32.645.

Sec. 13. **REVISOR'S INSTRUCTION.**

(a) The revisor of statutes shall make all necessary cross-reference changes in Minnesota Statutes and Minnesota Rules consistent with section 9. The revisor shall make any necessary grammatical changes or changes to sentence structure to preserve the meaning of the text as a result of any cross-reference change required by this section.

(b) The revisor of statutes shall renumber Minnesota Statutes, section 17.037 as Minnesota Statutes, section 28A.0753. The revisor of statutes shall make any necessary cross-reference changes consistent with the renumbering.

Sec. 14. **REPEALER.**

Minnesota Statutes 2012, sections 17.03, subdivision 2; 17.038; 17.045; 17.1161; 17.138; 17.14, subdivisions 1, 3, and 4; 17.15; 17.16; 17.17; 17.18; 17.181; 17.19; 17.42; 17.43; 17.44; 17.452, subdivisions 1 and 2; 18.011; 18.62; 18.63; 18.64; 18.65; 18.66; 18.67; 18.68; 18.69; 18.70; 18.71; 30.003; 30.01, subdivisions 1 and 6; 30.099; 30.10; 30.102; 30.103; 30.104; 30.15; 30.151; 30.152; 30.16; 30.161; 30.17; 30.19; 30.20; 30.201; 30.55; 30.56; 30.57; 30.58; 30.59; 32.104; 32.411, subdivisions 1, 2, 3, 4, and 5; 32.417; 32.57; and 32.59, are repealed.

Presented to the governor April 29, 2014

Signed by the governor April 30, 2014, 9:51 a.m.