

SENATE
STATE OF MINNESOTA
NINETY-SECOND SESSION

S.F. No. 3873

(SENATE AUTHORS: WESTROM)

DATE
03/09/2022

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OFFICIAL STATUS
Introduction and first reading
Referred to Commerce and Consumer Protection Finance and Policy

1.1 A bill for an act
1.2 relating to commerce; modifying minimum biofuel standard; making technical
1.3 changes; requiring reports; establishing exemptions; amending Minnesota Statutes
1.4 2020, section 239.791, subdivisions 1, 2b, 2c, 3, 7, 8, by adding subdivisions;
1.5 repealing Minnesota Statutes 2020, section 239.791, subdivision 2a.

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

1.7 Section 1. Minnesota Statutes 2020, section 239.791, subdivision 1, is amended to read:

1.8 Subdivision 1. **Minimum biofuel content required standard.** (a) Except as provided
1.9 in subdivisions 10 to ~~14~~ 18, a person responsible for the product shall ensure that all gasoline
1.10 sold or offered for sale in Minnesota ~~must contain~~ contains at least the quantity of biofuel
1.11 ~~required by clause (1) or (2), at the option of the person responsible for the product:~~ 15
1.12 percent conventional or advanced biofuel by volume.

1.13 ~~(1) the greater of:~~

1.14 ~~(i) 10.0 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; or~~

1.17 ~~(2) 10.0 percent of a biofuel, other than a conventional biofuel, by volume authorized~~
1.18 ~~in a waiver granted by the United States Environmental Protection Agency or a biofuel~~
1.19 ~~formulation registered by the United States Environmental Protection Agency under United~~
1.20 ~~States Code, title 42, section 7545.~~

1.21 (b) For purposes of enforcing the requirement of under paragraph (a), ~~clause (1), item~~

1.22 ~~(i), a gasoline/biofuel blend will be construed to be~~ gasoline and biofuel blend is in

2.1 compliance if the biofuel content, exclusive of denaturants and other permitted components,
 2.2 comprises not less than ~~9.2~~ 13.8 percent by volume and not more than ~~10.0~~ 15 percent by
 2.3 volume of the blend as determined by an appropriate United States Environmental Protection
 2.4 Agency or American Society of Testing Materials standard method of analysis.

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

2.8	(1)	July 1, 2013	90 percent
2.9	(2)	January 1, 2015	80 percent
2.10	(3)	January 1, 2017	70 percent
2.11	(4)	January 1, 2020	60 percent
2.12	(5)	January 1, 2025	no minimum

2.13 Sec. 2. Minnesota Statutes 2020, section 239.791, subdivision 2b, is amended to read:

2.14 Subd. 2b. **Limited liability waiver.** No motor fuel shall be deemed to be a defective
 2.15 product by virtue of the fact that the motor fuel is formulated or blended pursuant to the
 2.16 requirements of subdivision 1, ~~paragraph (a), clause (1), item (ii)~~, under any theory of
 2.17 liability except for simple or willful negligence or fraud. This subdivision does not preclude
 2.18 an action for negligent, fraudulent, or willful acts. This subdivision does not affect a person
 2.19 whose liability arises under chapter 115, water pollution control; 115A, waste management;
 2.20 115B, environmental response and liability; 115C, leaking underground storage tanks; or
 2.21 299J, pipeline safety; under public nuisance law for damage to the environment or the public
 2.22 health; under any other environmental or public health law; or under any environmental or
 2.23 public health ordinance or program of a municipality as defined in section 466.01.

2.24 Sec. 3. Minnesota Statutes 2020, section 239.791, subdivision 2c, is amended to read:

2.25 Subd. 2c. ~~Fuel dispensing equipment; blends over ten percent ethanol~~ Fuel dispenser
 2.26 labeling. ~~Notwithstanding any other law or rule, fuel dispensing equipment authorized to~~
 2.27 ~~dispense fuel under subdivision 1, paragraph (a), clause (1), is authorized to dispense fuel~~
 2.28 ~~under subdivision 1, paragraph (a), clause (2), or subdivision 1a.~~ Equipment that dispenses
 2.29 gasoline and biofuel blends under subdivision 1 must be labeled as provided under Code
 2.30 of Federal Regulations, title 40, section 1090.1510.

3.1 Sec. 4. Minnesota Statutes 2020, section 239.791, subdivision 3, is amended to read:

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

3.5 Sec. 5. Minnesota Statutes 2020, section 239.791, subdivision 7, is amended to read:

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

3.12 Sec. 6. Minnesota Statutes 2020, section 239.791, subdivision 8, is amended to read:

3.13 Subd. 8. **Disclosure; reporting.** (a) A refinery or terminal, shall provide, at the time
3.14 gasoline is sold or transferred from the refinery or terminal, a bill of lading or shipping
3.15 manifest to the person who receives the gasoline. For oxygenated gasoline, the bill of lading
3.16 or shipping manifest must include the identity and the volume percentage or gallons of
3.17 oxygenate included in the gasoline, and it must state: "This fuel contains an oxygenate. Do
3.18 not blend this fuel with ethanol or with any other oxygenate." For nonoxygenated gasoline
3.19 ~~sold or transferred after September 30, 1997,~~ the bill or manifest must state: "This fuel is
3.20 not oxygenated. It must not be sold at retail in Minnesota." This subdivision does not apply
3.21 to sales or transfers of gasoline between refineries, between terminals, or between a refinery
3.22 and a terminal.

3.23 (b) A delivery ticket required under section 239.092 for biofuel blended with gasoline
3.24 must state the volume percentage of biofuel blended into gasoline delivered through a meter
3.25 into a storage tank used for dispensing by persons not exempt under subdivisions 10 to ~~14~~
3.26 16.

3.27 (c) On or before the 23rd day of each month, a person responsible for the product must
3.28 report to the director, in the form prescribed by the director, the gross number of gallons of
3.29 intermediate blends sold at retail by the person during the preceding calendar month. The
3.30 report must identify the number of gallons by blend type. For purposes of this subdivision,
3.31 "intermediate blends" means blends of gasoline and biofuel in which the biofuel content,
3.32 exclusive of denaturants and other permitted components, is greater than ten percent and
3.33 no more than 50 percent by volume.

4.1 **EFFECTIVE DATE.** This section is effective July 1, 2022.

4.2 Sec. 7. Minnesota Statutes 2020, section 239.791, is amended by adding a subdivision to
4.3 read:

4.4 Subd. 17. **Exemption for vehicles not approved to use more than ten percent**
4.5 **biofuel.** As provided in waivers granted by the United States Environmental Protection
4.6 Agency under United States Code, title 42, section 7545, a person responsible for the product
4.7 who offers for sale or sells gasoline and biofuel blends at retail may provide one dispenser
4.8 that dispenses a gasoline and biofuel blend containing 9.2 to ten percent biofuel for use by
4.9 motorists who cannot lawfully use a gasoline and biofuel blend containing more than ten
4.10 percent biofuel. Dispensers that dispense the blend allowed under this subdivision must be
4.11 labeled "INTENDED FOR USE IN 2000 AND OLDER PASSENGER VEHICLES." The
4.12 label must be positioned to clearly identify the control to select the product. Labeling under
4.13 this subdivision is not required for the exemption under subdivision 18.

4.14 Sec. 8. Minnesota Statutes 2020, section 239.791, is amended by adding a subdivision to
4.15 read:

4.16 Subd. 18. **Exemption for certain sellers with nonconforming equipment.** (a) A person
4.17 responsible for the product who annually sells less than 500,000 gallons of petroleum
4.18 products in Minnesota may sell gasoline and biofuel blends containing 9.2 to ten percent
4.19 biofuel at locations that do not have equipment capable of lawfully storing and dispensing
4.20 the gasoline and ethanol blend required under subdivision 1.

4.21 (b) This subdivision expires July 1, 2027, or four years after this section takes effect,
4.22 whichever is later.

4.23 Sec. 9. **REPEALER.**

4.24 Minnesota Statutes 2020, section 239.791, subdivision 2a, is repealed.

4.25 Sec. 10. **EFFECTIVE DATE.**

4.26 Sections 1 to 4 and 6 to 9 are effective July 1, 2023, or 180 days after the federal
4.27 government approves the year-round sale and use of gasoline and biofuel blends containing
4.28 15 percent biofuel by volume, whichever is later. The commissioner of commerce must
4.29 notify the revisor of statutes of the date when federal approval is received.

239.791 OXYGENATED GASOLINE.

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

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

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

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