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State of Minnesota  
**HOUSE OF REPRESENTATIVES**

NINETY-SECOND SESSION

**H. F. No. 1433**

02/22/2021 Authored by Frederick and Elkins  
The bill was read for the first time and referred to the Committee on Agriculture Finance and Policy  
03/09/2021 Adoption of Report: Amended and re-referred to the Committee on Commerce Finance and Policy

1.1 A bill for an act  
1.2 relating to agriculture; requiring compliance with certain compatibility standards;  
1.3 modifying minimum ethanol standard; making technical changes; requiring  
1.4 rulemaking; amending Minnesota Statutes 2020, sections 116.49, by adding a  
1.5 subdivision; 239.791, subdivisions 1, 2a, 2b, 2c, 15, by adding subdivisions.

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

1.7 Section 1. Minnesota Statutes 2020, section 116.49, is amended by adding a subdivision  
1.8 to read:

1.9 Subd. 5. **Minimum compatibility standard for new equipment.** (a) Any underground  
1.10 storage tank system for gasoline installed after December 31, 2022, must meet compatibility  
1.11 standards in rules adopted under authority of this section for gasoline containing up to 15  
1.12 percent ethanol.

1.13 (b) If a new mid-level blend certification for ethanol is established, the agency must  
1.14 consider revising the minimum compatibility standards required under paragraph (a).

1.15 Sec. 2. Minnesota Statutes 2020, section 239.791, subdivision 1, is amended to read:

1.16 Subdivision 1. ~~Minimum biofuel content required~~ standard. (a) Except as provided  
1.17 in subdivisions 10 to ~~14~~ 18, a person responsible for the product shall ensure that all gasoline  
1.18 sold or offered for sale in Minnesota ~~must contain~~ contains at least the quantity of biofuel  
1.19 required by the greater of clause (1) or (2); ~~at the option of the person responsible for the~~  
1.20 ~~product:~~

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

1.22 ~~(1)~~ (1) 10.0 percent conventional biofuel by volume; or

2.1 ~~(ii) the maximum percent~~ (2) the stated percentage of conventional biofuel by volume  
 2.2 authorized in a waiver granted by the United States Environmental Protection Agency; ~~or~~  
 2.3 under United States Code, title 42, section 7545, no sooner than July 1, 2023, for distributors  
 2.4 that can demonstrate equipment compatibility, and no later than July 1, 2026, for all  
 2.5 distributors as funding and construction materials become available for 15 percent.

2.6 ~~(2) 10.0 percent of a biofuel, other than a conventional biofuel, by volume authorized~~  
 2.7 ~~in a waiver granted by the United States Environmental Protection Agency or a biofuel~~  
 2.8 ~~formulation registered by the United States Environmental Protection Agency under United~~  
 2.9 ~~States Code, title 42, section 7545.~~

2.10 (b) For purposes of enforcing the requirement of paragraph (a), clause (1), ~~item (i),~~ a  
 2.11 gasoline/biofuel blend will be construed to be in compliance if the conventional biofuel  
 2.12 content, exclusive of denaturants and other permitted components, comprises not less than  
 2.13 9.2 percent by volume and not more than 10.0 percent by volume of the blend as determined  
 2.14 by an appropriate United States Environmental Protection Agency or American Society of  
 2.15 Testing Materials standard method of analysis.

2.16 ~~(c) The aggregate amount of biofuel blended pursuant to this subdivision may be any~~  
 2.17 ~~biofuel; however, conventional biofuel must comprise no less than the portion specified on~~  
 2.18 ~~and after the specified dates:~~

2.19	<del>(1)</del>	<u>July 1, 2013</u>	<u>90 percent</u>
2.20	<del>(2)</del>	<u>January 1, 2015</u>	<u>80 percent</u>
2.21	<del>(3)</del>	<u>January 1, 2017</u>	<u>70 percent</u>
2.22	<del>(4)</del>	<u>January 1, 2020</u>	<u>60 percent</u>
2.23	<del>(5)</del>	<u>January 1, 2025</u>	<u>no minimum</u>

2.24 (c) For purposes of enforcing the requirement of paragraph (a), clause (2), a gasoline  
 2.25 and conventional biofuel blend is considered to be in compliance if the conventional biofuel  
 2.26 content, exclusive of denaturants and other permitted components, comprises not less than  
 2.27 13.8 percent by volume and not more than 15 percent by volume of the blend as determined  
 2.28 by an appropriate United States Environmental Protection Agency or American Society of  
 2.29 Testing Materials standard method of analysis. Dispensers dispensing the blend specified  
 2.30 in paragraph (a), clause (2), must be marked according to rules adopted by the commissioner.

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

2.32 Subd. 2a. **Federal Clean Air Act waivers; conditions.** (a) Before a waiver granted by  
 2.33 the United States Environmental Protection Agency under United States Code, title 42,

3.1 section 7545, may alter the minimum content level required by subdivision 1, paragraph  
3.2 (a), clause ~~(1)~~, ~~item (ii)~~ (2), the waiver must:

3.3 (1) apply to all over 90 percent of gasoline-powered motor vehicles irrespective of model  
3.4 year; and

3.5 (2) allow for special regulatory treatment of Reid vapor pressure under Code of Federal  
3.6 Regulations, title 40, section ~~80.27, paragraph (d)~~ 1090.215(b), for blends of gasoline and  
3.7 ethanol up to the maximum percent of denatured ethanol by volume authorized under the  
3.8 waiver.

3.9 (b) The minimum biofuel requirement in subdivision 1, paragraph (a), clause ~~(1)~~, ~~item~~  
3.10 ~~(ii)~~ (2), shall, upon the grant of the federal waiver, be effective ~~the day after the commissioner~~  
3.11 ~~of commerce publishes notice in the State Register. In making this determination, the~~  
3.12 ~~commissioner shall consider the amount of time required by refiners, retailers, pipeline and~~  
3.13 ~~distribution terminal companies, and other fuel suppliers, acting expeditiously, to make the~~  
3.14 ~~operational and logistical changes required to supply fuel in compliance with the minimum~~  
3.15 ~~biofuel requirement. only if the commissioners of agriculture, commerce, transportation,~~  
3.16 ~~and pollution control publish notice in the State Register and provide written notice to the~~  
3.17 ~~chairs of the legislative committees with jurisdiction over agriculture, commerce,~~  
3.18 ~~environment, and transportation policy and finance at least 270 days prior to the date of the~~  
3.19 ~~scheduled increase that the following conditions have been met and the state is prepared to~~  
3.20 ~~move to the scheduled minimum content level:~~

3.21 (1) an American Society for Testing and Materials specification or equivalent federal  
3.22 standard exists for the next minimum gasoline and conventional biofuel blend;

3.23 (2) the next minimum content level is approved for sale by the United States  
3.24 Environmental Protection Agency;

3.25 (3) a distributor who distributes or sells petroleum products in Minnesota has had adequate  
3.26 time to ensure that all fuel-dispensing equipment is capable of dispensing and storing gasoline  
3.27 containing up to the scheduled minimum conventional biofuel content in subdivision 1, in  
3.28 conformance with standards of the United States Environmental Protection Agency, rules  
3.29 adopted under section 116.49, and the State Fire Code, considering factors such as the  
3.30 availability of fuel-dispensing equipment and the availability of fuel-dispensing equipment  
3.31 installers and service providers; and

3.32 (4) a distributor who distributes or sells petroleum products in Minnesota and who  
3.33 operates two or fewer distribution locations in Minnesota or elsewhere has been afforded  
3.34 a reasonable opportunity to obtain financial assistance for bringing fuel-dispensing equipment

4.1 into conformance with standards of the United States Environmental Protection Agency  
4.2 and rules adopted under sections 116.49 and 299F.011.

4.3 Sec. 4. Minnesota Statutes 2020, section 239.791, subdivision 2b, is amended to read:

4.4 Subd. 2b. **Limited liability waiver.** No motor fuel shall be deemed to be a defective  
4.5 product by virtue of the fact that the motor fuel is formulated or blended pursuant to the  
4.6 requirements of subdivision 1, ~~paragraph (a), clause (1), item (ii),~~ under any theory of  
4.7 liability except for simple or willful negligence or fraud. This subdivision does not preclude  
4.8 an action for negligent, fraudulent, or willful acts. This subdivision does not affect a person  
4.9 whose liability arises under chapter 115, water pollution control; 115A, waste management;  
4.10 115B, environmental response and liability; 115C, leaking underground storage tanks; or  
4.11 299J, pipeline safety; under public nuisance law for damage to the environment or the public  
4.12 health; under any other environmental or public health law; or under any environmental or  
4.13 public health ordinance or program of a municipality as defined in section 466.01.

4.14 Sec. 5. Minnesota Statutes 2020, section 239.791, subdivision 2c, is amended to read:

4.15 Subd. 2c. ~~Fuel dispensing equipment~~ **Fuel-dispensing labeling; blends over ten**  
4.16 **percent ethanol.** ~~Notwithstanding any other law or rule, fuel dispensing equipment~~  
4.17 ~~authorized to dispense fuel under subdivision 1, paragraph (a), clause (1), is authorized to~~  
4.18 ~~dispense fuel under subdivision 1, paragraph (a), clause (2), or subdivision 1a. Equipment~~  
4.19 dispensing gasoline and conventional biofuel blends under subdivision 1, paragraph (a),  
4.20 clause (2), must be labeled according to Code of Federal Regulations, title 40, section  
4.21 1090.1510.

4.22 Sec. 6. Minnesota Statutes 2020, section 239.791, subdivision 15, is amended to read:

4.23 Subd. 15. **Exemption for certain blend pumps.** (a) If subdivision 1, paragraph (a),  
4.24 clause (1), is in effect, a person responsible for the product, who offers for sale, sells, or  
4.25 dispenses nonoxygenated premium gasoline under one or more of the exemptions in  
4.26 subdivisions 10 to 14, may sell, offer for sale, or dispense oxygenated gasoline that contains  
4.27 less than the minimum amount of ethanol required under subdivision 1, paragraph (a), clause  
4.28 (1), if all of the following conditions are met:

4.29 (1) the blended gasoline has an octane rating of 88 or greater;

4.30 (2) the gasoline is a blend of oxygenated gasoline meeting the requirements of subdivision  
4.31 1, paragraph (a), clause (1), with nonoxygenated premium gasoline;

5.1 (3) the blended gasoline contains not more than ten percent nonoxygenated premium  
5.2 gasoline;

5.3 (4) the blending of oxygenated gasoline with nonoxygenated gasoline occurs within the  
5.4 gasoline dispenser; and

5.5 (5) the gasoline station at which the gasoline is sold, offered for sale, or delivered is  
5.6 equipped to store gasoline in not more than two storage tanks.

5.7 (b) This subdivision applies only to those persons who met the conditions in paragraph  
5.8 (a), clauses (1) through (5), on August 1, 2004, and registered with the director by November  
5.9 1, 2004.

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

5.12 **Subd. 17. Exemption for vehicles not approved to use more than ten percent**  
5.13 **biofuel.** A person responsible for the product who offers for sale or sells gasoline and  
5.14 conventional biofuel blends at retail may provide one dispenser dispensing a gasoline and  
5.15 conventional biofuel blend containing 9.2 to ten percent conventional biofuel for use by  
5.16 motorists who cannot lawfully use a gasoline and biofuel blend containing more than ten  
5.17 percent biofuel pursuant to waivers granted by the United States Environmental Protection  
5.18 Agency under United States Code, title 42, section 7545. Dispensers dispensing the blend  
5.19 allowed under this subdivision must be labeled "INTENDED FOR USE IN 2000 AND  
5.20 OLDER PASSENGER VEHICLES." The label must be positioned to clearly identify the  
5.21 control for selecting this product. Labeling under this subdivision is not required for  
5.22 exemptions under subdivision 18.

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

5.25 **Subd. 18. Persons exempt from higher blending requirements; new fuel storage,**  
5.26 **handling, and dispensing equipment.** A distributor who distributes or sells petroleum  
5.27 products in Minnesota and who operates two or fewer distribution locations in Minnesota  
5.28 or elsewhere may sell gasoline and conventional biofuel blends containing 9.2 to ten percent  
5.29 conventional biofuel at distribution locations that do not have fuel-dispensing equipment  
5.30 capable of dispensing and storing gasoline containing the conventional biofuel content in  
5.31 subdivision 1 in conformance with standards of the United States Environmental Protection  
5.32 Agency and rules adopted under sections 116.49 and 299F.011. This exemption does not  
5.33 apply to distribution locations with fuel-dispensing equipment that have fuel-dispensing

6.1 equipment capable of dispensing and storing gasoline containing the conventional biofuel  
6.2 content in subdivision 1 in conformance with standards of the United States Environmental  
6.3 Protection Agency and rules adopted under sections 116.49 and 299F.011.

6.4 Sec. 9. **RULEMAKING REQUIRED.**

6.5 The commissioners of commerce and the Pollution Control Agency must promulgate  
6.6 the rules required under this act as provided in Minnesota Statutes, chapter 14.