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HOUSE FILE No. 2987

SECOND COMMITTEE ENGROSSMENT

February 14, 2008

Authored by Juhnke, Otremba, Finstad, Hamilton, Magnus and others
The bill was read for the first time and referred to the Committee on Commerce and Labor

February 18, 2008

By motion, recalled and re-referred to the Agriculture, Rural Economies and Veterans Affairs

February 21, 2008

Committee Recommendation and Adoption of Report:
To Pass as Amended and re-referred to the Committee on Commerce and Labor

March 10, 2008

Committee Recommendation and Adoption of Report:
To Pass as Amended and re-referred to the Committee on Finance

Referred by Chair to Agriculture, Rural Economies and Veterans Affairs Finance Division.

March 25, 2008

Returned to the Committee on Finance as Amended.

1.1 A bill for an act
1.2 relating to motor fuels; modifying definition of biodiesel; increasing minimum
1.3 biodiesel content; creating tiered biodiesel content goal; requiring notice,
1.4 a proposal, and recommendations to the legislature; appropriating money;
1.5 amending Minnesota Statutes 2006, section 239.77, as amended; Minnesota
1.6 Statutes 2007 Supplement, section 296A.01, subdivision 8a.

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

1.8 Section 1. Minnesota Statutes 2006, section 239.77, as amended by Laws 2007, chapter
1.9 62, sections 3 and 4, is amended to read:

1.10 **239.77 BIODIESEL CONTENT MANDATE.**

1.11 Subdivision 1. **Biodiesel fuel.** "Biodiesel fuel" means a renewable, biodegradable,
1.12 mono alkyl ester combustible liquid fuel that is derived from agricultural or other
1.13 plant oils or animal fats ~~and~~; that meets American Society For Testing and Materials
1.14 specification D6751-07 for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels;
1.15 and that is manufactured by a person certified by the BQ-9000 National Biodiesel
1.16 Accreditation Program.

1.17 Subd. 2. **Minimum content.** (a) Except as otherwise provided in this section, all
1.18 diesel fuel sold or offered for sale in Minnesota for use in internal combustion engines
1.19 must contain at least ~~2.0 percent~~ the stated percentage of biodiesel fuel oil by volume;
1.20 on and after the following dates:

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

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

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

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

2.19 (2) a sufficient supply of biodiesel is available and the amount of biodiesel produced
2.20 in this state is equal to at least 50 percent of anticipated demand at the next minimum
2.21 content level; and

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

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

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

2.33 (e) By February 1, 2012, and periodically thereafter, the commissioner of commerce
2.34 shall determine the wholesale diesel price at various pipeline and refinery terminals in the
2.35 region, and the biodiesel price determined after any applicable per-gallon federal tax credit
2.36 is subtracted at biodiesel plants in the region. The commissioner shall report wholesale

3.1 price differences to the governor who, after consultation with the commissioners of
3.2 commerce and agriculture, may by executive order adjust the biodiesel mandate if a price
3.3 disparity reported by the commissioner will cause economic hardship to retailers of diesel
3.4 fuel in this state. Any adjustment must be for a specified period of time, after which the
3.5 percentage of biodiesel fuel to be blended into diesel fuel returns to the amount required in
3.6 this subdivision. The biodiesel mandate must not be adjusted to less than five percent.

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

3.9 (1) motors located at an electric generating plant regulated by the Nuclear
3.10 Regulatory Commission;

3.11 (2) railroad locomotives; ~~and~~

3.12 (3) off-road taconite and copper mining equipment and machinery;

3.13 (4) off-road logging equipment and machinery; and

3.14 (5) vehicles and equipment used exclusively on an aircraft landing field.

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

3.18 (c) This subdivision expires May 1, 2012.

3.19 Subd. 4. **Disclosure.** A refinery or terminal shall provide, at the time diesel fuel
3.20 is sold or transferred from the refinery or terminal, a bill of lading or shipping manifest
3.21 to the person who receives the fuel. For biodiesel-blended products, the bill of lading or
3.22 shipping manifest must disclose biodiesel content, stating volume percentage, gallons of
3.23 biodiesel per gallons of petroleum diesel base-stock, or an ASTM "Bxx" designation
3.24 where "xx" denotes the volume percent biodiesel included in the blended product. This
3.25 subdivision does not apply to sales or transfers of biodiesel blend stock between refineries,
3.26 between terminals, or between a refinery and a terminal.

3.27 Subd. 5. **Annual Report.** Beginning in 2009, the commissioner of agriculture
3.28 shall report by January 15 of each year to the chairs and ranking minority members of
3.29 the legislative committees and divisions with jurisdiction over agriculture policy and
3.30 finance regarding the implementation of the minimum content requirements in subdivision
3.31 2, including information about the price and supply of biodiesel fuel. The report must
3.32 include any written comments received from members of the biodiesel fuel task force
3.33 by January 1 of that year.

3.34 Sec. 2. Minnesota Statutes 2007 Supplement, section 296A.01, subdivision 8a, is
3.35 amended to read:

4.1 Subd. 8a. **Biodiesel fuel.** "~~Biodiesel fuel" means a renewable, biodegradable, mono~~
4.2 ~~alkyl ester combustible liquid fuel derived from agricultural plant oils or animal fats~~
4.3 ~~and that meets American Society for Testing and Materials specification D6751-07 for~~
4.4 ~~Biodiesel Fuel (B100) Blend Stock for Distillate Fuels~~ has the meaning given in section
4.5 239.77, subdivision 1.

4.6 Sec. 3. **PROPOSAL; PETROLEUM INSPECTION FEE REVENUE.**

4.7 The commissioners of finance, commerce, and pollution control shall develop and
4.8 submit to the legislature as part of their next biennial budget request a proposal for
4.9 eliminating, to the extent feasible, redundant fuel inspections and dedicating, to the extent
4.10 feasible, all revenue from the petroleum inspection fee levied on petroleum products under
4.11 Minnesota Statutes, section 239.101, subdivision 3, to the Weights and Measures Division
4.12 of the Department of Commerce. All additional funding appropriated to the Weights and
4.13 Measures Division under this proposal must be used for increased and enhanced fuel
4.14 quality assurance enforcement activities and equipment and for educational activities
4.15 focused on the handling, distribution, and use of biodiesel fuel.

4.16 Sec. 4. **BIO-BASED DIESEL ALTERNATIVES.**

4.17 (a) By January 1, 2011, the commissioners of agriculture, commerce, and pollution
4.18 control shall jointly review the technology, economics, and operational characteristics
4.19 associated with bio-based diesel alternatives and shall make recommendations concerning
4.20 their use in Minnesota to the governor and the chairs of the house of representatives and
4.21 senate committees with jurisdiction over agriculture and energy finance.

4.22 (b) For the purposes of this section, "bio-based diesel alternatives" means
4.23 alternatives to petroleum diesel fuel that are warrantied for use in a standard diesel engine
4.24 without modification and derived from a biological resource.

4.25 Sec. 5. **TECHNICAL COLD WEATHER ISSUES.**

4.26 The commissioners of agriculture and commerce shall convene technical
4.27 stakeholders who are experts in cold weather biodiesel and petroleum diesel issues to
4.28 consider and make recommendations regarding improvements in the production, blending,
4.29 handling, and distribution of biodiesel blends to further ensure the performance of these
4.30 fuels in cold weather. The commissioners shall issue a report on these issues by January
4.31 15, 2009, to the chairs of the house of representatives and senate committees with
4.32 jurisdiction over agriculture and commerce policy and finance.