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State of Minnesota

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HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH  
SESSION

HOUSE FILE NO. 863

February 12, 2007

Authored by Hortman; Tschumper; Hornstein; Liebling; Murphy, E., and others

The bill was read for the first time and referred to the Committee on Environment and Natural Resources

February 18, 2008

To Pass as Amended and re-referred to the Committee on Governmental Operations, Reform, Technology and Elections

February 28, 2008

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

March 17, 2008

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

April 30, 2008

Committee Recommendation and Adoption of Report:

To Pass as Amended and re-referred to the Committee on Ways and Means

May 7, 2008

Committee Recommendation and Adoption of Report:

To Pass as Amended

Read Second Time

1.1 A bill for an act  
1.2 relating to air pollution; requiring adoption of emission standards for motor  
1.3 vehicles; providing for updates as necessary to comply with the Clean Air  
1.4 Act; requiring reports and a study; appropriating money; amending Minnesota  
1.5 Statutes 2006, section 116.07, subdivision 2.

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

1.7 Section 1. Minnesota Statutes 2006, section 116.07, subdivision 2, is amended to read:

1.8 Subd. 2. **Adoption of standards.** (a) The Pollution Control Agency shall improve  
1.9 air quality by promoting, in the most practicable way possible, the use of energy sources  
1.10 and waste disposal methods which produce or emit the least air contaminants consistent  
1.11 with the agency's overall goal of reducing all forms of pollution. The agency shall also  
1.12 adopt standards of air quality, including maximum allowable standards of emission of air  
1.13 contaminants from motor vehicles, recognizing that due to variable factors, no single  
1.14 standard of purity of air is applicable to all areas of the state. In adopting standards the  
1.15 Pollution Control Agency shall give due recognition to the fact that the quantity or  
1.16 characteristics of air contaminants or the duration of their presence in the atmosphere,  
1.17 which may cause air pollution in one area of the state, may cause less or not cause any air  
1.18 pollution in another area of the state, and it shall take into consideration in this connection  
1.19 such factors, including others which it may deem proper, as existing physical conditions,  
1.20 zoning classifications, topography, prevailing wind directions and velocities, and the fact  
1.21 that a standard of air quality which may be proper as to an essentially residential area of  
1.22 the state, may not be proper as to a highly developed industrial area of the state. Such  
1.23 standards of air quality shall be premised upon scientific knowledge of causes as well as  
1.24 effects based on technically substantiated criteria and commonly accepted practices. No

2.1 local government unit shall set standards of air quality which are more stringent than  
2.2 those set by the Pollution Control Agency.

2.3 (b) The Pollution Control Agency shall adopt rules, as authorized under the federal  
2.4 Clean Air Act, United States Code, title 42, section 7507, to regulate emission standards  
2.5 of motor vehicles sold in this state. The rules:

2.6 (1) must be adopted under section 14.388, subdivision 1, clause (3);

2.7 (2) except as provided in clauses (3) to (5), must be identical to and must incorporate  
2.8 by reference the California low emission vehicle regulations adopted by the California Air  
2.9 Resources Board under the California Code of Regulations, title 13, sections 1900 to 2235;

2.10 (3) must not include the zero emission vehicle standards contained in California  
2.11 Code of Regulations, title 13, section 1962;

2.12 (4) must not include the 15-year or 150,000-mile extended warranty specified in  
2.13 California Code of Regulations, title 13, section 1962, for partial zero emission vehicles,  
2.14 provided that partial zero emission vehicles delivered for sale to Minnesota are equipped  
2.15 with the same quality components as partial zero emission vehicles supplied to areas  
2.16 where the full 15-year or 150,000-mile warranty remains in effect. This section does not  
2.17 amend the requirements of California Code of Regulations, title 13, section 1962, that  
2.18 indicate the warranty period for a zero emission energy storage device used for traction  
2.19 power will be ten years;

2.20 (5) must not include any fuel standards set forth in California Code of Regulations,  
2.21 title 13, sections 2250 et. seq.;

2.22 (6) must be amended as necessary in a timely fashion to minimize the time during  
2.23 which Minnesota's rules are not identical with California's regulations, as required under  
2.24 United States Code, title 42, section 7507. Amendments under this clause must be made  
2.25 under section 14.388, subdivision 1, clause (3); and

2.26 (7) must state that each section of the rules is severable, and that if any section is  
2.27 held invalid, the remainder will continue in full force and effect.

2.28 If the California emission standards referred to under this paragraph are extended  
2.29 to off-road vehicles or engines including, but not limited to, all-terrain vehicles,  
2.30 snowmobiles, boats, aircraft, lawnmowers, tractors, farm machinery, or construction  
2.31 equipment, this paragraph is no longer effective, and Minnesota reverts to the federal  
2.32 motor vehicle emissions standards by operation of law without requiring further executive  
2.33 or legislative branch action.

2.34 Any portion of California's regulations requiring a federal waiver under the Clean  
2.35 Air Act in order to become effective may not be enforced in Minnesota unless and until  
2.36 California receives the requisite federal waiver.

3.1 At least 30 days prior to beginning to adopt rules under this paragraph, the  
3.2 commissioner of the Pollution Control Agency must notify the governor, commissioner of  
3.3 agriculture, commissioner of commerce, and chairs and ranking minority members of the  
3.4 senate and house of representatives committees with primary jurisdiction over agricultural  
3.5 policy and finance, environmental policy and finance, and commerce policy and finance of  
3.6 the commissioner's intention to adopt rules under this paragraph.

3.7 Beginning January 1, 2009, and each year thereafter, the commissioner must submit  
3.8 to the governor, commissioner of agriculture, commissioner of commerce, and chairs  
3.9 and ranking minority members of the senate and house of representatives committees  
3.10 with primary jurisdiction over agricultural policy and finance, environmental policy and  
3.11 finance, and commerce policy and finance a report containing the following information,  
3.12 to the extent it is available:

3.13 (1) for each motor vehicle manufacturer:

3.14 (i) the makes and models of flexible fuel vehicles offered for sale in Minnesota; and

3.15 (ii) the percentage of flexible fuel vehicles offered for sale in Minnesota that are  
3.16 engineered for optimal performance using E85; and

3.17 (2) for each of the 50 states:

3.18 (i) the number of E85 pumps operating;

3.19 (ii) gross sales of E85; and

3.20 (iii) the market share of E85 as a proportion of total fuel purchased for motor  
3.21 vehicle use.

3.22 (c) The Pollution Control Agency shall promote solid waste disposal control  
3.23 by encouraging the updating of collection systems, elimination of open dumps, and  
3.24 improvements in incinerator practices. The agency shall also adopt standards for the  
3.25 control of the collection, transportation, storage, processing, and disposal of solid waste  
3.26 and sewage sludge for the prevention and abatement of water, air, and land pollution,  
3.27 recognizing that due to variable factors, no single standard of control is applicable to  
3.28 all areas of the state. In adopting standards, the Pollution Control Agency shall give  
3.29 due recognition to the fact that elements of control which may be reasonable and proper  
3.30 in densely populated areas of the state may be unreasonable and improper in sparsely  
3.31 populated or remote areas of the state, and it shall take into consideration in this connection  
3.32 such factors, including others which it may deem proper, as existing physical conditions,  
3.33 topography, soils and geology, climate, transportation, and land use. Such standards of  
3.34 control shall be premised on technical criteria and commonly accepted practices.

3.35 (d) The Pollution Control Agency shall also adopt standards describing the  
3.36 maximum levels of noise in terms of sound pressure level which may occur in the outdoor

4.1 atmosphere, recognizing that due to variable factors no single standard of sound pressure  
4.2 is applicable to all areas of the state. Such standards shall give due consideration to  
4.3 such factors as the intensity of noises, the types of noises, the frequency with which  
4.4 noises recur, the time period for which noises continue, the times of day during which  
4.5 noises occur, and such other factors as could affect the extent to which noises may be  
4.6 injurious to human health or welfare, animal or plant life, or property, or could interfere  
4.7 unreasonably with the enjoyment of life or property. In adopting standards, the Pollution  
4.8 Control Agency shall give due recognition to the fact that the quantity or characteristics  
4.9 of noise or the duration of its presence in the outdoor atmosphere, which may cause  
4.10 noise pollution in one area of the state, may cause less or not cause any noise pollution  
4.11 in another area of the state, and it shall take into consideration in this connection such  
4.12 factors, including others which it may deem proper, as existing physical conditions,  
4.13 zoning classifications, topography, meteorological conditions and the fact that a standard  
4.14 which may be proper in an essentially residential area of the state, may not be proper as to  
4.15 a highly developed industrial area of the state. Such noise standards shall be premised  
4.16 upon scientific knowledge as well as effects based on technically substantiated criteria  
4.17 and commonly accepted practices. No local governing unit shall set standards describing  
4.18 the maximum levels of sound pressure which are more stringent than those set by the  
4.19 Pollution Control Agency.

4.20 (e) The Pollution Control Agency shall adopt standards for the identification of  
4.21 hazardous waste and for the management, identification, labeling, classification, storage,  
4.22 collection, transportation, processing, and disposal of hazardous waste, recognizing  
4.23 that due to variable factors, a single standard of hazardous waste control may not be  
4.24 applicable to all areas of the state. In adopting standards, the Pollution Control Agency  
4.25 shall recognize that elements of control which may be reasonable and proper in densely  
4.26 populated areas of the state may be unreasonable and improper in sparsely populated  
4.27 or remote areas of the state. The agency shall consider existing physical conditions,  
4.28 topography, soils, and geology, climate, transportation and land use. Standards of  
4.29 hazardous waste control shall be premised on technical knowledge, and commonly  
4.30 accepted practices. Hazardous waste generator licenses may be issued for a term not to  
4.31 exceed five years. No local government unit shall set standards of hazardous waste control  
4.32 which are in conflict or inconsistent with those set by the Pollution Control Agency.

4.33 A person who generates less than 100 kilograms of hazardous waste per month is  
4.34 exempt from the following agency hazardous waste rules:

5.1 (1) rules relating to transportation, manifesting, storage, and labeling for  
5.2 photographic fixer and X-ray negative wastes that are hazardous solely because of silver  
5.3 content; and

5.4 (2) any rule requiring the generator to send to the agency or commissioner a copy  
5.5 of each manifest for the transportation of hazardous waste for off-site treatment, storage,  
5.6 or disposal, except that counties within the metropolitan area may require generators to  
5.7 provide manifests.

5.8 Nothing in this paragraph exempts the generator from the agency's rules relating to on-site  
5.9 accumulation or outdoor storage. A political subdivision or other local unit of government  
5.10 may not adopt management requirements that are more restrictive than this paragraph.

5.11 **EFFECTIVE DATE.** This section is effective July 1, 2009.

5.12 Sec. 2. **STUDY.**

5.13 The commissioner of the Pollution Control Agency shall issue a request for  
5.14 proposals from academic institutions within the state to complete a study regarding the  
5.15 implementation of this act. The study must be submitted to the legislature by February 1,  
5.16 2009. The study must address the following:

5.17 (1) the differences between California low emission vehicle (LEV) regulations  
5.18 and federal regulations;

5.19 (2) a summary of the numbers of flexible fuel vehicles (FFV's) sold and the amount  
5.20 of E85 fuel used in California and other states that have adopted the California LEV  
5.21 regulations, compared with the numbers of FFV's sold and the amount of E85 fuel used in  
5.22 states utilizing federal regulations. The summary should be based on the ratio of FFV's to  
5.23 gasoline vehicles;

5.24 (3) any negative impact that the California standards would have on the availability  
5.25 of the purchase of FFV's and E85 in Minnesota;

5.26 (4) recommendations as to how an automaker would certify that E85 is being used  
5.27 in FFV's;

5.28 (5) an analysis of the extent that California uses survey reports to determine E85  
5.29 use in FFV's;

5.30 (6) an analysis of using the GM On-Star and similar computer systems to determine  
5.31 E85 use in FFV's, including the ability of the system to collect the data, the current  
5.32 availability of On-Star type systems on FFV's and the cost of adding the technology on  
5.33 those vehicles, and whether collection of the data violates state privacy laws;

6.1 (7) a summary of national use of high occupancy vehicle (HOV) lanes by vehicles  
6.2 that operate on alternative fuels, including whether FFV's are permitted to use HOV lanes  
6.3 and any difficulties in determining the type of fuel being used;

6.4 (8) a review of the evolution of the California LEV regulations and any planned  
6.5 future changes, including:

6.6 (i) how those changes impact the availability of FFV's and whether they encourage  
6.7 broader use of renewable fuels;

6.8 (ii) a summary of past, present, and future biofuel use; and

6.9 (iii) a summary of California's transportation planning, including any anticipated  
6.10 reliance on particular transportation components, such as all-electric vehicles, use of  
6.11 biodiesel and ethanol fuels, and the like; and

6.12 (9) an analysis of California vehicle and gasoline test methodology and certifications,  
6.13 including:

6.14 (i) whether FFV's are tested on gasoline grades sold in Minnesota;

6.15 (ii) why FFV's are not tested on E85;

6.16 (iii) what are lifecycle emission impacts associated with E85 use;

6.17 (iv) how California gasoline differs from that of other regions and federally  
6.18 reformulated gasoline;

6.19 (v) what are the emission impacts of using Minnesota gasoline in California-certified  
6.20 vehicles, compared with modeled emission impacts; and

6.21 (vi) the impact on Minnesota air pollution if California LEV standards are adopted,  
6.22 given that California is NOx-limited for ground-level ozone formation and Minnesota is  
6.23 a VOC-limited air shed.

6.24 **EFFECTIVE DATE.** This section is effective the day following final enactment.

6.25 **Sec. 3. ADOPTION.**

6.26 The rules under section 1 must be adopted and made effective by September 30,  
6.27 2009, and shall be effective for motor vehicles with a model year of 2013 and later.

6.28 The rules adopted under section 1 do not affect collector vehicles or street rods under  
6.29 Minnesota Statutes, section 168.10.

6.30 **Sec. 4. APPROPRIATION.**

6.31 \$134,000 is appropriated to the Pollution Control Agency from the environmental  
6.32 fund for fiscal year 2009 for the study, rulemaking, and related costs of this act.

6.33 **Sec. 5. DUPLICATE APPROPRIATIONS.**

- 7.1 Unless another act explicitly provides otherwise, appropriations and transfers made  
7.2 in this act and other acts must be implemented only once even if the provision or a similar  
7.3 provision with the same fiscal effect in the same fiscal year is included in another act. This  
7.4 section applies to laws enacted in the 2008 regular session.