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# HOUSE FILE NO. 86

## *FIRST COMMITTEE ENGROSSMENT*

January 12, 2009

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The bill was read for the first time and referred to the Committee on Environment Policy and Oversight

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April 21, 2009

*Amended and Laid Over in Committee*

1.1 A bill for an act  
1.2 relating to energy; establishing standard to reduce carbon intensity of  
1.3 transportation fuels; proposing coding for new law in Minnesota Statutes,  
1.4 chapter 239.

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

1.6 Section 1. **[239.765] DEFINITIONS.**

1.7 **Subdivision 1. Scope.** For the purposes of sections 239.765 and 239.766, the terms  
1.8 defined in this section have the meanings given them.

1.9 **Subd. 2. Carbon dioxide equivalent.** "Carbon dioxide equivalent" has the meaning  
1.10 given in section 216H.10, subdivision 3.

1.11 **Subd. 3. Carbon intensity.** "Carbon intensity" means the quantity of carbon dioxide  
1.12 or carbon dioxide equivalent emissions per BTU of transportation fuel sold in this state,  
1.13 measured on a life cycle basis.

1.14 **Subd. 4. Commissioner.** "Commissioner" means the commissioner of commerce.

1.15 **Subd. 5. Indirect carbon inputs.** "Indirect carbon inputs" means an additional  
1.16 value added to a transportation fuel's carbon intensity that measures increased greenhouse  
1.17 gas emissions released as a result of general market forces that is not part of a specific  
1.18 fuel supply chain.

1.19 **Subd. 6. Motor vehicle.** "Motor vehicle" means a vehicle that is self-propelled  
1.20 and designed for use on public highways.

1.21 **Subd. 7. Renewable transportation fuel producer.** "Renewable transportation  
1.22 fuel producer" means a manufacturer or producer of ethanol or biodiesel. "Renewable  
1.23 transportation fuel producer" includes a manufacturer or producer of transportation fuel  
1.24 that is not a "responsible party" under subdivision 8.

2.1 Subd. 8. **Responsible party.** "Responsible party" means a person who refines,  
2.2 produces, blends, or imports transportation fuel for sale in this state who:

2.3 (1) receives petroleum products in this state for storage and subsequent distribution  
2.4 by tank car or tank truck;

2.5 (2) produces, manufactures, or refines petroleum products for sale in this state; or

2.6 (3) imports petroleum products via boat, barge, truck, or pipeline into this state for  
2.7 sale within the state for storage and subsequent delivery or further transportation from  
2.8 boat, barge, truck, or pipeline terminals in this state.

2.9 Responsible party does not include a retailer or renewable transportation fuel  
2.10 producer.

2.11 Subd. 9. **Transportation fuel.** "Transportation fuel" means a fuel used to propel a  
2.12 motor vehicle.

2.13 Sec. 2. **[239.766] LOW-CARBON TRANSPORTATION FUEL REDUCTION**  
2.14 **STANDARD.**

2.15 Subdivision 1. **Reduction standard.** (a) Between 2011 and the end of 2020, a  
2.16 responsible party shall reduce the carbon intensity of transportation fuels it produces,  
2.17 refines, blends, or imports for sale in this state by at least ten percent, measured from a  
2.18 2005 baseline. The reduction must be measured by using the applicable carbon intensity  
2.19 value of a responsible party for a particular transportation fuel that is set by law, by a rule  
2.20 specifically adopted pursuant to this section, or by a determination of the commissioner  
2.21 under paragraph (b). The reduction must be at least one percent annually, unless the  
2.22 commissioner has approved an alternative compliance schedule under paragraph (b) or  
2.23 granted a delay under subdivision 2.

2.24 (b) A responsible party may petition the commissioner to approve an alternative  
2.25 compliance schedule from the schedule described in paragraph (a). The commissioner  
2.26 shall, after notice and hearing, approve an alternative compliance schedule if the  
2.27 responsible party demonstrates that the public interest is served by an alternative schedule.

2.28 (c) A responsible party may use any method to achieve compliance with the  
2.29 reduction standard, including, but not limited to:

2.30 (1) blending high-carbon intensity fuels with low-carbon intensity fuels; or

2.31 (2) changing production processes, extraction methods, and other activities that  
2.32 reduce carbon intensity.

2.33 (d) The commissioner shall advise and assist responsible parties and others regarding  
2.34 methods to achieve the reduction standard.

3.1 Subd. 2. **Delayed compliance with reduction standard.** (a) A responsible  
 3.2 party may petition the commissioner at any time to delay the responsible party's  
 3.3 required compliance with the reduction standard established under subdivision 1. The  
 3.4 commissioner may, after notice and hearing, grant a delay to a responsible party from  
 3.5 compliance with a reduction standard if the commissioner determines that meeting the  
 3.6 reduction standard:

3.7 (1) is not achievable as a result of the federal government's failure to grant a waiver  
 3.8 for E-20 gasoline;

3.9 (2) will itself cause an increase in renewable fuel costs exceeding five cents per  
 3.10 gallon; or

3.11 (3) is not achievable as a result of inadequate supplies of lower carbon intensity  
 3.12 transportation fuels.

3.13 (b) A responsible party may not be penalized for failing to meet its reduction  
 3.14 standard to the extent that the commissioner grants a delay under this subdivision.

3.15 Subd. 3. **Carbon intensity values.** Unless a different carbon intensity value is  
 3.16 established by the commissioner under subdivision 4, the commissioner shall use the  
 3.17 following carbon intensity values to determine compliance with the reduction standard  
 3.18 established under subdivision 1.

<u><b>Transportation Fuel</b></u>	<u><b>Carbon Intensity Value</b></u>
3.19 <u>Gasoline</u>	<u>1.00</u>
3.20 <u>Diesel</u>	<u>0.99</u>
3.21 <u>Corn ethanol (natural gas/coal fired blend)</u>	<u>0.77</u>
3.22 <u>Corn ethanol (biomass fired)</u>	<u>0.56</u>
3.23 <u>Cellulosic ethanol</u>	<u>0.12</u>
3.24 <u>Biodiesel</u>	<u>0.35</u>

3.25 The commissioner shall use the carbon intensity value for the mix of transportation  
 3.26 fuels refined, blended, produced, and imported by a responsible party or renewable  
 3.27 transportation fuel producer in 2005 as the baseline against which to measure changes in  
 3.28 carbon intensity in order to determine compliance with the reduction standard.

3.29 Subd. 4. **Alternative carbon intensity value.** A responsible party or renewable  
 3.30 transportation fuel producer may propose to the commissioner a carbon intensity value  
 3.31 for a transportation fuel it produces, blends, or imports that differs from the value  
 3.32 established in subdivision 3. A responsible party or renewable transportation fuel producer  
 3.33 proposing a different carbon intensity value must demonstrate by a preponderance of  
 3.34 scientific evidence that the value established in subdivision 3 is not appropriate. If the  
 3.35 commissioner, after notice and hearing and consultation with the commissioners of  
 3.36 agriculture and the Pollution Control Agency, determines that the value established in  
 3.37

4.1 subdivision 3 is not appropriate, the commissioner shall establish a different value for  
4.2 the transportation fuel based on evidence in the hearing record. A responsible party or  
4.3 renewable transportation fuel producer proposing a different carbon intensity value  
4.4 is presumed to have demonstrated that the value established in subdivision 3 is not  
4.5 appropriate if it proposes an alternative carbon intensity value calculated by applying the  
4.6 "Greenhouse Gases, Regulated Emissions, and Energy Use in Transportation" (GREET)  
4.7 model developed by the Argonne National Laboratory.

4.8 Subd. 5. **Modifying carbon intensity values.** The commissioner may, after June 30,  
4.9 2011, propose to the legislature that a carbon intensity value of a transportation fuel listed  
4.10 in subdivision 3 be amended to incorporate indirect carbon inputs if the commissioner,  
4.11 after consultation with (1) scientific authorities, including, but not limited to, Argonne  
4.12 National Laboratory and Oak Ridge National Laboratory; (2) academic consultants  
4.13 from agriculture research institutions, including the University of Minnesota, Iowa State  
4.14 University, Michigan State University, and the University of Nebraska; and (3) the  
4.15 commissioners of agriculture and the Pollution Control Agency, determines that reliable  
4.16 and consistent estimates of indirect carbon inputs can be developed through analytically  
4.17 rigorous methods for all transportation fuels listed in subdivision 3. The commissioner  
4.18 shall report the results of the consultations, and any recommendations for changes to  
4.19 carbon intensity values in subdivision 3, to the chairs and ranking minority members of  
4.20 the legislative committees with primary jurisdiction over energy, environmental, and  
4.21 agricultural policy.

4.22 Subd. 6. **Reporting.** Beginning January 15, 2011, and each year thereafter through  
4.23 2020, a responsible party shall submit a report to the commissioner describing activities it  
4.24 has taken or plans to take in order to comply with the reduction standard established in this  
4.25 section. A responsible party shall report to the commissioner any information requested by  
4.26 the commissioner to assist the commissioner in determining whether compliance with the  
4.27 reduction standard of this section has been achieved. Beginning in 2013, the commissioner  
4.28 may accept reports filed pursuant to other state and federal laws for purposes of compliance  
4.29 with this section to the extent those reports contain information required under this section.

4.30 Subd. 7. **Compliance; penalty.** A responsible party shall cooperate with the  
4.31 commissioner as requested in order to assist the commissioner in determining whether  
4.32 compliance with the reduction standard established under this section is being achieved.  
4.33 Beginning in 2014, a responsible party may be ordered to comply and fined an amount  
4.34 equal to the cost of achieving compliance. The penalty may be imposed for each year the  
4.35 reduction standard is not achieved. The commissioner shall consider the efforts of the

5.1 responsible party to achieve the reduction standard in determining whether to impose a  
5.2 penalty and in determining the amount of a penalty.

5.3 Subd. 8. **Rules.** The commissioner shall, by December 10, 2010, adopt rules  
5.4 necessary to implement and administer this section.