

HOUSE RESEARCH

Bill Summary

FILE NUMBER: H.F. 1071
Version: First engrossment

DATE: March 14, 2013

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Subject: Omnibus agriculture policy bill

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Overview

This is the omnibus policy bill for the Minnesota Department of Agriculture (MDA). It includes three categories of proposed policy language, each in its own article – “Policy and Technical Changes”, “Minnesota Noxious Weed Law” and “Biofuel Minimum Content Requirements.”

Section

Article 1: Policy and Technical Changes

Overview

This article would modify existing law on various topics under MDA’s jurisdiction.

- 1 Definitions.** Modifies the livestock investment grant program by eliminating the definition of “qualifying period” that defines the period during each grant cycle when an eligible applicant must make a qualifying livestock investment.
- 2 Bulk pesticide storage facility.** Defines this term for purposes of chapter 18B “Pesticide Control” as a facility that requires a permit under MDA’s bulk pesticide storage permit program.
- 3 Disposal site requirement.** Modifies the waste pesticide collection program so that a person who collects waste pesticide under the program during the remainder of 2013, 2014 or 2015 is not required to collect product information during those years. Requires MDA to examine

Section

existing waste pesticide collection data and trends to inform future collection strategies that better address the nature of waste pesticide streams. Requires MDA to report recommendations to legislative agriculture committees by January 15, 2015.

- 4 **Pesticide storage safeguards.** Prohibits storing pesticide in any location with an open drain.
- 5 **Use of public water supplies for filling application equipment.** Consolidates and modifies existing statutes that prohibit the use of public water supplies and public waters (e.g., navigable lakes, rivers, streams, and wetlands) to fill pesticide application equipment unless a backflow prevention device is used. (Note that a separate statute prohibiting use of public waters for filling equipment without an anti-backsiphoning mechanism would be repealed at the end of this article.) Requires that backflow prevention devices comply with and be installed according to the Minnesota Plumbing Code. Requires additional equipment to comply with the Minnesota Plumbing Code. Prohibits cross connections between a water supply used for filling pesticide application equipment. Maintains an existing exemption for a permitted application of aquatic pesticides to public waters.
- 6 **Pesticide handling restrictions.** Modifies an existing prohibition on cleaning or filling pesticide application equipment in or adjacent to waters. Prohibits filling or cleaning pesticide application equipment where pesticide or pesticide-contaminated materials could enter ditches, surface water, groundwater, wells, drains, or sewers. Per the incorporated Minnesota Rule, the minimum well setback for a safeguarded area used to fill or clean pesticide application equipment would be 50 feet if the area is covered with a permanent watertight roof, or 100 feet if the area lacks such a roof.
- 7 **Registration application and gross sales fee.** Allows MDA to retain erroneously paid fees of less than \$10.
- 8 **Requirement.** Modifies the agricultural pesticide dealer license requirement to apply to anyone who sells or offers agricultural pesticide for sale.
- 9 **Resident agent.** Modifies the resident agent requirement for the agricultural pesticide dealer license to apply to anyone located outside of the state who sells or offers agricultural pesticide for sale in Minnesota.
- 10 **Responsibility.** Modifies the resident agent responsibility provision to apply to the agent of any person or company located outside of the state that sells or offers agricultural pesticide for sale in Minnesota.
- 11 **Report of sales and payment to commissioner.** Modifies the agricultural pesticide sales reporting requirement to apply to anyone who sells agricultural pesticide in or into the state.
- 12 **Application.** Modifies the agricultural pesticide dealer license application requirement to apply to the person in charge of each location where agricultural pesticides are sold or offered for sale.
- 13 **Incident response.** Modifies the elements of the pesticide incident response plan required of certain regulated entities. Requires a structural pest control business to develop and

Section

maintain a plan; current law provides an option that an applicator employed by the business or the business itself has a plan. Requires plans to contain the information required by an MDA form. Eliminates the requirement that plans must be available for MDA inspection.

- 14 Commissioner's duties.** Modifies the Minnesota Organic Advisory Task Force to state that organic farming representatives must be "organic farmers," rather than "farmers using organic agriculture methods." Increases member terms from staggered two-year terms to three-year terms. Extends the task force's expiration date by three years to June 30, 2016.
- 15 Definitions.** Defines the terms "biobased content" and "biobased formulated product" for purposes of the NextGen Energy Board.
- 16 Duties.** Expands the scope of the NextGen Energy Board to include examining the production potential of biobased content and biobased formulated products from agricultural and forestry feedstocks.
- 17 Expiration.** Extends the expiration date for the NextGen Energy Board by one year to June 30, 2015.
- 18 Grant awards.** Modifies the Agricultural Growth, Research, and Innovation program to authorize three-year projects/grants. Requires MDA to reevaluate multiyear projects before authorizing additional funding. Limits projects to one (multiyear) grant.
- 19 Restructured loan agreement.** Modifies the Rural Finance Authority (RFA) Loan Restructuring program so that RFA may assess a penalty when a borrower prepays a loan.
- 20 Bond requirements; claims.** States that licensed grain buyers and licensed public grain warehouse operators must comply with the bond and claim requirements in Minnesota Statutes, chapter 232, "Grain Storage."
- 21 Bond determinations.** Requires the bond for a licensed public grain warehouse operator who also holds a grain buyers' license to be set at the higher level of the two licenses. The entire bond would be available for claims filed against either license.
- 22 E85.** Modifies the motor fuel tax definition of E85 to be a gasoline-ethanol blend containing not more than 85 and more than 50 percent ethanol by volume.
- 23 Revisor's instruction.** Technical instruction to the Revisor of Statutes to renumber a subdivision and fix all references because section 2 would replace the current § 18B.01, subdivision 4a.
- 24 Repealer.** Repeals a law that prohibits using public waters to fill pesticide application equipment if the person does not use a proper and functioning anti-backsiphoning device. Note that this provision is incorporated into a similar law in section five.

Section

Article 2: Minnesota Noxious Weed Law

Overview

This article proposes multiple changes to Minnesota's Noxious Weed Law. In general, the Noxious Weed Law directs MDA to identify and categorize destructive weeds. All private and public landowners must control or eradicate listed noxious weeds. Whether control or eradication is required for a particular weed depends on which category the weed appears in. Local units of government are generally responsible for enforcement.

- 1 **Control.** Modifies the definition of “control” for purposes of the noxious weed law. Control would mean managing or preventing maturation and spread of a noxious weed, rather than destroying all or part of aboveground growth.
- 2 **Eradicate.** Modifies the definition of “eradicate” for purposes of the noxious weed law. Eradicate would mean destroying all above- and belowground parts, rather than destroying aboveground growth and roots.
- 3 **Permanent pasture, hay meadow, woodlot, or other noncrop area.** Replaces “and” with “or” so that this term applies to each land type individually and collectively.
- 4 **Propagating parts.** Expands the definition of “propagating parts” to apply to all plant parts capable of producing a new plant.
- 5 **Noxious weed categories.** Establishes regulatory categories and listings for noxious weeds. These categories establish prohibited and required actions that apply to landowners when their property hosts a listed weed.
- 6 **Weed control agreement.** Modifies the name of an authorized government-landowner weed control agreement by removing the adjective “cooperative.”
- 7 **Training for control or eradication of noxious weeds.** Modifies a reference to University of Minnesota Extension.
- 8 **Noxious weed designation.** Authorizes MDA to determine which weeds are subject to regulation broadly under the Noxious Weed Law, rather than the defined term “control.”
- 9 **Permits.** Eliminates an existing noxious weed transportation permit exemption. Adds a new exemption—no permit required to transport noxious weeds to an MDA-approved disposal site in order to destroy the weed’s propagating parts. A person who transports weeds pursuant to the new exception must ensure that all material is secured in order to prevent escape during transport.
- 10 **Duties.** Requires MDA to reevaluate specially regulated plants every three years, along with all prohibited and restricted noxious weeds. Requires the Noxious Weed Advisory Committee to advise MDA on administration of the Noxious Weed Law and help MDA

Section

develop management criteria for each weed category.

- 11 **Membership.** Expands membership of the Noxious Weed Advisory Committee to include representatives of the Minnesota Association of County Land Commissioners and others as needed.
- 12 **Repealer.** Repeals the expiration clause for the Noxious Weed Advisory Committee. Repeals a provision that requires the Noxious Weed Advisory Committee to perform certain activities including evaluating terrestrial plants and recommending whether and how MDA should regulate them pursuant to the Noxious Weed Law.

Article 3: Biofuel Minimum Content Requirement

Overview

This article transforms the state's ethanol mandate to a biofuels mandate. A transportation fuel blender could comply with the biofuel mandate by blending gasoline in specific proportions with ethanol or another federally approved biofuel that displaces gasoline.

- 1 **Cellulosic biofuel production goal.** Expands an existing cellulosic *ethanol* production goal to a cellulosic *biofuel* production goal. (Unlike traditional ethanol, cellulosic ethanol is not produced from corn. Instead, the feedstock is a cellulosic material such as corn stalks, switchgrass or native prairie perennials.) Removes a reference to the E20-mandate language repealed in the final section of this bill.
- 2 **Expiration.** Sets an expiration date of January 1, 2015 for the cellulosic goal modified in section 1. (The cellulosic goal date is 2015.)
- 3 **Definitions.** Modifies a workforce development statute that directs the Department of Employment and Economic Development and the Jobs Skills Partnership to promote job training that facilitates growth of the "green economy" in Minnesota. Eliminates an erroneous reference to the "25%-bioenergy-by-2025" goal in chapter 41A. Directs the entities to promote job training opportunities that facilitate achievement of the petroleum replacement goal modified in section 10.
- 4 **Advanced biofuel.** Defines "advanced biofuel" for purposes of chapter 239 "Weights and Measures," as used in the petroleum replacement goal modified in section 10.

The definition – as codified in the federal Renewable Fuel Standard, as amended – would be: *renewable fuel, other than ethanol derived from corn starch, that has lifecycle greenhouse gas emissions, as determined by the (United States Environmental Protection Agency) Administrator, after notice and opportunity for comment, that are at least 50 percent less than baseline lifecycle greenhouse gas emissions. The types of fuels eligible for consideration as 'advanced biofuel' may include any of the following:*

- *Ethanol derived from cellulose, hemicellulose, or lignin.*

Section

- *Ethanol derived from sugar or starch (other than corn starch).*
- *Ethanol derived from waste material, including crop residue, other vegetative waste material, animal waste, and food waste and yard waste.*
- *Biogas (including landfill gas and sewage waste treatment gas) produced through the conversion of organic matter from renewable biomass.*
- *Butanol or other alcohols produced through the conversion of organic matter from renewable biomass.*
- *Other fuel derived from cellulosic biomass.*

5 Biofuel. Defines “biofuel” for purposes of chapter 239 “Weights and Measures” and specifically the biofuel mandate established in section 7. Biofuel would be defined generally to include corn-derived ethanol and any advanced biofuel approved for sale by the United States Environmental Protection Agency under the federal Renewable Fuel Standard, as amended.

6 Conventional biofuel. Defines “conventional biofuel” as ethanol produced from corn starch for purposes of chapter 239 “Weights and Measures” and specifically the biofuel mandate established in section 7.

The exact definition – as codified in the federal Renewable Fuel Standard, as amended – would be: *renewable fuel that is ethanol derived from corn starch.*

7 Minimum biofuel content required. Modifies the statute commonly referred to as the “ethanol mandate.” Expands the law from one requiring only ethanol, to a law that requires biofuel generally. However, conventional (i.e., corn) ethanol must comprise at least a specified percentage of total biofuel sold until 2025. The required corn ethanol percentage decreases by specified amounts during that period.

8 Federal Clean Air Act waivers; conditions. Eliminates a reference to the inactive “E20 mandate” language repealed in the final section of this article. Generalizes existing language pertaining to federal approval of ethanol in order to accommodate other biofuels that may have different methods of federal approval.

9 Limited liability waiver. Eliminates a reference to the inactive “E20 mandate” language that is repealed in the final section of this article.

10 Petroleum replacement promotion.

Subdivision 1. Modifies the state’s petroleum replacement goal by decreasing the goal amount for 2015, adding additional intermediate goal levels, and increasing the 2025 goal from 25% to 30% of all gasoline sold in the state comprised of ethanol or other biofuels.

Subd. 2. Modifies the activities that state agencies must perform in order to achieve

Section

the petroleum replacement goal. Requires the commissioners of agriculture, commerce, and pollution control to convene a task force to assist them. This new task force must coordinate efforts with existing, statutory renewable energy groups. Requires the commissioners to pursue federal approval of additional blends of ethanol and other biofuels. Requires the commissioners to facilitate the production and use of advanced biofuels in Minnesota. States that the new task force will expire on December 31, 2015.

- 11** **Biobutanol.** Defines biobutanol for purposes of chapter 296A “Tax on Petroleum and other fuels.”
- 12** **Repealer.** Repeals the inactive “E20 mandate” language.