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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 1849

02/16/2023 Authored by Daudt, Daniels, West, Niska, Schultz and others
The bill was read for the first time and referred to the Committee on Environment and Natural Resources Finance and Policy

1.1 A bill for an act
1.2 relating to consumer protection; providing for consumer choice of fuel; modifying
1.3 certain rulemaking authority; eliminating Clean Car rules; amending Minnesota
1.4 Statutes 2022, section 116.07, subdivision 2; proposing coding for new law in
1.5 Minnesota Statutes, chapters 14; 15; repealing Minnesota Rules, parts 7023.0150;
1.6 7023.0200; 7023.0250; 7023.0300.

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

1.8 Section 1. TITLE.

1.9 This act is known as the Consumer Choice of Fuel Act.

1.10 Sec. 2. [14.1271] LEGISLATIVE APPROVAL OF RULES BY REFERENCE TO
1.11 ANOTHER STATE.

1.12 A proposed rule that includes or incorporates by reference a statute or rule of another
1.13 state must be submitted to the standing committee of the house of representatives and
1.14 standing committee of the senate with jurisdiction over the subject matter of the rule at least
1.15 90 days prior to the publication of the notice of intent to adopt the rule under section 14.22,
1.16 subdivision 1a; 14.389, subdivision 2; or 14.3895, subdivision 3; publication of a dual notice
1.17 under section 14.22, subdivision 2; or publication of a notice of hearing on a proposed rule
1.18 under section 14.14. The proposed rule may not be adopted until the rule is approved by a
1.19 law enacted during the legislative session that began after or is meeting when the proposed
1.20 rule is received.

1.21 Sec. 3. [15.0561] CONSUMER CHOICE OF FUEL; RESTRICTIONS PROHIBITED.

1.22 (a) A state agency may not adopt rules that:

2.1 (1) restrict consumer choice in purchasing motorized equipment based on the equipment's
 2.2 fuel source; or

2.3 (2) mandate retailer inventory of motorized equipment based on the equipment's fuel
 2.4 source.

2.5 (b) For purposes of this section, "motorized equipment" means:

2.6 (1) tools, including but not limited to generators, lawn mowers, pressure washers, chain
 2.7 saws, leaf blowers, and weed trimmers;

2.8 (2) recreational vehicles, including but not limited to golf carts, motorcycles, off-highway
 2.9 vehicles, snowmobiles, and watercraft;

2.10 (3) new or used passenger automobiles;

2.11 (4) farm equipment, as defined in section 325E.061; and

2.12 (5) medium and heavy duty trucks.

2.13 Sec. 4. Minnesota Statutes 2022, section 116.07, subdivision 2, is amended to read:

2.14 Subd. 2. **Adopting standards.** (a) The Pollution Control Agency shall improve air
 2.15 quality by promoting, in the most practicable way possible, the use of energy sources and
 2.16 waste disposal methods which produce or emit the least air contaminants consistent with
 2.17 the agency's overall goal of reducing all forms of pollution. The agency shall also adopt
 2.18 standards of air quality, not including maximum allowable standards of emission of air
 2.19 contaminants from motor vehicles, recognizing that due to variable factors, no single standard
 2.20 of purity of air is applicable to all areas of the state. In adopting standards the Pollution
 2.21 Control Agency shall give due recognition to the fact that the quantity or characteristics of
 2.22 air contaminants or the duration of their presence in the atmosphere, which may cause air
 2.23 pollution in one area of the state, may cause less or not cause any air pollution in another
 2.24 area of the state, and it shall take into consideration in this connection such factors, including
 2.25 others which it may deem proper, as existing physical conditions, zoning classifications,
 2.26 topography, prevailing wind directions and velocities, and the fact that a standard of air
 2.27 quality which may be proper as to an essentially residential area of the state, may not be
 2.28 proper as to a highly developed industrial area of the state. Such standards of air quality
 2.29 shall be premised upon scientific knowledge of causes as well as effects based on technically
 2.30 substantiated criteria and commonly accepted practices. No local government unit shall set
 2.31 standards of air quality which are more stringent than those set by the Pollution Control
 2.32 Agency.

3.1 (b) The Pollution Control Agency shall promote solid waste disposal control by
3.2 encouraging the updating of collection systems, elimination of open dumps, and
3.3 improvements in incinerator practices. The agency shall also adopt standards for the control
3.4 of the collection, transportation, storage, processing, and disposal of solid waste and sewage
3.5 sludge for the prevention and abatement of water, air, and land pollution, recognizing that
3.6 due to variable factors, no single standard of control is applicable to all areas of the state.
3.7 In adopting standards, the Pollution Control Agency shall give due recognition to the fact
3.8 that elements of control which may be reasonable and proper in densely populated areas of
3.9 the state may be unreasonable and improper in sparsely populated or remote areas of the
3.10 state, and it shall take into consideration in this connection such factors, including others
3.11 which it may deem proper, as existing physical conditions, topography, soils and geology,
3.12 climate, transportation, and land use. Such standards of control shall be premised on technical
3.13 criteria and commonly accepted practices.

3.14 (c) The Pollution Control Agency shall also adopt standards describing the maximum
3.15 levels of noise in terms of sound pressure level which may occur in the outdoor atmosphere,
3.16 recognizing that due to variable factors no single standard of sound pressure is applicable
3.17 to all areas of the state. Such standards shall give due consideration to such factors as the
3.18 intensity of noises, the types of noises, the frequency with which noises recur, the time
3.19 period for which noises continue, the times of day during which noises occur, and such
3.20 other factors as could affect the extent to which noises may be injurious to human health
3.21 or welfare, animal or plant life, or property, or could interfere unreasonably with the
3.22 enjoyment of life or property. In adopting standards, the Pollution Control Agency shall
3.23 give due recognition to the fact that the quantity or characteristics of noise or the duration
3.24 of its presence in the outdoor atmosphere, which may cause noise pollution in one area of
3.25 the state, may cause less or not cause any noise pollution in another area of the state, and
3.26 it shall take into consideration in this connection such factors, including others which it
3.27 may deem proper, as existing physical conditions, zoning classifications, topography,
3.28 meteorological conditions and the fact that a standard which may be proper in an essentially
3.29 residential area of the state, may not be proper as to a highly developed industrial area of
3.30 the state. Such noise standards shall be premised upon scientific knowledge as well as effects
3.31 based on technically substantiated criteria and commonly accepted practices. No local
3.32 governing unit shall set standards describing the maximum levels of sound pressure which
3.33 are more stringent than those set by the Pollution Control Agency.

3.34 (d) The Pollution Control Agency shall adopt standards for the identification of hazardous
3.35 waste and for the management, identification, labeling, classification, storage, collection,

4.1 transportation, processing, and disposal of hazardous waste, recognizing that due to variable
4.2 factors, a single standard of hazardous waste control may not be applicable to all areas of
4.3 the state. In adopting standards, the Pollution Control Agency shall recognize that elements
4.4 of control which may be reasonable and proper in densely populated areas of the state may
4.5 be unreasonable and improper in sparsely populated or remote areas of the state. The agency
4.6 shall consider existing physical conditions, topography, soils, and geology, climate,
4.7 transportation and land use. Standards of hazardous waste control shall be premised on
4.8 technical knowledge, and commonly accepted practices. Hazardous waste generator licenses
4.9 may be issued for a term not to exceed five years. No local government unit shall set
4.10 standards of hazardous waste control which are in conflict or inconsistent with those set by
4.11 the Pollution Control Agency.

4.12 (e) A person who generates less than 100 kilograms of hazardous waste per month is
4.13 exempt from the following agency hazardous waste rules:

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

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

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

4.23 (f) In any rulemaking proceeding under chapter 14 to adopt standards for air quality,
4.24 solid waste, or hazardous waste under this chapter, or standards for water quality under
4.25 chapter 115, the statement of need and reasonableness must include:

4.26 (1) an assessment of any differences between the proposed rule and:

4.27 (i) existing federal standards adopted under the Clean Air Act, United States Code, title
4.28 42, section 7412(b)(2); the Clean Water Act, United States Code, title 33, sections 1312(a)
4.29 and 1313(c)(4); and the Resource Conservation and Recovery Act, United States Code, title
4.30 42, section 6921(b)(1);

4.31 (ii) similar standards in states bordering Minnesota; and

4.32 (iii) similar standards in states within the Environmental Protection Agency Region 5;
4.33 and

5.1 (2) a specific analysis of the need and reasonableness of each difference.

5.2 Sec. 5. **REPEALER.**

5.3 Minnesota Rules, parts 7023.0150; 7023.0200; 7023.0250; and 7023.0300, are repealed.

7023.0150 SCOPE AND INCORPORATION BY REFERENCE.

Subpart 1. **Scope.** To reduce air pollution from vehicles in the state, parts 7023.0150 to 7023.0300 establish standards for low-emission vehicles and zero-emission vehicles.

Subp. 2. **Incorporation by reference.** California Code of Regulations, title 13, sections 1900, 1956.8(h) (medium-duty vehicle greenhouse gas emission standards only), 1961.2, 1961.3, 1962.2, 1962.3, 1965, 1968.2, 1976, 1978, 2035, 2037 to 2041, 2046, 2062, 2109, 2111 to 2121, 2122 to 2135, 2139, and 2141 to 2149, as amended, are incorporated by reference. The regulations are not subject to frequent change and are available online at <https://oal.ca.gov/publications/ccr/>.

Subp. 3. **Term substitutions.** In applying the incorporated sections of the California Code of Regulations, unless the context requires otherwise:

- A. "California" means "Minnesota";
- B. "CARB," "ARB," or "Air Resources Board" means the agency; and
- C. "Executive Officer" means the commissioner.

Subp. 4. **Effective date.** Parts 7023.0150 to 7023.0300, except part 7023.0300, subpart 4, are effective on the date given in a commissioner's notice published in the State Register after the standards incorporated by reference in subpart 2 are granted a waiver by the U.S. Environmental Protection Agency under United States Code, title 42, section 7543. The commissioner's notice must also designate the first effective model year in accordance with United States Code, title 42, section 7507.

7023.0200 DEFINITIONS.

Subpart 1. **Applicability.** For parts 7023.0150 to 7023.0300, the terms in this part have the meanings given. The definitions in parts 7000.0100 and 7005.0100 and California Code of Regulations, title 13, section 1900, apply to parts 7023.0150 to 7023.0300 unless the terms are otherwise defined in this part.

Subp. 2. **Authorized emergency vehicle.** "Authorized emergency vehicle" has the meaning given in Minnesota Statutes, section 169.011.

Subp. 3. **CARB.** "CARB" means the California State Air Resources Board as defined in California Health and Safety Code, division 26, part 1, chapter 1, section 39003.

Subp. 4. **First effective model year.** "First effective model year" means the first model year for which the standards adopted in parts 7023.0150 to 7023.0300 are effective according to the commissioner's notice under part 7023.0150, subpart 4.

Subp. 5. **Light-duty truck.** "Light-duty truck" has the meaning given under California Code of Regulations, title 13, section 1900(b)(11).

Subp. 6. **Medium-duty passenger vehicle.** "Medium-duty passenger vehicle" has the meaning given under California Code of Regulations, title 13, section 1900(b)(12).

Subp. 7. **Medium-duty vehicle.** "Medium-duty vehicle" has the meaning given under California Code of Regulations, title 13, section 1900(b)(13).

Subp. 8. **Military tactical vehicle.** "Military tactical vehicle" means a land combat or transportation vehicle, excluding a rail-based vehicle, that is designed for and used by a branch of the United States armed forces or used as an authorized emergency vehicle by or for a governmental agency.

Subp. 9. **Model year.** "Model year" means the manufacturer's annual production period that includes January 1 of a calendar year or, if the manufacturer has no annual production period, the calendar year. The model year for a motor vehicle manufactured in two or more stages is the model year in which the chassis is completed.

Subp. 10. **Motor vehicle manufacturer.** "Motor vehicle manufacturer" means a small, independent low, intermediate, or large volume manufacturer as defined under California Code of Regulations, title 13, section 1900(b)(8), (9), (10), and (22).

Subp. 11. **New motor vehicle.** "New motor vehicle" means a first effective model year or later model year motor vehicle with less than 7,500 miles of use accumulated as of the date of sale or lease.

Subp. 12. **Passenger car.** "Passenger car" has the meaning given under California Code of Regulations, title 13, section 1900(b)(17).

Subp. 13. **Transitional zero-emission vehicle or TZEV.** "Transitional zero-emission vehicle" or "TZEV" has the meaning given under California Code of Regulations, title 13, section 1962.2(c).

Subp. 14. **Used motor vehicle.** "Used motor vehicle" means a first effective model year or later model year motor vehicle with 7,500 miles or more of use accumulated as of the date of sale or lease.

Subp. 15. **Zero-emission vehicle or ZEV.** "Zero-emission vehicle" or "ZEV" has the meaning given under California Code of Regulations, title 13, section 1962.2(a).

7023.0250 LOW-EMISSION VEHICLE STANDARDS.

Subpart 1. **Requirement.** Beginning with the first effective model year, all of the following that are produced by a motor vehicle manufacturer and delivered for sale or lease in the state must be certified to the standards incorporated by reference under part 7023.0150, subpart 2, except as provided under subpart 2:

- A. new motor vehicles that are passenger cars, light-duty trucks, medium-duty passenger vehicles, and medium-duty vehicles;
- B. new light- or medium-duty motor vehicle engines; and
- C. motor vehicles with a new motor vehicle engine.

Subp. 2. **Exceptions.** This part does not apply to:

- A. a used motor vehicle;
- B. a new motor vehicle sold to another dealer;
- C. a new motor vehicle sold to be wrecked or dismantled;
- D. a new motor vehicle sold exclusively for off-highway use;
- E. a new motor vehicle sold for registration out-of-state;
- F. a new motor vehicle that has been certified to standards adopted under authority granted in United States Code, title 42, section 7521, and that is in the possession of a rental agency in the state and that is next rented with a final destination outside of the state;
- G. an authorized emergency vehicle;
- H. a military tactical vehicle;
- I. a new motor vehicle transferred by inheritance;
- J. a new motor vehicle transferred by court decree;
- K. a new motor vehicle acquired by a state resident to replace a motor vehicle that was registered to the resident and that, while out of state, was damaged, became inoperative beyond reasonable repair, or was stolen if the replacement motor vehicle is acquired out of state at the time the previously owned vehicle was damaged, became inoperative, or was stolen; or

L. a new motor vehicle purchased and registered in another state by a person who is a resident of that state and who subsequently establishes residency in Minnesota. Upon registering the new motor vehicle in Minnesota, the person must provide evidence to the commissioner of the previous residence and registration.

Subp. 3. Fleet average emissions.

A. For first effective model year motor vehicles and all subsequent model year motor vehicles to which this part applies, a motor vehicle manufacturer must not exceed the fleet average nonmethane organic gas plus oxides of nitrogen emission values under California Code of Regulations, title 13, section 1961.2. Credits and debits may be accrued and used based on a manufacturer's sales in the state of motor vehicles subject to this part according to California Code of Regulations, title 13, section 1961.2(c).

B. For first effective model year motor vehicles and all subsequent model year motor vehicles to which this part applies, a motor vehicle manufacturer must not exceed the fleet average greenhouse gas exhaust emission values under California Code of Regulations, title 13, section 1961.3. For first effective model year motor vehicles and all subsequent model year motor vehicles, manufacturers of medium-duty vehicles produced by a motor vehicle manufacturer and delivered for sale or lease in the state must not exceed the greenhouse gas emission standards under California Code of Regulations, title 13, section 1956.8(h)(6). Credits and debits may be accrued and used based on a manufacturer's sales in the state of motor vehicles subject to this part according to California Code of Regulations, title 13, section 1961.3.

Subp. 4. Environmental performance labels. Beginning with the first effective model year and all subsequent model years, all new motor vehicles subject to this part produced by a motor vehicle manufacturer and delivered for sale or lease in the state must be affixed with emission control labels and environmental performance labels according to California Code of Regulations, title 13, section 1965.

Subp. 5. Warranty requirements. For all motor vehicles subject to this part, the motor vehicle manufacturer must provide defect warranty coverage that complies with California Code of Regulations, title 13, sections 2035, 2037 to 2041, and 2046.

Subp. 6. Recall requirements. For all motor vehicles subject to this part and subject to recall in California, the motor vehicle manufacturer must undertake a recall campaign in this state according to California Code of Regulations, title 13, sections 2111 to 2121 and 2122 to 2135, unless the manufacturer demonstrates to the commissioner that the recall is not applicable to motor vehicles registered in Minnesota.

Subp. 7. Reporting requirements.

A. By May 1 of the calendar year after the end of the model year, a motor vehicle manufacturer must annually submit to the commissioner a report demonstrating that the motor vehicle manufacturer has met the requirements of subpart 3, item A, for its fleet delivered for sale in the state.

B. By May 1 of the calendar year after the end of the model year, a motor vehicle manufacturer must annually submit to the commissioner a report demonstrating that the motor vehicle manufacturer has met the requirements of subpart 3, item B, for its fleet delivered for sale in the state.

C. If requested by the commissioner, a motor vehicle manufacturer must provide reports in the same format as provided to CARB on all assembly-line emission testing and functional test results collected as a result of compliance with this part, warranty claim reports, recall reports, and any other reports required by CARB under the regulations incorporated by reference under part 7023.0150. The reports must be supplemented with data on motor vehicles delivered for sale or registered in Minnesota.

D. If the commissioner deems it necessary to administer and enforce this part, the commissioner must require a motor vehicle manufacturer subject to this part to submit additional documentation, including all certification materials submitted to CARB.

Subp. 8. Record availability and retention; reporting noncompliance.

A. Upon oral or written request of the commissioner, a person subject to this part must furnish to the commissioner or allow the commissioner to access and copy all records that relate to the motor vehicles that are subject to this part and that are relevant for determining compliance with this part. Unless otherwise specified, a person subject to this part must retain all relevant records for at least five years after creating the records.

B. If a report issued by a motor vehicle manufacturer under subpart 7 demonstrates noncompliance with the fleet average under subpart 3 for a model year, the manufacturer must, within 60 days, file a report with the commissioner to document the noncompliance. The report must identify all motor vehicle models delivered for sale or lease in the state, the models' corresponding certification standards, and the percentage of each model delivered for sale in this state and California in relation to total fleet sales in the respective state.

7023.0300 ZERO-EMISSION VEHICLE STANDARDS.

Subpart 1. **Requirement.** Beginning with the first effective model year, a motor vehicle manufacturer's sales fleet of passenger cars and light-duty trucks produced by motor vehicle manufacturers and delivered for sale or lease in the state must contain at least the same applicable percentage of ZEVs required under California Code of Regulations, title 13, section 1962.2.

Subp. 2. Credit bank; reporting requirements; record availability and retention.

A. Beginning in the first effective model year, a motor vehicle manufacturer subject to this part must open an account in the California ZEV credit system for banking credits earned in Minnesota. The account must be opened no later than March 1 of the calendar year after the end of the first effective model year. A motor vehicle manufacturer must notify the commissioner within 30 days of opening an account in the California ZEV credit system for the manufacturer's Minnesota ZEV credits.

B. At least annually by May 1 of the calendar year after the close of a model year, a motor vehicle manufacturer must submit a report to the commissioner that identifies the necessary delivery and placement data of all motor vehicles generating ZEV credits and all transfers and acquisitions of ZEV credits, according to California Code of Regulations, title 13, section 1962.2. The report may be amended based on late sales.

C. Upon oral or written request of the commissioner, a person subject to this part must furnish to the commissioner or allow the commissioner to access and copy all records that relate to the motor vehicles that are subject to this part and that are relevant for determining compliance with this part. Unless otherwise specified, a person subject to this part must retain all relevant records for at least five years after creating the records.

Subp. 3. **Requirement to make up ZEV deficit.** A motor vehicle manufacturer that delivers for sale in the state fewer ZEVs or TZEVs than required to meet its ZEV credit obligation in a given model year must make up the deficit by submitting a commensurate amount of ZEV credits to the commissioner according to California Code of Regulations, title 13, section 1962.2(g)(7). The number of motor vehicles not meeting the ZEV credit obligation must be equal to the manufacturer's credit deficit, rounded to the nearest 1/100th and calculated according to the equation in California Code of Regulations, title 13, section 1962.2(g)(8).

Subp. 4. Early-action credits.

A. Beginning with model year 2022 and ending at the beginning of the first effective model year, a motor vehicle manufacturer may earn early-action ZEV credits for delivering ZEVs for sale in the state. A motor vehicle manufacturer choosing to earn

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early-action ZEV credits under this subpart must notify the commissioner to open an account to track early-action ZEV credits in Minnesota no later than March 1 of the calendar year after the close of the first model year for which the manufacturer intends to accrue early-action credits.

B. New motor vehicles delivered for sale in the state under this subpart earn early-action ZEV credits with the same values established in California Code of Regulations, title 13, section 1962.2.

C. A motor vehicle manufacturer that notifies the commissioner under item A must submit a report to the commissioner at least annually by May 1 of the calendar year after the close of the model year that identifies the necessary delivery and placement data of all motor vehicles generating early-action ZEV credits under this subpart, according to California Code of Regulations, title 13, section 1962.2. The report may be amended based on late sales.

D. After the reporting deadline under item C during the first effective model year and after receiving notice from a motor vehicle manufacturer under subpart 2, item A, the commissioner must load the ZEV credits earned by the motor vehicle manufacturer under this subpart into the manufacturer's California ZEV credit system account.

E. This subpart is effective beginning with a motor vehicle manufacturer's model year 2022.

Subp. 5. Onetime credit allotment.

A. For the first effective model year, the commissioner must deposit into each motor vehicle manufacturer's account a credit allotment equivalent to the first effective model year's ZEV credit requirement for that motor vehicle manufacturer.

B. The credit amount under item A must be calculated for the first effective model year according to California Code of Regulations, title 13, section 1962.2(b)(1)(A) and (B).

C. The commissioner must deposit the onetime credit allotment at the same time that the commissioner loads the ZEV credits earned by the motor vehicle manufacturer under subpart 4, item D, into the manufacturer's California ZEV credit system account.