



TERRY E. BRANSTAD
GOVERNOR

OFFICE OF THE GOVERNOR

KIM REYNOLDS
LT. GOVERNOR

May 26, 2011

The Honorable Matthew Schultz
Secretary of State of Iowa
State Capitol Building
LOCAL

Dear Mr. Secretary:

I hereby transmit:

Senate File 531, an Act relating to motor fuels, including biofuels and renewable fuels dispensed by retail dealers, and by providing for tax credits and refunds, providing an appropriation, and including effective date and retroactive and other applicability provisions.

The above Senate File is hereby approved this date.

Sincerely,

A handwritten signature in black ink that reads "Terry E. Branstad".

Terry E. Branstad
Governor

cc: Secretary of the Senate
Clerk of the House



Senate File 531

AN ACT

RELATING TO MOTOR FUELS, INCLUDING BIOFUELS AND RENEWABLE FUELS DISPENSED BY RETAIL DEALERS, AND BY PROVIDING FOR TAX CREDITS AND REFUNDS, PROVIDING AN APPROPRIATION, AND INCLUDING EFFECTIVE DATE AND RETROACTIVE AND OTHER APPLICABILITY PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

RETAIL DEALERS — MOTOR FUEL STANDARDS

Section 1. Section 214A.2, subsection 4, paragraph b, Code 2011, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (4) Biodiesel blended fuel classified as B-6 or higher but not higher than B-20 must conform to A.S.T.M. international specification D7467 or a successor A.S.T.M. international specification as established by rules adopted by the department.

DIVISION II

RETAIL DEALERS — LIABILITY

Sec. 2. NEW SECTION. 214A.20 Retail dealers — limitation on liability.

1. A retail dealer is not liable for damages caused by the use of incompatible motor fuel dispensed at the retail dealer's retail motor fuel site, if all of the following applies:

a. The incompatible motor fuel complies with the specifications for a type of motor fuel as provided in section 214A.2.

b. The incompatible motor fuel is selected by a person other than the retail dealer, including an employee or agent of the retail dealer.

c. The incompatible motor fuel is dispensed from a motor

fuel pump that correctly labels the type of fuel dispensed.

2. For purposes of this section, a motor fuel is incompatible with a motor according to the manufacturer of the motor.

DIVISION III

RETAIL DEALERS — ETHANOL PROMOTION TAX CREDIT

Sec. 3. Section 422.11N, subsection 1, paragraph a, Code 2011, is amended to read as follows:

a. "E-85 gasoline", "ethanol", "ethanol blended gasoline", "gasoline", and "retail dealer", and "retail motor fuel site" mean the same as defined in section 214A.1.

Sec. 4. Section 422.11N, subsection 3, paragraph a, Code 2011, is amended to read as follows:

a. The taxpayer is a retail dealer who sells and dispenses ethanol blended gasoline through a motor fuel pump ~~in~~ located at the retail dealer's retail motor fuel site during the tax year in determination period or parts of the determination periods for which the tax credit is claimed as provided in this section.

Sec. 5. Section 422.11N, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. a. When first claiming the tax credit, the retail dealer shall elect to compute and claim the tax credit on a company-wide basis or site-by-site basis in the same manner as provided in section 452A.33.

(1) In making a company-wide election, the retail dealer must compute and claim the tax credit based on calculations as provided in this section for all retail motor fuel sites where the retail dealer sells and dispenses motor fuel on a retail basis. The retail dealer shall not claim the tax credit based on a calculation which does not include all such retail motor fuel sites. A retail dealer shall use the company-wide election in order to calculate the retail dealer's biofuel threshold percentage as provided in subsection 4, paragraph "b".

(2) In making a site-by-site election, the retail dealer must compute and claim the tax credit based on calculations as provided in this section for each retail motor fuel site where the retail dealer sells and dispenses motor fuel on a retail basis. The retail dealer shall not claim the tax credit based on a calculation which includes two or more retail motor fuel sites. Nothing in this subparagraph requires the retail dealer to compute or claim a tax credit for a particular retail motor

fuel site. The retail dealer shall not use the site-by-site election in order to calculate the retail dealer's biofuel threshold percentage as provided in subsection 4, paragraph "b".

b. Once the retail dealer makes an election as provided in paragraph "a", the retail dealer shall not change the election without the written consent of the department.

Sec. 6. Section 422.11N, subsection 4, paragraph d, Code 2011, is amended by striking the paragraph.

Sec. 7. Section 422.11N, subsection 5, paragraph a, subparagraph (1), Code 2011, is amended to read as follows:

(1) For any tax year in which the retail dealer has attained a biofuel threshold percentage for the determination period, the tax credit rate is ~~six and one-half~~ eight cents.

Sec. 8. Section 422.11N, subsection 5, paragraph a, subparagraph (2), subparagraph divisions (a) and (b), Code 2011, are amended to read as follows:

(a) If the retail dealer's biofuel threshold percentage disparity equals two percent or less, the tax credit rate is ~~four and one-half~~ six cents.

(b) If the retail dealer's biofuel threshold percentage disparity equals more than two percent but not more than four percent, the tax credit rate is as follows:

(i) For calendar year 2011, two and one-half cents.

(ii) For calendar year 2012 and for each subsequent calendar year, four cents.

Sec. 9. Section 422.11N, subsection 6, Code 2011, is amended to read as follows:

6. a. A retail dealer is eligible to claim an ethanol promotion tax credit as provided in this section even though the retail dealer claims ~~an~~ one or all of the following related tax credits:

(1) The E-85 gasoline promotion tax credit pursuant to section 422.11O.

(2) The E-15 plus gasoline promotion tax credit pursuant to section 422.11Y.

b. The retail dealer may claim the ethanol promotion tax credit and one or more of the related tax credits as provided in paragraph "a" for the same tax year and for the same ethanol gallonage.

Sec. 10. Section 452A.33, subsection 1, paragraph b, Code 2011, is amended by striking the paragraph and inserting in lieu thereof the following:

b. The report shall include information required in paragraph "a" on a company-wide and site-by-site basis, as required by the department.

(1) The information submitted on a company-wide basis shall include the total motor fuel gallonage, including for each classification and subclassification, sold and dispensed by the retail dealer as provided in paragraph "a" for all retail motor fuel sites from which the retail dealer sells and dispenses motor fuel.

(2) The information submitted on a site-by-site basis shall include the total motor fuel gallonage, including for each classification and subclassification, sold and dispensed by the retail dealer as provided in paragraph "a" separately for each retail motor fuel site from which the retail dealer sells and dispenses motor fuel.

Sec. 11. 2006 Iowa Acts, chapter 1142, section 49, subsection 2, as amended by 2006 Iowa Acts, chapter 1175, section 17, is amended to read as follows:

2. For a retail dealer who may claim an ethanol promotion tax credit under section 422.11N or 422.33, subsection 11A, as enacted in this Act and amended in subsequent Acts, in calendar year 2020 and whose tax year ends prior to December 31, 2020, the retail dealer may continue to claim the tax credit in the retail dealer's following tax year. In that case, the tax credit shall be calculated in the same manner as provided in section 422.11N or 422.33, subsection 11A, as enacted in this Act and amended in subsequent Acts, for the remaining period beginning on the first day of the retail dealer's new tax year until December 31, 2020. For that remaining period, the tax credit shall be calculated in the same manner as a retail dealer whose tax year began on the previous January 1 and who is calculating the tax credit on December 31, 2020.

Sec. 12. ADMINISTRATIVE RULES. The department of revenue may adopt emergency rules under section 17A.4, subsection 3, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this division of this Act, and the rules shall be effective immediately upon filing unless a later date is specified in the rules. Any rules adopted in accordance with this section shall also be published as a notice of intended action as provided in section 17A.4.

Sec. 13. EFFECTIVE DATE. This division of this Act, and the application of section 422.33, subsection 11A, due to this division of this Act, take effect upon enactment.

Sec. 14. RETROACTIVE APPLICABILITY. This division of this Act applies retroactively to January 1, 2011, including section 422.11N, as amended in this division of this Act, and the application of section 422.33, subsection 11A, due to this division of this Act, to tax years beginning on and after January 1, 2011.

DIVISION IV

E-85 GASOLINE PROMOTION TAX CREDIT

Sec. 15. Section 422.110, subsection 2, Code 2011, is amended to read as follows:

2. The taxes imposed under this division, less the credits allowed under section 422.12, shall be reduced by an E-85 gasoline promotion tax credit for each tax year that the taxpayer is eligible to claim the tax credit under this subsection.

a. In order to be eligible, all of the following must apply:

~~a.~~ (1) The taxpayer is a retail dealer who sells and dispenses E-85 gasoline through a motor fuel pump ~~in~~ located at the retail dealer's retail motor fuel site during the tax calendar year in or parts of the calendar year for which the tax credit is claimed as provided in this section.

~~b.~~ (2) The retail dealer complies with requirements of the department to administer this section.

b. The tax credit shall apply to E-85 gasoline that meets the standards provided in section 214A.2.

Sec. 16. Section 422.110, subsection 3, Code 2011, is amended by striking the subsection and inserting in lieu thereof the following:

3. For a retail dealer whose tax year is on a calendar year basis, the retail dealer shall calculate the amount of the tax credit by multiplying a designated rate of sixteen cents by the retail dealer's total E-85 gasoline gallonage as provided in sections 452A.31 and 452A.32.

Sec. 17. Section 422.110, subsection 5, Code 2011, is amended to read as follows:

5. a. A retail dealer is eligible to claim an E-85 gasoline promotion tax credit as provided in this section even though the retail dealer claims ~~an~~ one or all of the following related tax credits:

(1) The ethanol promotion tax credit pursuant to section 422.11N for the same tax year for the same ethanol gallonage.

(2) The E-15 plus gasoline tax credit pursuant to section 422.11Y.

b. (1) The retail dealer may claim the E-85 gasoline promotion tax credit and one or more of the related tax credits as provided in paragraph "a" for the same tax year.

(2) The retail dealer may claim the ethanol promotion tax credit as provided in paragraph "a" for the same ethanol gallonage used to calculate and claim the E-85 gasoline promotion tax credit.

Sec. 18. Section 422.110, subsection 8, Code 2011, is amended to read as follows:

8. This section is repealed on January 1, ~~2021~~ 2018.

Sec. 19. Section 422.33, subsection 11B, paragraph c, Code 2011, is amended to read as follows:

c. This subsection is repealed on January 1, ~~2021~~ 2018.

Sec. 20. 2006 Iowa Acts, chapter 1142, section 49, subsection 3, is amended to read as follows:

3. For a retail dealer who may claim an E-85 gasoline promotion tax credit under section 422.110 or 422.33, subsection 11B, as enacted in this Act and amended in subsequent Acts, in calendar year ~~2020~~ 2017 and whose tax year ends prior to December 31, ~~2020~~ 2017, the retail dealer may continue to claim the tax credit in the retail dealer's following tax year. In that case, the tax credit shall be calculated in the same manner as provided in section 422.110 or 422.33, subsection 11B, as enacted in this Act and amended in subsequent Acts, for the remaining period beginning on the first day of the retail dealer's new tax year until December 31, ~~2020~~ 2017. For that remaining period, the tax credit shall be calculated in the same manner as a retail dealer whose tax year began on the previous January 1 and who is calculating the tax credit on December 31, ~~2020~~ 2017.

Sec. 21. ADMINISTRATIVE RULES. The department of revenue may adopt rules under chapter 17A prior to the effectiveness and applicability of section 422.110, and section 422.33, subsection 11B, as amended in this division of this Act, due to this division of this Act. The department's rules shall not take effect earlier than January 1, 2012.

Sec. 22. EFFECTIVE DATES.

1. Except as provided in subsection 2, this division of this Act takes effect on July 1, 2011.

2. a. The section of this division of this Act authorizing the department of revenue to adopt rules takes effect upon enactment.

b. Section 422.110, as amended in this division of this Act,

and section 422.33, subsection 11B, as amended in this division of this Act, take effect on January 1, 2012.

Sec. 23. APPLICABILITY. Section 422.110, as amended in this division of this Act, and section 422.33, subsection 11B, as amended in this division of this Act and applied due to this division of this Act, apply to tax years beginning on and after January 1, 2012.

DIVISION V

RETAIL DEALERS — BIODIESEL BLENDED FUEL TAX CREDIT

Sec. 24. Section 422.11P, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. For purposes of this section, biodiesel blended fuel is classified in the same manner as provided in section 214A.2.

Sec. 25. Section 422.11P, subsection 2, Code 2011, is amended to read as follows:

2. The taxes imposed under this division, less the credits allowed under section 422.12, shall be reduced by ~~the amount of the~~ a biodiesel blended fuel tax credit for each tax year that the taxpayer is eligible to claim a tax credit under this subsection.

a. In order to be eligible, all of the following must apply:

(1) The taxpayer is a retail dealer who sells and dispenses qualifying biodiesel blended fuel through a motor fuel pump located at a the retail dealer's retail motor fuel site ~~operated by the retail dealer in~~ during the tax calendar year ~~in or parts of the calendar years for~~ which the tax credit is claimed as provided in this section.

~~(2) Of the total gallons of diesel fuel that the retail dealer sells and dispenses through all motor fuel pumps located at a motor fuel site operated by the retail dealer during the retail dealer's tax year, fifty percent or more is biodiesel blended fuel which meets the requirements of this section.~~

~~(3)~~ (2) The retail dealer complies with requirements of the department established to administer this section.

b. The tax credit shall apply to biodiesel blended fuel ~~formulated with a minimum percentage of two percent by volume of biodiesel, if the formulation~~ classified as provided in this section, if the classification meets the standards provided in section 214A.2.

Sec. 26. Section 422.11P, subsection 3, Code 2011, is amended by striking the subsection and inserting in lieu thereof the following:

3. For a retail dealer whose tax year is on a calendar year basis, the retail dealer shall calculate the amount of the tax credit by multiplying a designated rate by the retail dealer's total biodiesel blended fuel gallonage as provided in section 452A.31 which qualifies under this subsection.

a. In calendar year 2012, in order to qualify for the tax credit, the biodiesel blended fuel must be classified as B-2 or higher.

(1) For biodiesel blended fuel classified as B-2 or higher but not as high as B-5, the designated rate is two cents.

(2) For biodiesel blended fuel classified as B-5 or higher, the designated rate is four and one-half cents.

b. In calendar year 2013 and for each subsequent calendar year, in order to qualify for the tax credit, the biodiesel blended fuel must be classified as B-5 or higher. The designated rate for the qualifying biodiesel blended fuel is four and one-half cents.

Sec. 27. Section 422.11P, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. For a retail dealer whose tax year is not on a calendar year basis, the retail dealer shall calculate the tax credit as follows:

a. If a retail dealer has not claimed a tax credit in the retail dealer's previous tax year, the retail dealer may claim the tax credit in the retail dealer's current tax year for that period beginning on January 1 of the retail dealer's previous tax year to the last day of the retail dealer's previous tax year. For that period the retail dealer shall calculate the tax credit in the same manner as a retail dealer who will calculate the tax credit on December 31 of that calendar year as provided in subsection 3.

b. (1) For the period beginning on the first day of the retail dealer's tax year until December 31, the retail dealer shall calculate the tax credit in the same manner as a retail dealer who calculates the tax credit on that same December 31 as provided in subsection 3.

(2) For the period beginning on January 1 to the end of the retail dealer's tax year, the retail dealer shall calculate the tax credit in the same manner as a retail dealer who will calculate the tax credit on the following December 31 as provided in subsection 3.

Sec. 28. Section 422.11P, subsection 6, Code 2011, is amended to read as follows:

6. This section is repealed January 1, ~~2012~~ 2018.

Sec. 29. Section 422.33, subsection 11C, paragraphs c and d, Code 2011, are amended to read as follows:

~~c. The tax credit shall be calculated separately for each retail motor fuel site operated by the taxpayer in the same manner as provided in section 422.11P.~~

~~d.~~ c. This subsection is repealed on January 1, ~~2012~~ 2018.

Sec. 30. TAX CREDIT AVAILABILITY — CLAIMS FOR THE 2011 CALENDAR YEAR. Nothing in this Act affects a retail dealer's claiming of a biodiesel blended fuel tax credit as provided in 2006 Iowa Acts, chapter 1142, section 49, subsection 5.

Sec. 31. TAX CREDIT AVAILABILITY. For a retail dealer who may claim a biodiesel blended fuel promotion tax credit under section 422.11P or 422.33, subsection 11C, as amended in this Act and amended in subsequent Acts, in calendar year 2017, and whose tax year ends prior to December 31, 2017, the retail dealer may continue to claim the tax credit in the retail dealer's following tax year. In that case, the tax credit shall be calculated in the same manner as provided in section 422.11P or 422.33, subsection 11C, as amended in this Act and amended in subsequent Acts, for the remaining period beginning on the first day of the retail dealer's new tax year until December 31, 2017. For that remaining period, the tax credit shall be calculated in the same manner as a retail dealer whose tax year began on the previous January 1 and who is calculating the tax credit on December 31, 2017.

Sec. 32. ADMINISTRATIVE RULES. The department of revenue may adopt rules under chapter 17A prior to the effectiveness and applicability of section 422.11P, and section 422.33, subsection 11C, as amended in this division of this Act, due to this division of this Act. The department's rules shall not take effect earlier than January 1, 2012.

Sec. 33. EFFECTIVE DATES.

1. Except as provided in subsection 2, this division of this Act takes effect July 1, 2011.

2. a. The section of this division of this Act authorizing the department of revenue to adopt administrative rules takes effect upon enactment.

b. The section of this division of this Act which provides for tax credit availability for the 2011 calendar year under 2006 Iowa Acts, chapter 1142, section 49, subsection 5, being deemed of immediate importance, takes effect upon enactment.

c. Section 422.11P, as amended in this division of this Act,

and section 422.33, subsection 11C, as amended in this division of this Act, take effect on January 1, 2012.

Sec. 34. APPLICABILITY. Section 422.11P, as amended in this division of this Act, and section 422.33, subsection 11C, as amended in this division of this Act and applied due to this division of this Act, apply to tax years beginning on and after January 1, 2012.

DIVISION VI

RETAIL DEALERS — E-15 PLUS GASOLINE TAX CREDIT

Sec. 35. NEW SECTION. 422.11Y E-15 plus gasoline promotion tax credit.

1. As used in this section, unless the context otherwise requires:

a. "E-85 gasoline", "ethanol", "gasoline", "retail dealer", and "retail motor fuel site" mean the same as defined in section 214A.1.

b. "Motor fuel pump" means the same as defined in section 214.1.

c. "Sell" means to sell on a retail basis.

d. "Tax credit" means the E-15 plus gasoline tax credit as provided in this section.

2. For purposes of this section, ethanol blended gasoline is classified in the same manner as provided in section 214A.2.

3. The taxes imposed under this division, less the credits allowed under section 422.12, shall be reduced by the amount of the E-15 plus gasoline tax credit for each tax year that the taxpayer is eligible to claim a tax credit under this subsection.

a. In order to be eligible, all of the following must apply:

(1) The taxpayer is a retail dealer who sells and dispenses qualifying ethanol blended gasoline through a motor fuel pump located at the retail dealer's retail motor fuel site during the calendar year or parts of the calendar years for which the tax credit is claimed as provided in this section.

(2) The retail dealer complies with requirements of the department established to administer this section.

b. The tax credit shall apply to ethanol blended gasoline classified as provided in this section, if the classification meets the standards provided in section 214A.2.

4. For a retail dealer whose tax year is on a calendar year basis, the retail dealer shall calculate the amount of the tax credit by multiplying a designated rate by the retail dealer's total ethanol blended gasoline gallonage as provided in section

452A.31 which qualifies under this subsection.

a. In order to qualify for the tax credit, the ethanol blended gasoline must be classified as E-15 or higher but not classified as E-85.

b. The designated rate of the tax credit is as follows:

(1) For calendar year 2012, calendar year 2013, and calendar year 2014, three cents.

(2) For calendar year 2015, calendar year 2016, and calendar year 2017, two cents.

5. For a retail dealer whose tax year is not on a calendar year basis, the retail dealer shall calculate the tax credit as follows:

a. If a retail dealer has not claimed a tax credit in the retail dealer's previous tax year, the retail dealer may claim the tax credit in the retail dealer's current tax year for that period beginning on January 1 of the retail dealer's previous tax year to the last day of the retail dealer's previous tax year. For that period the retail dealer shall calculate the tax credit in the same manner as a retail dealer who will calculate the tax credit on December 31 of that calendar year as provided in subsection 4.

b. (1) For the period beginning on the first day of the retail dealer's tax year until December 31, the retail dealer shall calculate the tax credit in the same manner as a retail dealer who calculates the tax credit on that same December 31 as provided in subsection 4.

(2) For the period beginning on January 1 to the end of the retail dealer's tax year, the retail dealer shall calculate the tax credit in the same manner as a retail dealer who will calculate the tax credit on the following December 31 as provided in subsection 4.

6. *a.* A retail dealer is eligible to claim an E-15 plus gasoline promotion tax credit as provided in this section even though the retail dealer claims one or all of the following related tax credits:

(1) The ethanol promotion tax credit pursuant to section 422.11N.

(2) The E-85 gasoline promotion tax credit pursuant to section 422.110.

b. (1) The retail dealer may claim the E-15 plus gasoline promotion tax credit and one or more of the related tax credits as provided in paragraph "a" for the same tax year.

(2) The retail dealer may claim the ethanol promotion

tax credit as provided in paragraph "a" for the same ethanol gallonage used to calculate and claim the E-15 plus gasoline tax credit.

7. Any credit in excess of the retail dealer's tax liability shall be refunded. In lieu of claiming a refund, the retail dealer may elect to have the overpayment shown on the retail dealer's final, completed return credited to the tax liability for the following tax year.

8. An individual may claim the tax credit allowed a partnership, limited liability company, S corporation, estate, or trust electing to have the income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of a partnership, limited liability company, S corporation, estate, or trust.

9. This section is repealed on January 1, 2018.

Sec. 36. Section 422.33, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 11D. The taxes imposed under this division shall be reduced by an E-15 plus gasoline promotion tax credit for each tax year that the taxpayer is eligible to claim the tax credit under this subsection.

a. The taxpayer shall claim the tax credit in the same manner as provided in section 422.11Y. The taxpayer may claim the tax credit according to the same requirements, for the same amount, and calculated in the same manner, as provided for the E-15 plus gasoline promotion tax credit pursuant to section 422.11Y.

b. Any E-15 plus gasoline promotion tax credit which is in excess of the taxpayer's tax liability shall be refunded or may be shown on the taxpayer's final, completed return credited to the tax liability for the following tax year in the same manner as provided in section 422.11Y.

c. This subsection is repealed on January 1, 2018.

Sec. 37. TAX CREDIT AVAILABILITY. For a retail dealer who may claim an E-15 plus gasoline promotion tax credit under section 422.11Y or 422.33, subsection 11D, as enacted in this Act and amended in subsequent Acts, in calendar year 2017, and whose tax year ends prior to December 31, 2017, the retail dealer may continue to claim the tax credit in the retail dealer's following tax year. In that case, the tax credit shall be calculated in the same manner as provided in section 422.11Y or 422.33, subsection 11D, as enacted in this Act and