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SENATE FILE 2158
BY COMMITTEE ON NATURAL
RESOURCES AND ENVIRONMENT

(SUCCESSOR TO SSB 3102)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the use of motor vehicle fuel, by providing
2 for gasoline and ethanol blended gasoline, by providing for
3 taxation, and by providing for ethanol incentive programs.

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

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SF 2158
NAT. RES. & ENVIRONMENT

1 Section 1. Section 214A.1, Code 2003, is amended to read
2 as follows:

3 214A.1 DEFINITIONS.

4 The following definitions shall apply to the various terms
5 used in this chapter:

6 1. "A.S.T.M." means the American society for testing and
7 materials.

8 ~~2. "Motor vehicle fuel" means a substance or combination
9 of substances which is intended to be or is capable of being
10 used for the purpose of propelling or running by combustion
11 any internal combustion engine and is kept for sale or sold
12 for that purpose. The products commonly known as kerosene and
13 distillate or petroleum products of lower gravity (Baume
14 scale), when not used to propel a motor vehicle or for
15 compounding or combining with a motor vehicle fuel, are exempt
16 from this chapter except as provided in section 214A.2A.~~

17 2. "Ethanol blended gasoline" means gasoline containing at
18 least ten percent alcohol distilled from cereal grains.

19 3. "Motor vehicle" means a self-propelled vehicle that
20 operates using gasoline, including but not limited to any of
21 the following:

22 a. An automobile as defined in section 321.1.

23 b. A motor truck as defined in section 321.1.

24 c. A commercial motor vehicle as defined in section
25 452A.57.

26 d. A motorcycle as defined in section 321.1.

27 e. Watercraft as defined in section 462A.2.

28 f. An off-road vehicle which is a snowmobile or an all-
29 terrain vehicle as defined in section 321G.1.

30 4. "Motor vehicle fuel" means the same as defined in
31 section 214.1.

32 5. "Motor vehicle fuel pump" or "pump" means a stationary
33 pump located at a service station which is used for measuring
34 and dispensing motor vehicle fuel and which is required to be
35 licensed by the department pursuant to chapter 214.

1 3- 6. "Motor vehicle fuel storage tank" means an
2 aboveground or belowground container that is a fixture, used
3 to keep an accumulation of motor vehicle fuel.

4 4- 7. "MTBE" means methyl tertiary butyl ether.

5 5- 8. "Oxygenate octane enhancer" means oxygen-containing
6 compounds, including but not limited to alcohols, ethers, or
7 ethanol.

8 6- 9. "Retail dealer" ~~shall mean and include any person,~~
9 ~~firm, partnership, association, or corporation who operates,~~
10 ~~maintains, or conducts, either in person, or by any agent,~~
11 ~~employee, or servant, any place of business, filling station,~~
12 ~~pump station, or tank wagon, from which any motor vehicle~~
13 ~~fuel, as defined herein, is sold or offered for sale, at~~
14 ~~retail, or to the final or ultimate consumer.~~ means a person
15 who operates, maintains, or conducts a service station, either
16 in person, or by any agent or an employee.

17 7- 10. "Sell" means to sell or to offer for sale.

18 11. "Service station" means the location of a for-profit
19 or nonprofit business in this state where motor vehicle fuel
20 is sold or offered for sale on a retail basis.

21 8- 12. "Wholesale dealer" ~~shall mean and include any~~
22 ~~person, firm, partnership, association, or corporation, other~~
23 ~~than retail dealers as defined in subsection 3 of this~~
24 ~~section, who sells, keeps, or holds, for sale, or purchase for~~
25 ~~the purpose of sale within this state, any~~ means a person,
26 other than a retail dealer, who provides motor vehicle fuel
27 for sale within this state.

28 Sec. 2. Section 214A.2, subsection 1, Code Supplement
29 2003, is amended to read as follows:

30 1. a. The secretary department shall adopt rules pursuant
31 to chapter 17A for carrying out this chapter. The rules may
32 include, but are not limited to, specifications relating to
33 motor vehicle fuel or oxygenate octane enhancers, including
34 ethanol blended gasoline.

35 b. In the interest of uniformity, the secretary department

1 shall adopt by reference or otherwise specifications relating
2 to tests and standards for motor vehicle fuel or oxygenate
3 octane enhancers⁷. The specifications shall be based on those
4 established by the American society for testing and materials
5 (A.S.T.M.), unless the secretary department determines those
6 specifications are inconsistent with this chapter or are not
7 appropriate to the conditions which exist in this state.

8 Sec. 3. Section 214A.2, subsection 3, Code Supplement
9 2003, is amended to read as follows:

10 3. a. Gasoline with a mixture of ten percent or more
11 ethanol, but not more than thirteen percent, shall be known as
12 conventional blend ethanol.

13 b. Gasoline with a mixture of more than thirteen percent
14 ethanol, but not more than twenty-five percent, shall be known
15 as high blend ethanol. For purposes of chapters 323A, 422,
16 and 452A, high blend ethanol shall be treated as conventional
17 blend ethanol.

18 c. Gasoline with a mixture of at least eighty-five percent
19 ethanol shall be known as E-85 blended gasoline. However,
20 during the period beginning on November 1 and ending on March
21 31, gasoline with a mixture of at least seventy percent
22 ethanol shall also be known as E-85 blended gasoline.

23 Sec. 4. Section 214A.2A, Code 2003, is amended to read as
24 follows:

25 214A.2A KEROSENE LABELING AND LOW-GRAVITY PETROLEUM.

26 1. Fuel which is sold or is kept, offered, or exposed for
27 sale as kerosene shall be labeled as kerosene. The label
28 shall include the word "kerosene" and a designation as either
29 "K1" or "K2", and shall indicate that the kerosene is in
30 compliance with the standard specification adopted by the
31 A.S.T.M. in specification D-3699 (1982).

32 2. Kerosene and distillate or petroleum products of lower
33 gravity according to the Baume scale, when not used to propel
34 a motor vehicle or compounded or combined with a motor vehicle
35 fuel, are exempt from this chapter.

1 Sec. 5. Section 214A.16, Code 2003, is amended to read as
2 follows:

3 214A.16 NOTICE TO PUBLIC OF ~~BLENDED-FUEL~~ DECAL TYPES OF
4 MOTOR VEHICLE FUEL SOLD AT A PUMP.

5 1. If motor vehicle fuel containing a renewable fuel is
6 sold from a motor vehicle fuel pump, the pump shall have
7 affixed a decal identifying the name of the renewable fuel.
8 The decal may be different based on the type of renewable fuel
9 used. The design and location of the decal shall be
10 prescribed by rules adopted by the department. A decal
11 identifying a renewable fuel shall be consistent with
12 standards adopted pursuant to section 159A.6. The department
13 may approve an application to place a decal in a special
14 location on a pump or container or use a decal with special
15 lettering or colors, if the decal appears clear and
16 conspicuous to the consumer. The application shall be made in
17 writing pursuant to procedures adopted by the department.

18 2. If gasoline that does not meet the minimum ethanol
19 content standards for conventional blend ethanol as specified
20 in section 214A.2 is sold from a motor vehicle fuel pump, the
21 pump shall have affixed a label. The label shall identify
22 that the gasoline does not meet those standards and provide
23 notice that its use is restricted under this chapter. The
24 design and location of the decal shall be prescribed by rules
25 adopted by the department.

26 Sec. 6. NEW SECTION. 214A.18A PROHIBITION -- GASOLINE
27 FUEL STANDARD.

28 On and after January 1, 2007, except as provided in this
29 section, a retail dealer shall not sell gasoline in this state
30 that does not meet the minimum ethanol content standards for
31 conventional blend ethanol as specified in section 214A.2.

32 1. This section shall not apply to a retail dealer that
33 sells gasoline used to operate any of the following:

34 a. An aircraft as defined in section 328.1.

35 b. A motor vehicle used exclusively for motor sports,

1 including on a raceway, if the motor vehicle cannot operate on
2 a highway as provided in chapter 321 or rules adopted by the
3 state department of transportation.

4 c. A motor vehicle operated by using diesel fuel.

5 2. A retail dealer may sell gasoline that does not meet
6 the minimum ethanol content standards for conventional blend
7 ethanol as specified in section 214A.2 if all of the following
8 apply:

9 a. The gasoline is premium grade unleaded gasoline as
10 provided in section 214A.2.

11 b. The gasoline is sold exclusively for the operation of
12 one of the following:

13 (1) A motorcycle as defined in section 321.1.

14 (2) An antique vehicle registered under section 321.115.

15 (3) A snowmobile as defined in section 321G.1.

16 (4) An all-terrain vehicle as defined in section 321G.1.

17 (5) Watercraft as defined in section 462A.2.

18 (6) A small motor vehicle such as a lawnmower.

19 c. The retail dealer's service station does not use more
20 than one motor vehicle fuel pump to sell the gasoline at any
21 one time.

22 Sec. 7. Section 422.11C, Code Supplement 2003, is amended
23 by adding the following new subsection:

24 NEW SUBSECTION. 6. This section is repealed on January 1,
25 2009.

26 Sec. 8. NEW SECTION. 422.11J E-85 ETHANOL BLENDED
27 GASOLINE MOTOR VEHICLE PURCHASE TAX CREDIT.

28 1. As used in this section:

29 a. "E-85 ethanol blended gasoline" means E-85 ethanol
30 blended gasoline as described section 214A.2.

31 b. "Motor vehicle" means a new motor vehicle as new motor
32 vehicle is defined in section 321.1.

33 2. The taxes imposed under this division, less the credits
34 allowed under sections 422.12 and 422.12B, shall be reduced by
35 the E-85 ethanol blended gasoline motor vehicle purchase tax

1 credit for the tax year in which the taxpayer purchases a
2 motor vehicle powered by using E-85 ethanol blended gasoline
3 from a retail seller of motor vehicles. The tax credit equals
4 the lesser of one hundred dollars or the amount paid by the
5 taxpayer less any discounts and trade-ins.

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

11 b. Married taxpayers who have filed joint federal returns
12 electing to file separate returns or to file separately on a
13 combined return form must determine the E-85 ethanol blended
14 gasoline motor vehicle purchase tax credit based upon their
15 combined net income and allocate the total credit amount to
16 each spouse in the proportion that each spouse's respective
17 net income bears to the total combined net income.
18 Nonresidents or part-year residents of Iowa must determine
19 their E-85 ethanol blended gasoline motor vehicle purchase tax
20 credit in the ratio of their Iowa-source net income to their
21 all-source net income. Nonresidents or part-year residents
22 who are married and elect to file separate returns or to file
23 separately on a combined return form must allocate the E-85
24 ethanol blended gasoline motor vehicle purchase tax credit
25 between the spouses in the ratio of each spouse's Iowa-source
26 net income to the combined Iowa-source net income of the
27 taxpayers. An individual may claim the E-85 ethanol blended
28 gasoline motor vehicle purchase tax credit allowed a
29 partnership, S corporation, limited liability company, or
30 estate or trust electing to have the income taxed directly to
31 the individual. The amount claimed by the individual shall be
32 based upon the pro rata share of the individual's earnings of
33 the partnership, S corporation, limited liability company, or
34 estate or trust.

35 4. This section is repealed on January 1, 2009.

1 Sec. 9. Section 422.33, subsection 11, Code Supplement
2 2003, is amended by adding the following new paragraph:

3 NEW PARAGRAPH. e. This subsection is repealed on January
4 1, 2009.

5 Sec. 10. Section 452A.3, subsection 1, unnumbered
6 paragraph 1, Code 2003, is amended to read as follows:

7 Except as otherwise provided in this section and in this
8 division, until ~~June-30-2007~~ December 31, 2007, this
9 subsection shall apply to the excise tax imposed on each
10 gallon of motor fuel used for any purpose for the privilege of
11 operating motor vehicles in this state.

12 Sec. 11. Section 452A.3, subsection 1A, Code 2003, is
13 amended to read as follows:

14 1A. Except as otherwise provided in this section and in
15 this division, on and after June-30-2007 January 1, 2007, an
16 excise tax of twenty cents is imposed on each gallon of motor
17 fuel used for any purpose for the privilege of operating motor
18 vehicles in this state.

19 Sec. 12. Section 455G.3, Code Supplement 2003, is amended
20 by adding the following new subsection:

21 NEW SUBSECTION. 6. a. There is appropriated from the
22 unassigned revenue fund administered by the Iowa comprehensive
23 petroleum underground storage tank fund board to support the
24 ethanol blended gasoline storage tank incentive program as
25 provided in section 455G.23, one hundred fifty thousand
26 dollars for each fiscal year for the fiscal period beginning
27 on July 1, 2004, and ending June 30, 2009. The board shall
28 cooperate with the department of natural resources in awarding
29 moneys under the program.

30 b. This subsection is repealed on July 1, 2009.

31 Sec. 13. NEW SECTION. 455G.23 E-85 ETHANOL BLENDED
32 GASOLINE STORAGE TANK INCENTIVE PROGRAM.

33 1. As used in this section:

34 a. "E-85 ethanol blended gasoline" means E-85 ethanol
35 blended gasoline as described in section 214A.2.

1 b. "Motor vehicle fuel" means the same as defined in
2 section 214A.1.

3 c. "Motor vehicle fuel pump" or "pump" means the same as
4 defined in section 214.1.

5 d. "Motor vehicle fuel storage tank" or "tank" means a
6 container that is a fixture on a site, used to keep an
7 accumulation of motor vehicle fuel.

8 e. "Site" means the premises where a motor vehicle fuel
9 storage tank is located, if the tank is used to serve a
10 connecting motor vehicle fuel pump where motor vehicle fuel is
11 dispensed to customers on a retail basis.

12 2. The board shall establish an E-85 ethanol blended
13 gasoline storage tank incentive program to do any of the
14 following:

15 a. Reimburse the owner or operator of a site for costs
16 necessary to install, replace, or convert an aboveground motor
17 vehicle fuel storage tank for use in storing and dispensing E-
18 85 ethanol blended gasoline.

19 b. Reimburse the owner or operator of a site for costs
20 necessary to convert a belowground motor vehicle fuel storage
21 tank for use in storing and dispensing E-85 ethanol blended
22 gasoline.

23 3. An owner or operator shall not be reimbursed more than
24 seven thousand five hundred dollars for each tank that is
25 installed, replaced, or converted under the program. In order
26 to be eligible for reimbursement, all of the following must
27 apply:

28 a. The motor vehicle fuel storage tank must be located at
29 a site.

30 b. The site must comply with federal and state standards
31 governing new or upgraded motor vehicle fuel storage tanks
32 used to store and dispense motor vehicle fuel, including E-85
33 ethanol blended gasoline.

34 c. The owner or operator of the site must apply to the
35 board in a manner and according to procedures required by the

1 board. The application must contain all information required
2 by the board and shall at least include all of the following:

3 (1) The name of the owner or operator and the address of
4 the site.

5 (2) A detailed description of the motor vehicle fuel
6 storage tank to be installed, replaced, or converted on the
7 site, including but not limited to the model number of the
8 tank if available.

9 (3) A statement that the installation, replacement, or
10 conversion is necessary to store and dispense E-85 ethanol
11 blended gasoline.

12 4. A site classified as a no further action site pursuant
13 to a certificate issued by the department of natural resources
14 under section 455B.474 shall retain its classification
15 following modifications necessary to store and dispense E-85
16 ethanol blended gasoline, and the owner or operator shall not
17 be required to perform a new site assessment unless the site
18 causes a clear, present, and impending danger to the public
19 health or the environment.

20 5. This section is repealed on July 1, 2009.

21 Sec. 14. RETROACTIVE APPLICATION -- EFFECTIVE DATE.
22 Section 422.11J as enacted in this Act takes effect upon
23 enactment and applies retroactively to tax years beginning on
24 or after January 1, 2004.

25 EXPLANATION

26 BACKGROUND. In 2001 the general assembly enacted House
27 File 716 (2001 Iowa Acts, chapter 123), which promoted the
28 production and consumption of ethanol. That Act created
29 provisions providing a tax credit for retail dealers of
30 gasoline who sell ethanol blended gasoline (motor fuel
31 containing at least 10 percent alcohol). The tax credit
32 applies to both taxpayers filing as individuals under Code
33 section 422.11C and businesses under Code section 422.33.
34 Specifically, the Act provided a tax credit for a retail
35 dealer who operates at least one service station at which more

1 than 60 percent of the total gallons of gasoline sold by the
2 retail dealer are ethanol blended gasoline. The Act also
3 amended provisions in Code section 452A.3 that provide for an
4 excise tax on each gallon of motor fuel sold in the state.
5 Under the Act, until June 30, 2007, the rates for unblended
6 and blended motor fuel are adjusted each year based on the
7 number of gallons of ethanol blended gasoline that are
8 distributed in this state as expressed as a percentage of the
9 total number of gallons of motor fuel distributed in this
10 state.

11 **ETHANOL REQUIREMENTS.** This bill amends Code chapter 214A,
12 which provides authority to the department of agriculture and
13 land stewardship to regulate the sale of motor vehicle fuel.
14 The bill amends Code section 214A.2, which provides for
15 different types of gasoline, including gasoline that contains
16 a blend of gasoline with 10 percent or more ethanol referred
17 to as "conventional blend ethanol". It also provides for E-85
18 blended gasoline, which contains a mixture of at least between
19 70 and 85 percent ethanol based on whether it is the winter
20 season.

21 The bill prohibits retail dealers of gasoline from selling
22 gasoline that does not at least meet the minimum ethanol
23 content specifications for conventional blend ethanol on or
24 after January 1, 2007, but provides a number of exceptions.
25 The prohibition does not apply to gasoline used to operate
26 aircraft, motor vehicles involved exclusively in motor sports
27 events, or motor vehicles operating using diesel fuel. The
28 requirement also does not apply to selling gasoline for use in
29 certain vehicles such as motorcycles, antique vehicles,
30 snowmobiles, all-terrain vehicles, watercraft, and small motor
31 vehicles. The bill also provides that all such gasoline must
32 be premium-grade unleaded gasoline. The bill prohibits a
33 retail dealer from using more than one pump to dispense the
34 gasoline, and the pump must be labeled, notifying the public
35 of its restricted use. Code section 214A.11 provides that any

1 person violating the provisions of Code chapter 214A is guilty
2 of a simple misdemeanor. A simple misdemeanor is punishable
3 by confinement for no more than 30 days or a fine of at least
4 \$50, but not more than \$500, or by both.

5 TAXES. The bill eliminates the tax credit provisions in
6 Code sections 422.11C and 422.33 on July 1, 2009.

7 The bill also amends provisions in Code section 452A.3 that
8 provide for an adjustable excise tax on gallons of gasoline
9 sold in the state based on ethanol blended gasoline purchased
10 in this state. The bill eliminates that formula on December
11 31, 2007. After that date, a general rate of 20 cents per
12 gallon is imposed.

13 E-85 ETHANOL BLENDED GASOLINE MOTOR VEHICLE PURCHASE TAX
14 CREDIT. The bill provides an income tax credit for persons
15 purchasing a motor vehicle which operates using E-85 ethanol
16 blended gasoline. The tax credit equals the lesser of \$100 or
17 the amount paid by the taxpayer less any discounts and trade-
18 ins. The tax credit is repealed on January 1, 2009.

19 E-85 STORAGE TANK INCENTIVE PROGRAM. The bill establishes
20 an E-85 storage tank incentive program administered by the
21 Iowa comprehensive petroleum underground storage tank fund
22 board. The purpose of the program is to reimburse the owner
23 or operator of a site for costs necessary to install, replace,
24 or convert a motor vehicle fuel storage tank for use in
25 storing and dispensing motor vehicle fuel containing E-85
26 blended gasoline. An owner or operator cannot be reimbursed
27 more than \$7,500 for each tank that is installed, replaced, or
28 converted under the program. The bill provides eligibility
29 and application requirements. The bill provides that a site
30 classified as a no further action site pursuant to a
31 certificate issued by the department of natural resources
32 retains its classification following modifications necessary
33 to store and dispense E-85 blended gasoline. Moneys used to
34 support the fund derive from the unassigned revenue fund
35 administered by the board. The bill provides procedures for

1 the expenditure of moneys from the fund. The bill eliminates
2 the program on July 1, 2009.

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Houser
Johnson
Kibbie

Succeeded By SSB#310Z
(SF) HF 2158 Natural Resources

SENATE FILE _____

BY (PROPOSED COMMITTEE ON
NATURAL RESOURCES AND
ENVIRONMENT BILL BY
CHAIRPERSON HOUSER)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
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13 b. Gasoline with a mixture of more than thirteen percent
14 ethanol, but not more than twenty-five percent, shall be known
15 as high blend ethanol. For purposes of chapters 323A, 422,
16 and 452A, high blend ethanol shall be treated as conventional
17 blend ethanol.

18 c. Gasoline with a mixture of eighty-five percent ethanol
19 shall be known as E-85 blended gasoline. However, during the
20 period beginning on November 1 and ending on March 31,
21 gasoline with a mixture of seventy percent ethanol shall also
22 be known as E-85 blended gasoline.

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31 A.S.T.M. in specification D-3699 (1982).

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6 sold from a motor vehicle fuel pump, the pump shall have
7 affixed a decal identifying the name of the renewable fuel.
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10 prescribed by rules adopted by the department. A decal
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14 location on a pump or container or use a decal with special
15 lettering or colors, if the decal appears clear and
16 conspicuous to the consumer. The application shall be made in
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20 in section 214A.2 is sold from a motor vehicle fuel pump, the
21 pump shall have affixed a label. The label shall identify
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23 notice that its use is restricted under this chapter. The
24 design and location of the decal shall be prescribed by rules
25 adopted by the department.

26 **Sec. 6. NEW SECTION. 214A.18A PROHIBITION -- GASOLINE**
27 **FUEL STANDARD.**

28 On and after January 1, 2007, except as provided in this
29 section, a retail dealer shall not sell gasoline in this state
30 that does not meet the minimum ethanol content standards for
31 conventional blend ethanol as specified in section 214A.2.

32 1. This section shall not apply to a retail dealer that
33 sells gasoline used to operate any of the following:

- 34 a. An aircraft as defined in section 328.1.
- 35 b. A motor vehicle used exclusively for motor sports,

1 including on a raceway, if the motor vehicle cannot operate on
2 a highway as provided in chapter 321 or rules adopted by the
3 state department of transportation.

4 c. A motor vehicle operated by using diesel fuel.

5 2. A retail dealer may sell gasoline that does not meet
6 the minimum ethanol content standards for conventional blend
7 ethanol as specified in section 214A.2 if all of the following
8 apply:

9 a. The gasoline is premium grade unleaded gasoline as
10 provided in section 214A.2.

11 b. The gasoline is sold exclusively for the operation of
12 one of the following:

13 (1) A motorcycle as defined in section 321.1.

14 (2) An antique vehicle registered under section 321.115.

15 (3) A snowmobile as defined in section 321G.1.

16 (4) An all-terrain vehicle as defined in section 321G.1.

17 (5) Watercraft as defined in section 462A.2.

18 (6) A small motor vehicle such as a lawnmower.

19 c. The retail dealer's service station does not use more
20 than one motor vehicle fuel pump to sell the gasoline at any
21 one time.

22 Sec. 7. Section 422.11C, Code Supplement 2003, is amended
23 by adding the following new subsection:

24 NEW SUBSECTION. 6. This section is repealed on January 1,
25 2009.

26 Sec. 8. NEW SECTION. 422.11J E-85 ETHANOL BLENDED
27 GASOLINE MOTOR VEHICLE PURCHASE TAX CREDIT.

28 1. As used in this section:

29 a. "E-85 ethanol blended gasoline" means E-85 ethanol
30 blended gasoline as described section 214A.2.

31 b. "Motor vehicle" means a new motor vehicle as new motor
32 vehicle is defined in section 321.1.

33 2. The taxes imposed under this division, less the credits
34 allowed under sections 422.12 and 422.12B, shall be reduced by
35 the E-85 ethanol blended gasoline motor vehicle purchase tax

1 credit for the tax year in which the taxpayer purchases a
2 motor vehicle powered by using E-85 ethanol blended gasoline
3 from a retail seller of motor vehicles. The tax credit equals
4 the lesser of one hundred dollars or the amount paid by the
5 taxpayer less any discounts and trade-ins.

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

11 b. Married taxpayers who have filed joint federal returns
12 electing to file separate returns or to file separately on a
13 combined return form must determine the E-85 ethanol blended
14 gasoline motor vehicle purchase tax credit based upon their
15 combined net income and allocate the total credit amount to
16 each spouse in the proportion that each spouse's respective
17 net income bears to the total combined net income.

18 Nonresidents or part-year residents of Iowa must determine
19 their E-85 ethanol blended gasoline motor vehicle purchase tax
20 credit in the ratio of their Iowa-source net income to their
21 all-source net income. Nonresidents or part-year residents
22 who are married and elect to file separate returns or to file
23 separately on a combined return form must allocate the E-85
24 ethanol blended gasoline motor vehicle purchase tax credit
25 between the spouses in the ratio of each spouse's Iowa-source
26 net income to the combined Iowa-source net income of the
27 taxpayers. An individual may claim the E-85 ethanol blended
28 gasoline motor vehicle purchase tax credit allowed a
29 partnership, S corporation, limited liability company, or
30 estate or trust electing to have the income taxed directly to
31 the individual. The amount claimed by the individual shall be
32 based upon the pro rata share of the individual's earnings of
33 the partnership, S corporation, limited liability company, or
34 estate or trust.

35 4. This section is repealed on January 1, 2009.

1 Sec. 9. Section 422.33, subsection 11, Code Supplement
2 2003, is amended by adding the following new paragraph:
3 NEW PARAGRAPH. e. This subsection is repealed on January
4 1, 2009.

5 Sec. 10. Section 452A.3, subsection 1, unnumbered
6 paragraph 1, Code 2003, is amended to read as follows:
7 Except as otherwise provided in this section and in this
8 division, until ~~June-30, 2007~~ December 31, 2007, this
9 subsection shall apply to the excise tax imposed on each
10 gallon of motor fuel used for any purpose for the privilege of
11 operating motor vehicles in this state.

12 Sec. 11. Section 452A.3, subsection 1A, Code 2003, is
13 amended to read as follows:

14 1A. Except as otherwise provided in this section and in
15 this division, on and after June-30, 2007 January 1, 2007, an
16 excise tax of twenty cents is imposed on each gallon of motor
17 fuel used for any purpose for the privilege of operating motor
18 vehicles in this state.

19 Sec. 12. Section 455G.3, Code Supplement 2003, is amended
20 by adding the following new subsection:

21 NEW SUBSECTION. 6. a. There is appropriated from the
22 unassigned revenue fund administered by the Iowa comprehensive
23 petroleum underground storage tank fund board to support the
24 ethanol blended gasoline storage tank incentive program as
25 provided in section 455G.23, one hundred fifty thousand
26 dollars for each fiscal year for the fiscal period beginning
27 on July 1, 2004, and ending June 30, 2009. The board shall
28 cooperate with the department of natural resources in awarding
29 moneys under the program.

30 b. This subsection is repealed on July 1, 2009.

31 Sec. 13. NEW SECTION. 455G.23 E-85 ETHANOL BLENDED
32 GASOLINE STORAGE TANK INCENTIVE PROGRAM.

33 1. As used in this section:

34 a. "E-85 ethanol blended gasoline" means E-85 ethanol
35 blended gasoline as described in section 214A.2.

1 b. "Motor vehicle fuel" means the same as defined in
2 section 214A.1.

3 c. "Motor vehicle fuel pump" or "pump" means the same as
4 defined in section 214.1.

5 d. "Motor vehicle fuel storage tank" or "tank" means a
6 container that is a fixture on a site, used to keep an
7 accumulation of motor vehicle fuel.

8 e. "Site" means the premises where a motor vehicle fuel
9 storage tank is located, if the tank is used to serve a
10 connecting motor vehicle fuel pump where motor vehicle fuel is
11 dispensed to customers on a retail basis.

12 2. The board shall establish an E-85 ethanol blended
13 gasoline storage tank incentive program to do any of the
14 following:

15 a. Reimburse the owner or operator of a site for costs
16 necessary to install, replace, or convert an aboveground motor
17 vehicle fuel storage tank for use in storing and dispensing E-
18 85 ethanol blended gasoline.

19 b. Reimburse the owner or operator of a site for costs
20 necessary to convert a belowground motor vehicle fuel storage
21 tank for use in storing and dispensing E-85 ethanol blended
22 gasoline.

23 3. An owner or operator shall not be reimbursed more than
24 seven thousand five hundred dollars for each tank that is
25 installed, replaced, or converted under the program. In order
26 to be eligible for reimbursement, all of the following must
27 apply:

28 a. The motor vehicle fuel storage tank must be located at
29 a site.

30 b. The site must comply with federal and state standards
31 governing new or upgraded motor vehicle fuel storage tanks
32 used to store and dispense motor vehicle fuel, including E-85
33 ethanol blended gasoline.

34 c. The owner or operator of the site must apply to the
35 board in a manner and according to procedures required by the

1 board. The application must contain all information required
2 by the board and shall at least include all of the following:

3 (1) The name of the owner or operator and the address of
4 the site.

5 (2) A detailed description of the motor vehicle fuel
6 storage tank to be installed, replaced, or converted on the
7 site, including but not limited to the model number of the
8 tank if available.

9 (3) A statement that the installation, replacement, or
10 conversion is necessary to store and dispense E-85 ethanol
11 blended gasoline.

12 4. A site classified as a no further action site pursuant
13 to a certificate issued by the department of natural resources
14 under section 455B.474 shall retain its classification
15 following modifications necessary to store and dispense E-85
16 ethanol blended gasoline, and the owner or operator shall not
17 be required to perform a new site assessment unless the site
18 causes a clear, present, and impending danger to the public
19 health or the environment.

20 5. This section is repealed on July 1, 2009.

21 Sec. 14. RETROACTIVE APPLICATION -- EFFECTIVE DATE.

22 Section 422.11J as enacted in this Act takes effect upon
23 enactment and applies retroactively to tax years beginning on
24 or after January 1, 2004.

25 EXPLANATION

26 BACKGROUND. In 2001 the general assembly enacted House
27 File 716 (2001 Iowa Acts, chapter 123), which promoted the
28 production and consumption of ethanol. That Act created
29 provisions providing a tax credit for retail dealers of
30 gasoline who sell ethanol blended gasoline (motor fuel
31 containing at least 10 percent alcohol). The tax credit
32 applies to both taxpayers filing as individuals under Code
33 section 422.11C and businesses under Code section 422.33.
34 Specifically, the Act provided a tax credit for a retail
35 dealer who operates at least one service station at which more

1 than 60 percent of the total gallons of gasoline sold by the
 2 retail dealer are ethanol blended gasoline. The Act also
 3 amended provisions in Code section 452A.3 that provide for an
 4 excise tax on each gallon of motor fuel sold in the state.
 5 Under the Act, until June 30, 2007, the rates for unblended
 6 and blended motor fuel are adjusted each year based on the
 7 number of gallons of ethanol blended gasoline that are
 8 distributed in this state as expressed as a percentage of the
 9 total number of gallons of motor fuel distributed in this
 10 state.

11 ETHANOL REQUIREMENTS. This bill amends Code chapter 214A,
 12 which provides authority to the department of agriculture and
 13 land stewardship to regulate the sale of motor vehicle fuel.
 14 The bill amends Code section 214A.2, which provides for
 15 different types of gasoline, including gasoline that contains
 16 a blend of gasoline with 10 percent or more ethanol referred
 17 to as "conventional blend ethanol". It also provides for E-85
 18 blended gasoline, which contains a mixture of between 70 and
 19 85 percent ethanol based on whether it is the winter season.

20 The bill prohibits retail dealers of gasoline from selling
 21 gasoline that does not at least meet the minimum ethanol
 22 content specifications for conventional blend ethanol on or
 23 after January 1, 2007, but provides a number of exceptions.
 24 The prohibition does not apply to gasoline used to operate
 25 aircraft, motor vehicles involved exclusively in motor sports
 26 events, or motor vehicles operating using diesel fuel. The
 27 requirement also does not apply to selling gasoline for use in
 28 certain vehicles such as motorcycles, antique vehicles,
 29 snowmobiles, all-terrain vehicles, watercraft, and small motor
 30 vehicles. The bill also provides that all such gasoline must
 31 be premium-grade unleaded gasoline. The bill prohibits a
 32 retail dealer from using more than one pump to dispense the
 33 gasoline, and the pump must be labeled, notifying the public
 34 of its restricted use. Code section 214A.11 provides that any
 35 person violating the provisions of Code chapter 214A is guilty

1 of a simple misdemeanor. A simple misdemeanor is punishable
2 by confinement for no more than 30 days or a fine of at least
3 \$50, but not more than \$500, or by both.

4 TAXES. The bill eliminates the tax credit provisions in
5 Code sections 422.11C and 422.33 on July 1, 2009.

6 The bill also amends provisions in Code section 452A.3 that
7 provide for an adjustable excise tax on gallons of gasoline
8 sold in the state based on ethanol blended gasoline purchased
9 in this state. The bill eliminates that formula on December
10 31, 2007. After that date, a general rate of 20 cents per
11 gallon is imposed.

12 E-85 STORAGE TANK INCENTIVE PROGRAM. The bill establishes
13 an E-85 storage tank incentive program administered by the
14 Iowa comprehensive petroleum underground storage tank fund
15 board. The purpose of the program is to reimburse the owner
16 or operator of a site for costs necessary to install, replace,
17 or convert a motor vehicle fuel storage tank for use in
18 storing and dispensing motor vehicle fuel containing E-85
19 blended gasoline. An owner or operator cannot be reimbursed
20 more than \$7,500 for each tank that is installed, replaced, or
21 converted under the program. The bill provides eligibility
22 and application requirements. The bill provides that a site
23 classified as a no further action site pursuant to a
24 certificate issued by the department of natural resources
25 retains its classification following modifications necessary
26 to store and dispense E-85 blended gasoline. Moneys used to
27 support the fund derive from the unassigned revenue fund
28 administered by the board. The bill provides procedures for
29 the expenditure of moneys from the fund. The bill eliminates
30 the program on July 1, 2009.

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