

# Senate File 476 - Introduced

SENATE FILE \_\_\_\_\_  
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO SSB 1312)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to motor fuel by establishing standards for the  
2 sale of biodiesel fuel, making penalties applicable, and  
3 providing for an effective date.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
5 TLSB 2118SV 82  
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1 1 Section 1. Section 159A.6, subsection 2, unnumbered  
1 2 paragraph 2, Code 2007, is amended to read as follows:  
1 3 The committee shall develop standards for decals required  
1 4 pursuant to section 214A.16, which shall be designed to  
1 5 promote the advantages of using ~~renewable fuels~~ ethanol  
1 6 blended fuel. The standards may be incorporated within a  
1 7 model decal adopted by the committee and approved by the  
1 8 office.  
1 9 Sec. 2. Section 214A.1, Code 2007, is amended by adding  
1 10 the following new subsection:  
1 11 NEW SUBSECTION. 16A. "Nonbiodiesel blended fuel" means  
1 12 diesel fuel other than biodiesel blended fuel if it meets the  
1 13 standards provided in section 214A.2.  
1 14 Sec. 3. Section 214A.2, subsection 4, paragraph b,  
1 15 subparagraph (2), Code 2007, is amended to read as follows:  
1 16 (2) At least ~~one~~ two percent of biodiesel blended fuel by  
1 17 volume must be biodiesel.  
1 18 Sec. 4. NEW SECTION. 214A.2B STANDARDS FOR DIESEL FUEL  
1 19 ADVERTISED, SOLD, OR DISPENSED IN THIS STATE == BIODIESEL  
1 20 BLEND REQUIREMENT AND EXCEPTIONS.  
1 21 1. Except as otherwise provided in this section, a person  
1 22 shall not advertise, sell, or dispense diesel fuel in this  
1 23 state for use in this state, unless the diesel fuel is  
1 24 biodiesel blended fuel.  
1 25 2. A person may advertise, sell, or dispense nonbiodiesel  
1 26 blended fuel in this state if any of the following apply:  
1 27 a. The nonbiodiesel blended fuel is exempt from the levy  
1 28 of the excise tax as a special fuel required to be indelibly  
1 29 dyed and used only for an exempt purpose as provided in  
1 30 section 452A.3.  
1 31 b. The nonbiodiesel blended fuel is used to operate a  
1 32 diesel motor that powers a locomotive.  
1 33 c. The department of revenue issues an order suspending  
1 34 the application of the requirement provided in subsection 1 on  
1 35 a statewide basis, based on the department's finding that  
2 1 there is a shortage of biodiesel blended fuel. The order  
2 2 shall take effect upon filing the order with the  
2 3 administrative rules coordinator for publication in the Iowa  
2 4 administrative bulletin as provided in chapter 17A. The  
2 5 department's order shall expire as provided in the order, but  
2 6 not later than three months after the date that the order is  
2 7 published in the Iowa administrative bulletin. However, the  
2 8 department may issue consecutive orders.  
2 9 Sec. 5. Section 214A.3, Code 2007, is amended by adding  
2 10 the following new subsection:  
2 11 NEW SUBSECTION. 3. A person who advertises the sale of  
2 12 diesel fuel that is not biodiesel blended fuel shall refer to  
2 13 the diesel fuel as nonbiodiesel blended fuel.  
2 14 Sec. 6. Section 214A.16, Code 2007, is amended to read as  
2 15 follows:  
2 16 214A.16 NOTICE OF BLENDED FUEL == DECAL.  
2 17 1. a. If motor fuel containing a ~~renewable fuel~~ ethanol

~~2 18 blended gasoline is sold from a motor fuel pump, the motor~~  
~~2 19 fuel pump shall have affixed a decal identifying the name of~~  
~~2 20 the renewable fuel it as ethanol blended gasoline. The decal~~  
~~2 21 may be different based on the type of renewable fuel used.~~  
~~2 22 The design and location of the decal shall be prescribed by~~  
~~2 23 rules adopted by the department.~~

2 24 b. A decal identifying a renewable fuel ethanol blended  
2 25 gasoline shall be consistent with standards adopted pursuant  
2 26 to section 159A.6.

2 27 2. The design and location of a decal shall be prescribed  
2 28 by rules adopted by the department. The department may

2 29 approve an application to place a decal in a special location  
2 30 on a motor fuel pump or container or use a decal with special  
2 31 lettering or colors, if the decal appears clear and  
2 32 conspicuous to the consumer. The application shall be made in  
2 33 writing pursuant to procedures adopted by the department.

2 34 Sec. 7. Section 452A.33, subsection 2, Code 2007, is  
2 35 amended by adding the following new paragraph:

3 1 NEW PARAGRAPH. d. An estimate of the availability of  
3 2 biodiesel blended fuel for use in this state for the current  
3 3 determination period, including for each geographic region of  
3 4 the state as specified in section 173.4A.

3 5 Sec. 8. CONTINGENT REPEAL OF CODE SECTIONS.

3 6 1. If the successor Act to Senate Study Bill 1105 or  
3 7 another Act is enacted by the Eighty-second General Assembly  
3 8 during its 2007 Regular Session that prohibits the  
3 9 advertising, selling, or dispensing of gasoline other than  
3 10 ethanol blended gasoline, all of the following shall apply:

3 11 a. Section 159A.6, subsection 2, unnumbered paragraph 2,  
3 12 Code 2007, is amended by striking the paragraph.

3 13 b. Section 214A.16, Code 2007, is repealed.

3 14 2. This section applies notwithstanding section 4.8.

3 15 Sec. 9. EFFECTIVE DATE. This Act takes effect on the  
3 16 earliest of any of the following:

3 17 1. January 1, 2008, if the department of revenue publishes  
3 18 a notice in the Iowa administrative bulletin stating that the  
3 19 department of revenue has calculated that there is enough  
3 20 biodiesel blended fuel for use in this state to satisfy the  
3 21 requirements of section 214A.2B, as enacted in this Act, on a  
3 22 statewide basis. The department shall make a decision about  
3 23 the availability of biodiesel blended fuel in this state and  
3 24 publish a notice of its finding in the Iowa administrative  
3 25 bulletin prior to October 1, 2007.

3 26 2. July 1, 2008.

3 27 EXPLANATION

3 28 BACKGROUND. During the 2006 Legislative Session, the  
3 29 general assembly enacted H.F. 2754 (2006 Iowa Acts, ch. 1142)  
3 30 which provided for the regulation and promotion of motor fuel  
3 31 and renewable fuels (ethanol blended gasoline and biodiesel  
3 32 blended fuel), as administered by the department of  
3 33 agriculture and land stewardship and the department of  
3 34 revenue.

3 35 MOTOR FUEL STANDARDS. This bill amends Code chapter 214A,  
4 1 which provides authority to the department of agriculture and  
4 2 land stewardship to regulate the sale of motor fuel.  
4 3 Code section 214A.2 provides for different types of motor  
4 4 fuel and establishes standards or specifications for biodiesel  
4 5 blended fuel, in part based on ASTM international standards.  
4 6 Currently, at least 1 percent of biodiesel blended fuel by  
4 7 volume must be biodiesel. The bill increases that amount to 2  
4 8 percent.

4 9 BIODIESEL BLEND REQUIREMENT. This bill creates a new  
4 10 requirement to be administered by the department of  
4 11 agriculture and land stewardship requiring that a person  
4 12 advertising, selling, or dispensing diesel fuel must use  
4 13 biodiesel blended fuel. Diesel fuel which does not meet the  
4 14 requirement is termed nonbiodiesel blended fuel.  
4 15 Notwithstanding the bill's prohibition, it allows exceptions  
4 16 for nonbiodiesel blended fuel which is: (1) exempt from the  
4 17 levy of the fuel tax as a special fuel required to be  
4 18 indelibly dyed and used only for an exempt purpose as provided  
4 19 in Code section 452A.3; (2) used to operate a diesel motor  
4 20 that powers a locomotive; or (3) made available pursuant to a  
4 21 special order issued by the department of revenue suspending  
4 22 the application of the requirement on a statewide basis, based  
4 23 on a shortage of the biodiesel blended fuel. House File 2754  
4 24 in part required the department of revenue to collect  
4 25 information regarding the number of gallons of bio-blended  
4 26 fuels including biodiesel blended fuel. The bill provides  
4 27 that the department must estimate the availability of  
4 28 biodiesel blended fuel for use in this state for the current

4 29 determination period, including for each geographic region of  
4 30 the state as specified in Code section 173.4A.

4 31 ADVERTISING. The bill eliminates a requirement that a  
4 32 motor fuel pump dispensing biodiesel blended fuel be affixed  
4 33 with a decal identifying it as biodiesel blended fuel, as  
4 34 provided by rules adopted by the department of agriculture and  
4 35 land stewardship in cooperation with the renewable fuels and  
5 1 coproducts advisory committee (Code chapter 159A). The bill  
5 2 also provides that a decal is not required to be affixed to a  
5 3 motor fuel pump dispensing ethanol blended gasoline if  
5 4 legislation is enacted by the Eighty-second General Assembly,  
5 5 during its 2007 Session, that prohibits the advertising,  
5 6 selling, or dispensing of gasoline other than ethanol blended  
5 7 gasoline.

5 8 CURRENT APPLICABLE PENALTIES. Code section 214A.11  
5 9 provides that a person who violates a provision of Code  
5 10 chapter 214A is guilty of a serious misdemeanor, and that each  
5 11 day that a continuing violation occurs is considered a  
5 12 separate offense. A serious misdemeanor is punishable by  
5 13 confinement for no more than one year and a fine of at least  
5 14 \$315 but not more than \$1,875. The Code section also provides  
5 15 that in lieu of seeking a prosecution, the state may proceed  
5 16 against the person by initiating an alternative civil  
5 17 enforcement action as a contested case proceeding by the  
5 18 department under Code chapter 17A or as a civil judicial  
5 19 proceeding by the attorney general upon referral by the  
5 20 department. The applicable civil penalty is at least \$100 but  
5 21 not more than \$1,000 for each violation. Each day that a  
5 22 continuing violation occurs shall be considered a separate  
5 23 offense.

5 24 EFFECTIVE DATE. The bill takes effect upon the earliest of  
5 25 two possible dates: (1) January 1, 2008, if the department of  
5 26 revenue publishes a notice in the Iowa administrative bulletin  
5 27 stating that there is enough biodiesel blended fuel for use in  
5 28 this state to satisfy the requirements that diesel fuel be  
5 29 biodiesel blended fuel; or (2) July 1, 2008.

5 30 LSB 2118SV 82

5 31 da:nh/je/5