

Senate Study Bill 1313

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL
BY CHAIRPERSON BOLKCOM)

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

A BILL FOR

1 An Act relating to motor fuel containing biodiesel, providing for
2 tax credits, making penalties applicable, and including
3 effective date and applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 2135SC 83
6 da/rj/14

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1 1 DIVISION I
1 2 BIODIESEL FUEL STANDARD
1 3 Section 1. Section 214A.2, subsection 4, paragraph b,
1 4 subparagraph (2), Code 2009, is amended by striking the
1 5 subparagraph.
1 6 Sec. 2. NEW SECTION. 214A.2C STANDARD FOR DIESEL FUEL ==
1 7 BIODIESEL REQUIRED.
1 8 1. A retail dealer shall not advertise for sale or sell
1 9 diesel fuel in this state, unless it is biodiesel fuel.
1 10 2. a. Subsection 1 does not apply to any of the
1 11 following:
1 12 (1) Motors located at an electric generating plant
1 13 regulated by the nuclear regulatory commission. This
1 14 exception shall no longer apply thirty days after the nuclear
1 15 regulatory commission approves the use of biodiesel fuel in
1 16 motors at electric generating plants.
1 17 (2) Railroad locomotives.
1 18 (3) Off=road logging equipment and machinery.
1 19 (4) Vehicles and equipment used exclusively on an aircraft
1 20 landing field.
1 21 b. This subsection is repealed on July 1, 2012.
1 22 Sec. 3. NEW SECTION. 214A.2D STANDARD FOR DIESEL FUEL ==
1 23 BIODIESEL DESIGNATIONS.
1 24 1. A retail dealer shall not advertise or sell biodiesel
1 25 blended fuel unless it is designated B=5 or higher as
1 26 specified in section 214A.2.
1 27 2. The biodiesel blended fuel designation provided in
1 28 subsection 1 shall increase in two threshold periods as
1 29 follows:
1 30 a. For the first threshold period, beginning on July 1,
1 31 2012, and ending June 30, 2015, the biodiesel blended fuel
1 32 must be designated B=10 or higher as specified in section
1 33 214A.2.
1 34 b. For the second threshold period, beginning on July 1,
1 35 2015, the biodiesel blended fuel must be designated B=20 or
2 1 higher as specified in section 214A.2.
2 2 3. a. Notwithstanding subsection 2, a retail dealer is
2 3 not required to advertise for sale or sell biodiesel blended
2 4 fuel designated as higher than B=5 during the cold weather
2 5 months beginning November 1 and ending March 31.
2 6 b. The department may issue a cold weather suspension
2 7 order that suspends the application of paragraph "a" during
2 8 some or all of a threshold period and establish one or more
2 9 temporary biodiesel blended fuel designations applicable for
2 10 the period so long as a biodiesel blended fuel designation is
2 11 not less than B=5 and not more than the biodiesel blended fuel
2 12 designation that would otherwise apply during the threshold
2 13 period. The cold weather suspension order shall be published
2 14 in the Iowa administrative bulletin and take effect as
2 15 provided by the department. Prior to issuing the order, the
2 16 department shall consult with the committee.
2 17 4. a. The department may issue a threshold suspension

2 18 order suspending the application of a biodiesel designation
2 19 during a threshold period as provided in subsection 2, if the
2 20 department determines that any of the following apply:

2 21 (1) Less than five percent of the biodiesel blended fuel
2 22 expected to be sold in this state during the applicable
2 23 threshold period will be produced from a nontraditional
2 24 feedstock which is a biological resource other than an
2 25 agricultural resource traditionally grown or raised in the
2 26 state, including but not limited to algae cultivated for
2 27 biofuels production, waste oils, and tallow.

2 28 (2) No specification established by the United States
2 29 environmental protection agency or A.S.T.M. international
2 30 applies to the biodiesel designation required during the
2 31 applicable threshold period.

2 32 b. The threshold suspension order shall apply during some
2 33 or all of a threshold period and may establish one or more
2 34 temporary biodiesel blended fuel designations applicable for
2 35 the period of suspension so long as the temporary biodiesel
3 1 blended fuel designation is not less than B=5 and not more
3 2 than the biodiesel blended fuel designation that would
3 3 otherwise apply during the threshold period. The threshold
3 4 suspension order shall be published in the Iowa administrative
3 5 bulletin and take effect as provided by the department. Prior
3 6 to issuing the threshold suspension order, the department
3 7 shall consult with the committee.

3 8 5. The department may issue a threshold suspension order
3 9 suspending the application of a biodiesel designation for a
3 10 motor under the control of the nuclear regulatory commission
3 11 during a threshold period, if the nuclear regulatory
3 12 commission has not approved the use of the biodiesel
3 13 designation required during that threshold period. The
3 14 threshold suspension order shall be published in the Iowa
3 15 administrative bulletin and take effect as provided by the
3 16 department. Prior to issuing the threshold suspension order,
3 17 the department shall consult with the committee.

3 18 6. The governor may by executive order adjust the
3 19 biodiesel blended fuel designation as provided in this
3 20 section, if the governor determines that there exists a major
3 21 disparity between the price of biodiesel blended fuel and
3 22 diesel fuel, there is a significant shortage of biodiesel fuel
3 23 supplies in this state, or a systemic market change will cause
3 24 material economic hardship to retail dealers who advertise and
3 25 sell biodiesel blended fuel in this state which can be
3 26 alleviated by adjusting the biodiesel blended fuel. The
3 27 adjusted biodiesel blended fuel designation shall not be less
3 28 than B=5 and not more than the biodiesel blended fuel
3 29 designation that would otherwise apply during the applicable
3 30 threshold period. The executive order shall provide for the
3 31 termination of the adjusted biodiesel blended fuel designation
3 32 by a date certain. After the executive order's termination,
3 33 the biodiesel blended fuel designation shall be restored to
3 34 the amount required for the applicable threshold period.

3 35 Sec. 4. EMERGENCY RULES. The department of agriculture
4 1 and land stewardship shall adopt emergency rules under section
4 2 17A.4, subsection 3, and section 17A.5, subsection 2,
4 3 paragraph "b", to implement the provisions of sections 214A.2C
4 4 and 214A.2D, as enacted in this Act, and the rules shall be
4 5 effective July 1, 2009. Any rules adopted in accordance with
4 6 this section shall also be published as a notice of intended
4 7 action as provided in section 17A.4.

4 8 Sec. 5. EFFECTIVE DATE. This division of this Act takes
4 9 effect on July 1, 2009, except for the provisions authorizing
4 10 the department of agriculture and land stewardship to adopt
4 11 emergency rules and to publish a notice of intended action to
4 12 implement the provisions of sections 214A.2C and 214A.2D, as
4 13 enacted in this Act, which, being deemed of immediate
4 14 importance, take effect upon enactment.

4 15 DIVISION II

4 16 BIODIESEL FUEL LABELING

4 17 Sec. 6. Section 214A.2, subsection 5, Code 2009, is
4 18 amended to read as follows:

4 19 5. Ethanol blended gasoline shall be designated E=xx where
4 20 "xx" is the volume percent of ethanol in the ethanol blended
4 21 gasoline and biodiesel blended fuel shall be designated B=xx
4 22 where "xx" is the volume percent of biodiesel.

4 23 Sec. 7. Section 214A.16, subsection 1, Code 2009, is
4 24 amended to read as follows:

4 25 1. a. ~~If motor fuel containing a renewable fuel ethanol~~
4 26 ~~blended gasoline is sold from a motor fuel pump, the pump~~
4 27 ~~shall have affixed a decal identifying the name of the~~
4 28 ~~renewable fuel ethanol blended gasoline. The decal shall be~~

~~4 29 different based on the type of renewable fuel dispensed. If~~
4 30 the motor fuel pump dispenses ethanol blended gasoline
4 31 classified as higher than standard ethanol blended gasoline
4 32 pursuant to section 214A.2, the decal shall contain the
4 33 following notice: "FOR FLEXIBLE FUEL VEHICLES ONLY".
4 34 b. If biodiesel fuel is sold from a motor fuel pump, the
4 35 pump shall have affixed a decal identifying the biodiesel fuel
5 1 as provided in 16 C.F.R. pt. 306.

5 2 DIVISION III
5 3 BIODIESEL BLENDED FUEL TAX CREDIT
5 4 Sec. 8. Section 422.33, subsection 11C, Code 2009, is
5 5 amended by striking the subsection.
5 6 Sec. 9. 2006 Iowa Acts, chapter 1142, section 49,
5 7 subsection 5, is amended by striking the subsection.
5 8 Sec. 10. Section 422.11P, Code 2009, is repealed.
5 9 Sec. 11. APPLICABILITY. The sections of this division of
5 10 this Act striking section 422.33, subsection 11C, striking
5 11 2006 Iowa Acts, chapter 49, subsection 5, and repealing
5 12 422.11P, apply to a taxpayer claiming a biodiesel tax credit
5 13 for sales of biodiesel blended fuel sold or dispensed on or
5 14 after the effective date of this division of this Act.

5 15 EXPLANATION
5 16 DIVISION I == BIODIESEL FUEL STANDARD. This bill applies
5 17 to the retail sale of diesel fuel as regulated by the
5 18 department of agriculture and land stewardship under Code
5 19 chapter 214A, and specifically biodiesel fuel derived from
5 20 vegetable oils or animal fats that meet departmental standards
5 21 (Code section 214A.2). Biodiesel fuel is designated by "B=xx"
5 22 where "xx" is the volume percent of biodiesel by volume.
5 23 Currently, all biodiesel fuel must be at least B=1 (Code
5 24 section 214A.2).

5 25 A retail dealer is prohibited from advertising for the sale
5 26 or selling diesel fuel unless it is biodiesel fuel. The bill
5 27 provides for a number of exceptions, including for motors
5 28 located at an electric generating plant regulated by the
5 29 nuclear regulatory commission, locomotives, off-road logging
5 30 equipment and machinery, and vehicles and equipment used
5 31 exclusively on an aircraft landing field.

5 32 Under the bill, the lowest designation of biodiesel blended
5 33 fuel that can be marketed is B=5. The bill provides for two
5 34 threshold periods which require that an increasing percentage
5 35 of biodiesel be included in the biodiesel blended fuel. The
6 1 first threshold period, beginning on July 1, 2012, and ending
6 2 June 30, 2015, requires that biodiesel blended fuel must be
6 3 B=10 or higher and the second threshold period beginning on
6 4 July 1, 2015, requires that biodiesel blended fuel be B=20 or
6 5 higher.

6 6 The bill also provides a number of exceptions. First, a
6 7 retail dealer is not required to market biodiesel blended fuel
6 8 designated as higher than B=5 during the cold weather months
6 9 beginning November 1 and ending March 31, unless the
6 10 department issues a cold weather suspension order for some or
6 11 all of those months. The cold weather suspension order may
6 12 establish a temporary biodiesel designation for the period of
6 13 the suspension. Secondly, the department may issue a
6 14 temporary order suspending a threshold period under two
6 15 conditions: (1) less than 5 percent of the biodiesel blended
6 16 fuel expected to be sold in this state during the applicable
6 17 threshold period will be produced from a nontraditional
6 18 feedstock, or (2) no specification established by the United
6 19 States environmental protection agency or A.S.T.M.
6 20 international applies to the biodiesel designation. The
6 21 department may issue a threshold suspension order that applies
6 22 during some or all of a threshold period and may establish one
6 23 or more temporary biodiesel fuel designations applicable for
6 24 the period. The bill also provides that the department may
6 25 suspend the biodiesel fuel standard for motors under the
6 26 control of the nuclear regulatory commission.

6 27 The bill also provides that the governor may by executive
6 28 order adjust the biodiesel blended fuel designation under any
6 29 of three circumstances: (1) a major disparity exists between
6 30 the price of biodiesel blended fuel and diesel fuel; (2) there
6 31 is a significant shortage of biodiesel fuel supplies in this
6 32 state; or (3) a systemic market change will cause material
6 33 economic hardship to retail dealers. The governor must
6 34 establish an adjusted biodiesel blended fuel designation
6 35 during the applicable threshold period.

7 1 EMERGENCY RULEMAKING AND EFFECTIVE DATE. The bill
7 2 authorizes the department of agriculture and land stewardship
7 3 to adopt rules by emergency and by notice of intended action
7 4 in order to implement the biodiesel fuel requirements. The

7 5 provision takes effect upon enactment.

7 6 DIVISION II == BIODIESEL FUEL LABELING. The bill provides
7 7 that a retail dealer who sells biodiesel fuel must affix a
7 8 decal to the motor fuel pump identifying the biodiesel fuel
7 9 when it contains a certain percentage of biodiesel as provided
7 10 by federal law, and specifically the federal trade commission.
7 11 The bill eliminates a state requirement that provides for the
7 12 general labeling of biodiesel fuel sold at motor fuel pumps
7 13 that contain any biodiesel.

7 14 DIVISION III == BIODIESEL BLENDED FUEL TAX CREDIT. The
7 15 bill eliminates provisions for a biodiesel blended fuel tax
7 16 credit available to a retail dealer of biodiesel blended fuel.

7 17 APPLICABLE PENALTIES. A person who violates a provision of
7 18 Code chapter 214A is guilty of a serious misdemeanor with each
7 19 day of a continuing violation consisting of a separate
7 20 offense. The state may also proceed against a person who
7 21 violates the Code chapter by bringing a civil enforcement
7 22 action as a contested case proceeding under Code chapter 17A
7 23 in lieu of a prosecution. A serious misdemeanor is punishable
7 24 by confinement for no more than one year and a fine of at
7 25 least \$315 but not more than \$1,875. The civil penalty shall
7 26 be for at least \$100 but not more than one \$1,000 for each
7 27 violation.

7 28 LSB 2135SC 83

7 29 da/rj/14