

Senate Study Bill 1148 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
AGRICULTURE BILL BY
CHAIRPERSON SENG)

A BILL FOR

1 An Act relating to the promotion of biodiesel fuel, by
2 providing for tax credits to retail dealers and payments to
3 biodiesel producers, making an appropriation, providing a
4 penalty and including effective date provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I

BIODIESEL BLENDED FUEL TAX CREDIT

Section 1. Section 422.11P, Code 2011, is amended by adding the following new subsection:

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

Sec. 2. Section 422.11P, subsection 2, paragraph a, subparagraph (2), Code 2011, is amended by striking the subparagraph.

Sec. 3. Section 422.11P, subsection 2, paragraph b, Code 2011, is amended to read as follows:

b. The tax credit shall apply to biodiesel blended fuel ~~formulated with a minimum percentage of two percent by volume of biodiesel~~ classified as B-5 or higher, if the formulation ~~biodiesel blended fuel~~ meets the standards provided in requirements for that classification as provided in section 214A.2.

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

3. ~~a. The tax credit shall be calculated separately for each retail motor fuel site operated by the retail dealer.~~

~~b.~~ The amount of the tax credit is ~~three cents~~ a designated amount multiplied by the total number of gallons of biodiesel blended fuel sold and dispensed by the retail dealer through all motor fuel pumps located at a retail motor fuel site operated by the retail dealer during the retail dealer's tax year. The designated amount is as follows:

a. For biodiesel blended fuel classified as B-5 or higher but not higher than B-9, two cents.

b. For biodiesel blended fuel classified as B-10 or higher but not higher than B-99, four cents.

Sec. 5. Section 422.11P, subsection 6, Code 2011, is amended to read as follows:

6. This section is repealed January 1, ~~2012~~ 2015.

1 Sec. 6. Section 422.33, subsection 11C, paragraph c, Code
2 2011, is amended by striking the paragraph.

3 Sec. 7. Section 422.33, subsection 11C, paragraph d, Code
4 2011, is amended to read as follows:

5 d. This subsection is repealed on January 1, ~~2012~~ 2015.

6 Sec. 8. FUTURE APPLICABILITY DATE. Section 422.11P and
7 section 422.33, as amended by this Act, shall apply to tax
8 years beginning on or after January 1, 2012.

9 Sec. 9. TAX CREDIT AVAILABILITY UNDER PRIOR LAW. A retail
10 dealer who could claim a biodiesel blended fuel tax credit
11 under section 422.11P or 422.33, subsection 11C, as that
12 section or subsection exists on June 30, 2011, may continue
13 to claim the tax credit for biodiesel blended fuel sold and
14 dispensed by the retail dealer until December 31, 2011, as
15 provided in that section or subsection.

16 Sec. 10. 2006 Iowa Acts, chapter 1142, section 49,
17 subsection 5, is amended to read as follows:

18 5. ~~For~~ This subsection applies to a retail dealer who
19 may claim a biodiesel blended fuel tax credit under section
20 422.11P or 422.33, subsection 11C, as enacted in this Act or
21 as subsequently amended, in calendar year ~~2011~~ 2014 and whose
22 tax year ends prior to December 31, ~~2011~~, the 2014. The retail
23 dealer may continue to claim the tax credit in the retail
24 dealer's following tax year. In that case, the tax credit
25 shall be calculated in the same manner as provided in section
26 422.11P or 422.33, subsection 11C, as ~~enacted in this Act~~
27 that section or subsection exists on December 31, 2014, for
28 the remaining period beginning on the first day of the retail
29 dealer's new tax year until December 31, ~~2011~~ 2014. For that
30 remaining period, the tax credit shall be calculated in the
31 same manner as a retail dealer whose tax year began on the
32 previous January 1 and who is calculating the tax credit on
33 December 31, ~~2011~~ 2014.

34 Sec. 11. EFFECTIVE DATE. This division of this Act takes
35 effect January 1, 2012.

DIVISION II

BIODIESEL PRODUCTION PAYMENT

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3 Sec. 12. Section 422.7, Code 2011, is amended by adding the
4 following new subsection:

5 NEW SUBSECTION. 54. Subtract, to the extent included, the
6 amount of any biodiesel production payment provided pursuant
7 to section 422.132.

8 Sec. 13. Section 422.35, Code 2011, is amended by adding the
9 following new subsection:

10 NEW SUBSECTION. 25. Subtract, to the extent included, the
11 amount of any biodiesel production payment provided pursuant
12 to section 422.132.

13 Sec. 14. NEW SECTION. **422.131 Definitions.**

14 As used in this division, unless the context otherwise
15 requires:

16 1. "*Biodiesel*" and "*biodiesel blended fuel*" means the same
17 as defined in section 214A.1.

18 2. "*Biodiesel producer*" means a person engaged in the
19 manufacturing of biodiesel who has registered with the United
20 States environmental protection agency as a manufacturer
21 according to the requirements in 40 C.F.R. § 79.4.

22 Sec. 15. NEW SECTION. **422.132 Biodiesel production payment.**

23 1. A biodiesel producer may receive a biodiesel production
24 payment by doing all of the following:

25 a. Producing biodiesel for use in biodiesel blended fuel.

26 b. Complying with the requirements of this section and rules
27 adopted by the department pursuant to this section.

28 2. The amount of the biodiesel production payment shall be
29 calculated by multiplying a designated rate by the total number
30 of gallons of biodiesel produced by the biodiesel producer
31 in this state during each quarter of a calendar year. The
32 designated rate shall be as follows:

33 a. For the calendar year 2012, three cents.

34 b. For the calendar year 2013, three cents.

35 c. For the calendar year 2014, two cents.

1 3. To receive a biodiesel production payment, the biodiesel
2 producer must file a claim for each quarterly period of a
3 calendar year as required by rules adopted by the department
4 and on forms prescribed by the department. The claim must be
5 filed on or before the last day of the month following the
6 close of the quarterly period.

7 4. There is appropriated from moneys in the general fund of
8 the state, which are not otherwise obligated or encumbered, an
9 amount sufficient to provide biodiesel production payments to
10 biodiesel producers as provided in this section.

11 Sec. 16. NEW SECTION. 422.133 **Penalty.**

12 A person fraudulently claiming a payment in excess of the
13 entitled amount of a biodiesel production payment is guilty of
14 a serious misdemeanor.

15 Sec. 17. NEW SECTION. 422.134 **Repeal.**

16 This division is repealed on January 1, 2015.

17 Sec. 18. DIRECTIONS TO CODE EDITOR. The Code editor shall
18 codify sections 422.131 and 422.132 as a new division in
19 chapter 422.

20 Sec. 19. EFFECTIVE DATE. This division of this Act is
21 effective on January 1, 2012.

22 EXPLANATION

23 GENERAL. This bill provides for the promotion of biodiesel
24 used in the manufacture of motor fuel which is a blend of
25 diesel fuel and biodiesel (biodiesel blended fuel). Biodiesel
26 fuel is designated B-xx where "xx" is the volume percent of
27 biodiesel (Code section 214A.2). For example, all biodiesel
28 blended fuel must be classified as B-1 or higher, meaning at
29 least 1 percent of biodiesel blended fuel by volume must be
30 biodiesel. The provisions of the bill are administered by the
31 department of revenue.

32 The bill includes two divisions. First, the bill amends
33 current provisions which establish a biodiesel blended fuel
34 tax credit for retail dealers, and second, the bill provides
35 payments to biodiesel producers.

1 DIVISION I — BIODIESEL BLENDED FUEL TAX CREDIT. Under
2 current law a retail dealer who sells and dispenses diesel fuel
3 from a motor fuel pump is eligible for a biodiesel blended fuel
4 tax credit. The tax credit is multiplied by taking a constant
5 rate of 3 cents multiplied by the number of gallons of B-2 or
6 higher sold and dispensed. The tax credit is due to expire on
7 January 1, 2012.

8 The bill eliminates an eligibility requirement specifying
9 that the retail dealer of diesel fuel must sell and dispense
10 50 percent or more biodiesel blended fuel during the tax year.
11 It increases the minimum biodiesel classification from B-2 to
12 B-5. The amount of the tax credit is changed depending upon
13 the classification. The designated rate for B-5 to B-9 is 2
14 cents and the designated rate for B-10 to B-99 is 4 cents. The
15 tax credit's expiration date is extended to January 1, 2015.

16 DIVISION II — BIODIESEL PRODUCTION PAYMENT. The bill
17 creates a program to pay biodiesel producers for production.
18 The amount of the payment is calculated by multiplying a
19 designated rate by the total number of gallons of biodiesel
20 produced during each quarter of a calendar year, beginning
21 in calendar year 2012 and ending in calendar year 2014. The
22 bill appropriates moneys from the general fund of the state to
23 finance the payments. The program terminates on January 1,
24 2015. A person fraudulently claiming a payment in excess of
25 the entitled amount of a biodiesel production payment is guilty
26 of a serious misdemeanor. A serious misdemeanor is punishable
27 by confinement for no more than one year and a fine of at least
28 \$315 but not more than \$1,875.