

**House File 640 - Introduced**

HOUSE FILE 640

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 597)

(SUCCESSOR TO HF 376)

**A BILL FOR**

1 An Act relating to liquids which are flammable or combustible,  
2 by providing for the storage, marketing, and distribution of  
3 such liquids, providing for the marketing and distribution  
4 of liquids classified as motor fuel, including a  
5 conventional blendstock for oxygenate blending, and blended  
6 and unblended gasoline and diesel fuel, providing for  
7 liability, and including fees and penalties.  
8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

MOTOR FUEL MARKETING

1  
2  
3 Section 1. Section 214A.1, Code 2013, is amended by adding  
4 the following new subsections:

5 NEW SUBSECTION. 8A. "*Distributor*" means the same as defined  
6 in section 452A.2.

7 NEW SUBSECTION. 12A. "*Marketer*" means a dealer,  
8 distributor, nonrefiner biofuel manufacturer, or supplier.

9 NEW SUBSECTION. 16A. "*Nonrefiner biofuel manufacturer*"  
10 means the same as defined in section 452A.2.

11 NEW SUBSECTION. 18A. "*Pipeline company*" means the same as  
12 defined in section 479B.2.

13 NEW SUBSECTION. 18B. "*Refiner*" means a person engaged in  
14 the refining of crude oil to produce motor fuel, and includes  
15 any affiliate of such person.

16 NEW SUBSECTION. 23A. "*Supplier*" means the same as defined  
17 in section 452A.2.

18 NEW SUBSECTION. 23B. "*Terminal*" means the same as defined  
19 in section 452A.2.

20 NEW SUBSECTION. 23C. "*Terminal operator*" means the same as  
21 defined in section 452A.2.

22 NEW SUBSECTION. 23D. "*Terminal owner*" means the same as  
23 defined in section 452A.2.

24 Sec. 2. Section 214A.20, subsection 1, unnumbered paragraph  
25 1, Code 2013, is amended to read as follows:

26 A retail dealer or other marketer, pipeline company,  
27 refiner, terminal operator, or terminal owner is not liable for  
28 damages caused by the use of incompatible motor fuel dispensed  
29 for use in an engine at the retail dealer's retail motor fuel  
30 site, if all of the following applies:

31 Sec. 3. Section 214A.20, Code 2013, is amended by adding the  
32 following new subsection:

33 NEW SUBSECTION. 1A. A manufacturer of an engine, or the  
34 manufacturer of a motor vehicle which includes an engine, is  
35 not liable for damages caused to the engine or motor vehicle by

1 the use of incompatible motor fuel.

2 Sec. 4. Section 214A.20, subsection 2, Code 2013, is amended  
3 to read as follows:

4 2. For purposes of this section, a motor fuel is  
5 incompatible with a an engine or motor vehicle according to the  
6 manufacturer of the engine or motor vehicle.

7 Sec. 5. Section 452A.2, Code 2013, is amended by adding the  
8 following new subsections:

9 NEW SUBSECTION. 6A. *“Conventional blendstock for oxygenate*  
10 *blending”* means one or more motor fuel components intended for  
11 blending with an oxygenate or oxygenates to produce gasoline.

12 NEW SUBSECTION. 9A. *“Diesel fuel”* or *“diesel”* means diesel  
13 fuel as defined in section 214A.1.

14 NEW SUBSECTION. 28A. *“Nonrefiner biofuel manufacturer”*  
15 means an entity that produces, manufactures, or refines  
16 biofuel and does not directly or through a related entity  
17 refine, blend, import, or produce a conventional blendstock for  
18 oxygenate blending, gasoline, or diesel fuel.

19 NEW SUBSECTION. 30A. *“Refiner”* means a person engaged in  
20 the refining of crude oil to produce motor fuel or special  
21 fuel, and includes any affiliate of such person.

22 NEW SUBSECTION. 37A. *“Terminal owner”* means a person who  
23 holds a legal interest or equitable interest in a terminal.

24 Sec. 6. NEW SECTION. 452A.6A **Right of distributors and**  
25 **dealers to blend conventional blendstock for oxygenate blending,**  
26 **gasoline, or diesel fuel using a biofuel.**

27 1. *a.* A dealer or distributor may blend a conventional  
28 blendstock for oxygenate blending, gasoline, or diesel fuel  
29 using the appropriate biofuel, or sell unblended or blended  
30 gasoline or diesel fuel on any premises in this state.

31 *b.* Paragraph *“a”* does not apply to the extent that the use  
32 of the premises is restricted by federal, state, or local law.

33 2. A refiner, supplier, terminal operator, or terminal  
34 owner who in the ordinary course of business sells or  
35 transports a conventional blendstock for oxygenate blending,

1 gasoline unblended or blended with a biofuel, or diesel fuel  
2 unblended or blended with a biofuel shall not refuse to sell  
3 or transport to a distributor or dealer any conventional  
4 blendstock for oxygenate blending, unblended gasoline,  
5 or unblended diesel fuel at the terminal, based on the  
6 distributor's or dealer's intent to use the conventional  
7 blendstock for oxygenate blending, or blend the gasoline or  
8 diesel fuel with a biofuel.

9 3. This section shall not be construed to do any of the  
10 following:

11 a. Prohibit a distributor or dealer from purchasing,  
12 selling or transporting a conventional blendstock for oxygenate  
13 blending, gasoline that has not been blended with a biofuel, or  
14 diesel fuel that has not been blended with a biofuel.

15 b. Affect the blender's license requirements under section  
16 452A.6.

17 c. Prohibit a dealer or distributor from leaving a terminal  
18 with a conventional blendstock for oxygenate blending, gasoline  
19 that has not been blended with a biofuel, or diesel fuel that  
20 has not been blended with a biofuel.

21 d. Require a nonrefiner biofuel manufacturer to offer or  
22 sell a conventional blendstock for oxygenate blending, gasoline  
23 that has not been blended with a biofuel, or diesel fuel that  
24 has not been blended with a biofuel.

25 4. A refiner, supplier, terminal operator, or terminal  
26 owner who violates this section is subject to a civil penalty  
27 of not more than ten thousand dollars per violation. Each day  
28 that a violation continues is deemed a separate offense.

29 DIVISION II

30 STORAGE TANKS

31 Sec. 7. Section 101.21, subsection 1, paragraphs a through  
32 c, Code 2013, are amended to read as follows:

33 a. ~~Aboveground tanks of~~ An aboveground tank which complies  
34 with any of the following:

35 (1) Has one thousand one hundred gallons or less capacity.

1     (2) Stores flammable liquids on a farm located outside the  
2 limits of a city, if the aboveground tank has two thousand  
3 gallons or less capacity.

4     (3) Stores combustible liquids on a farm located outside  
5 the limits of a city, if the aboveground tank has five thousand  
6 gallons or less capacity.

7     ~~b. Tanks~~ A tank used for storing heating oil for consumptive  
8 use on the premises where stored.

9     ~~c. Underground~~ An underground storage ~~tanks~~ tank as defined  
10 by section 455B.471.

11     Sec. 8. Section 101.21, Code 2013, is amended by adding the  
12 following new subsection:

13     NEW SUBSECTION. 1A. *a.* "Farm" means land and associated  
14 improvements used to produce agricultural commodities, if at  
15 least one thousand dollars is annually generated from the sale  
16 of the agricultural commodities.

17     *b.* As used in paragraph "a", "commodities" means crops  
18 as defined in section 202.1 or animals as defined in section  
19 459.102.

20     Sec. 9. Section 101.22, subsections 4 through 8, Code 2013,  
21 are amended to read as follows:

22     4. The registration notice of the owner or operator to  
23 the state fire marshal under subsections 1 through 3 shall  
24 be accompanied by an annual fee of ~~ten~~ twenty dollars for  
25 each tank included in the notice. All moneys collected  
26 shall be retained by the department of public safety and are  
27 appropriated for the use of the state fire marshal. The annual  
28 renewal fee applies to all owners or operators who file a  
29 registration notice with the state fire marshal pursuant to  
30 subsections 1 through 3.

31     ~~5. A person who deposits flammable or combustible liquid~~  
32 ~~in an aboveground flammable or combustible liquid storage~~  
33 ~~tank shall notify the owner or operator in writing of the~~  
34 ~~notification requirements of this section.~~

35     ~~6.~~ A person who sells or constructs a tank intended to be

1 used as an aboveground storage tank shall notify the purchaser  
2 of the tank in writing of the notification requirements of this  
3 section applicable to the purchaser.

4 ~~7. 6. It is unlawful to deposit flammable or combustible~~  
5 ~~liquid in~~ An owner or operator shall register an aboveground  
6 flammable or combustible liquid storage tank ~~which has not been~~  
7 ~~registered~~ pursuant to subsections 1 through 4.

8 ~~8. 7.~~ 7. The state fire marshal shall furnish the owner or  
9 operator of an aboveground flammable or combustible liquid  
10 storage tank with a registration tag for each aboveground  
11 flammable or combustible liquid storage tank registered with  
12 the state fire marshal.

13 ~~a.~~ The owner or operator shall affix the tag to the fill  
14 pipe of each registered aboveground flammable or combustible  
15 liquid storage tank.

16 ~~b. A person who conveys or deposits flammable or combustible~~  
17 ~~liquid shall inspect the aboveground flammable or combustible~~  
18 ~~liquid storage tank to determine the existence or absence of~~  
19 ~~the registration tag. If a registration tag is not affixed to~~  
20 ~~the aboveground flammable or combustible liquid storage tank~~  
21 ~~fill pipe, the person conveying or depositing the flammable or~~  
22 ~~combustible liquid may deposit the flammable or combustible~~  
23 ~~liquid in the unregistered tank. However, only one deposit~~  
24 ~~is allowed into the unregistered tank, the person making the~~  
25 ~~deposit shall provide the owner or operator of the tank with~~  
26 ~~another notice as required by subsection 5, and the person~~  
27 ~~shall provide the owner or operator with an aboveground~~  
28 ~~flammable or combustible liquid storage tank registration form.~~

29 ~~c. It is the owner or operator's duty to comply with~~  
30 ~~registration requirements.~~

31 8. A late registration penalty of twenty-five dollars  
32 is imposed in addition to the registration fee for a tank  
33 registered after the required date.

34 EXPLANATION

35 GENERAL. This bill relates to liquids which are flammable

1 or combustible, by providing for the storage, marketing, and  
2 distribution of such liquids. It provides for the marketing  
3 and distribution of liquids classified as motor fuel and  
4 components of motor fuel.

5 CLASSIFICATIONS OF MOTOR FUEL AND ITS COMPONENTS. Motor  
6 fuel includes gasoline and diesel fuel (sometimes referred to  
7 as a special fuel). Gasoline may be blended with an oxygenate,  
8 including ethanol (alcohol) or biodiesel (soybean oil), by a  
9 person referred to as a blender. Both ethanol and biodiesel  
10 are referred to as biofuel (Code sections 214A.1 and 452A.2).  
11 A biofuel is manufactured by a nonrefiner biofuel manufacturer.  
12 Gasoline must contain an octane level of at least 87 (Code  
13 section 214A.2). The bill classifies a conventional blendstock  
14 for oxygenate blending (herein referred to as a blendstock)  
15 as a component of motor fuel intended for blending with an  
16 oxygenate and would include gasoline containing an octane level  
17 of less than 87. Thus, a blender could blend a blendstock with  
18 ethanol in order to achieve the minimum octane level.

19 MOTOR FUEL MARKETING. Motor fuel (e.g., gasoline) and  
20 special fuel (e.g., diesel fuel) is produced by a refiner and  
21 moved into this state via a pipeline or marine vessel to a  
22 terminal where in turn the fuel is withdrawn by a supplier and  
23 then purchased and transported by a distributor and ultimately  
24 a dealer who sells the fuel at retail. The bill provides for  
25 the distribution and sale of motor fuel by marketers (dealers,  
26 distributors, nonrefiner biofuel manufacturers, and suppliers)  
27 as well as refiners and terminals, including terminal operators  
28 and terminal owners.

29 LIABILITY PROTECTION. In 2011, the general assembly enacted  
30 SF 531, which provided that a retail dealer is not liable  
31 for damages caused by the use of incompatible motor fuel  
32 dispensed at the retail dealer's motor fuel site under certain  
33 conditions. The incompatible motor fuel must comply with the  
34 specifications for that type of motor fuel (ASTM international  
35 specifications), it must be selected by a person other than

1 the retail dealer, and it must be dispensed from a motor fuel  
2 pump that correctly labels the type of fuel dispensed (Code  
3 section 214A.20). The bill extends such protection against  
4 liability to other marketers, pipeline companies, refiners,  
5 terminal operators, and terminal owners. It also provides that  
6 a manufacturer of an engine or the manufacturer of a motor  
7 vehicle is not liable for damages caused to the engine or motor  
8 vehicle by the use of incompatible motor fuel.

9 RIGHT OF A DEALER OR DISTRIBUTOR TO BLEND MOTOR FUEL.

10 The bill provides that a dealer or distributor may blend a  
11 blendstock, gasoline, or diesel fuel using the appropriate  
12 biofuel, or sell unblended or blended gasoline or diesel fuel  
13 on any premises in this state, so long as it does not violate a  
14 restriction imposed under federal, state, or local law (e.g.,  
15 trespass or land use laws).

16 RIGHT OF A DEALER OR DISTRIBUTOR TO PURCHASE AND RECEIVE

17 MOTOR FUEL. The bill provides that a refiner, supplier,  
18 terminal operator, or terminal owner who in the ordinary course  
19 of business sells or transports a blendstock or gasoline or  
20 diesel fuel which is unblended or blended with a biofuel cannot  
21 refuse to sell or transport any blendstock, unblended gasoline,  
22 or unblended diesel fuel to a distributor or dealer based on  
23 the distributor's or dealer's intent to use the blendstock, or  
24 blend the gasoline or diesel fuel with a biofuel. The bill  
25 does not require a nonrefiner biofuel manufacturer to offer  
26 or sell a blendstock, gasoline that has not been blended with  
27 a biofuel, or diesel fuel that has not been blended with a  
28 biofuel.

29 CIVIL PENALTIES. A refiner, supplier, terminal operator, or  
30 terminal owner who violates a provision regulating a dealer's  
31 or distributor's right to blend or to purchase and receive a  
32 blendstock, gasoline unblended or blended with a biofuel, or  
33 diesel fuel unblended or blended with a biofuel is subject to a  
34 civil penalty of not more than \$10,000 per violation, with each  
35 day that a violation continues deemed a separate offense.



1 ABOVEGROUND STORAGE TANKS. The bill amends provisions which  
2 require the state fire marshal to regulate one or a combination  
3 of tanks and associated infrastructure used to store flammable  
4 or combustible liquid (Code sections 101.21 and 101.22).

5 The provision exempts tanks having 1,100 gallons or less of  
6 capacity. The bill creates two other exceptions, including  
7 an exception for a tank which stores flammable liquids on a  
8 farm located outside the limits of a city, if the aboveground  
9 tank has 2,000 gallons or less capacity and for a tank that  
10 stores combustible liquids on a farm located outside the limits  
11 of a city, if the aboveground tank has 5,000 gallons or less  
12 capacity.

13 NOTICE AND FEES. The bill amends a provision that requires  
14 the owner or operator of a storage tank to notify the state  
15 fire marshal of facts relating to the existence and operation  
16 of the storage tank (Code section 101.22). The bill increases  
17 the attendant fee from \$10 to \$20 for each tank included in the  
18 notice.

19 REGISTRATION AND ASSOCIATED TAGS. The bill amends a  
20 provision which requires an owner or operator to register a  
21 storage tank and requires the state fire marshal to furnish  
22 a registration tag to affix to a storage tank's pipe. The  
23 bill eliminates requirements that a person who conveys or  
24 deposits flammable or combustible liquid must notify the owner  
25 or operator of the notification requirements and inspect the  
26 storage tank to determine whether the registration tag has been  
27 affixed.

28 PENALTY. A person who violates a registration or tagging  
29 requirement is subject to a civil penalty not to exceed \$100  
30 for each day that a violation continues, not to exceed \$1,000  
31 (Code section 101.26).