

Senate File 396 - Introduced

SENATE FILE 396
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO SF 251)

A BILL FOR

1 An Act relating to retail motor fuel sites, by requiring
2 standards and practices to assist disabled individuals
3 obtaining motor fuel, providing for enforcement by the
4 department of agriculture and land stewardship, providing
5 for a tax credit, and including effective and applicability
6 date provisions.

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

1 Section 1. Section 214.1, Code 2015, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 01. *"Americans with Disabilities Act*
4 *of 1990"* includes Tit. III of the federal Americans with
5 Disabilities Act of 1990, as provided in 42 U.S.C. §12181 et
6 seq., its implementing regulations, including 28 C.F.R. pt. 36,
7 and the 2010 standards for accessible design published by the
8 United States department of justice.

9 Sec. 2. Section 214.1, subsection 2, Code 2015, is amended
10 to read as follows:

11 2. ~~"Motor fuel"~~ *"Diesel fuel", "E-15 gasoline", "gasoline",*
12 *"motor fuel", "retail dealer", "retail motor fuel site", and*
13 *"wholesale dealer"* mean the same as defined in section 214A.1.

14 Sec. 3. NEW SECTION. 214.12 **Accessibility of motor fuel**
15 **pumps — rules.**

16 1. A retail dealer operating a retail motor fuel site shall
17 comply with the applicable requirements of the Americans with
18 Disabilities Act of 1990, to the extent required in that Act.

19 2. a. A retail dealer operating a retail motor fuel site
20 shall offer refueling assistance upon the request of a customer
21 who is an individual with a disability, if any of the following
22 applies:

23 (1) The retail dealer is required to comply with the
24 provisions of subsection 1.

25 (2) On or after the effective date of this Act, the retail
26 dealer does any of the following:

27 (a) Constructs a structure that is part of a new retail
28 motor fuel site, including a building, motor fuel pump, or a
29 motor fuel storage tank.

30 (b) Constructs a new structure or modifies or replaces a
31 structure that is part of an existing retail motor fuel site,
32 including but not limited to the exterior or interior of any
33 building, a motor fuel pump, or a motor fuel storage tank. A
34 modification does not include a cosmetic improvement or minor
35 repair. A replacement does not include the incidental exchange

1 of parts or materials.

2 *b.* A retail dealer shall provide refueling assistance under
3 paragraph "a" by doing all of the following:

4 (1) Displaying two signs indicating that the retail motor
5 fuel site offers refueling assistance consistent with the
6 Americans with Disabilities Act of 1990 and this section.

7 (a) The first sign shall bear the international symbol
8 of accessibility and be posted in a conspicuous place on
9 the marquee where retail sales prices are advertised. The
10 sign shall notify the traveling public that the retail motor
11 fuel site offers refueling assistance to individuals with
12 disabilities. The sign shall be at least eighteen inches in
13 width and twenty-four inches in height.

14 (b) The second sign shall notify customers of the hours that
15 refueling assistance is available. The second sign shall be
16 posted near a motor fuel pump where a call button is located
17 as provided in subparagraph (2) and be easily readable by
18 customers. The sign shall be nine inches in width and nine
19 inches in height.

20 (2) Installing and maintaining at least one large call
21 button that is accessible by a customer who may request
22 refueling assistance during the hours posted.

23 (a) A call button shall be located near each front side of
24 a motor fuel pump where a customer may dispense a type of motor
25 fuel classified as diesel fuel, gasoline, or E-85 gasoline.
26 However, only one call button is required for each front side
27 of an island where two or more motor fuel pumps dispense
28 different classifications of motor fuel offered for sale. A
29 call button shall be located within the reach of a customer who
30 is inside a motor vehicle and be capable of being operated by
31 a customer with a closed hand.

32 (b) A call button when activated must emit a recognizable
33 sound inside a structure where an employee is regularly on
34 duty.

35 *c.* Notwithstanding paragraphs "a" and "b", a retail dealer

1 is not required to provide refueling assistance as follows:

2 (1) The retail motor fuel site is a tank wagon.

3 (2) The retail motor fuel site has two or fewer licensed
4 motor fuel pumps.

5 (3) At any time that the retail motor fuel site is operating
6 on a remote control basis with fewer than two employees on duty
7 at the retail motor fuel site.

8 3. A customer shall not incur any additional expense for
9 requesting refueling assistance as provided in this section.

10 4. The department shall adopt rules to provide standards
11 for retail dealers operating retail motor fuel sites in
12 implementing the provisions of this section.

13 **Sec. 4. NEW SECTION. 214.13 Accessibility of motor fuel**
14 **pumps — enforcement.**

15 1. During its regular inspection of motor fuel pumps at
16 a retail motor fuel site as provided in section 214.11, the
17 department shall determine whether a retail dealer is in
18 compliance with section 214.12, including rules adopted by the
19 department under that section.

20 2. Upon determining that a violation of section 214.12
21 requires corrective action, the department shall notify the
22 retail dealer. The retail motor fuel site or the retail
23 dealer's practices, as applicable, shall be modified to
24 correct the violation within six months after the retail dealer
25 receives such notice.

26 3. The department shall inspect a retail motor fuel site
27 if it determines on the basis of the receipt of three or more
28 complaints that a violation of section 214.12 may require
29 corrective action.

30 4. Upon determining that a retail dealer has violated
31 section 214.12, and has failed to comply with a notice for
32 corrective action as provided in this section, the department
33 may suspend one or more licenses issued under this chapter to
34 operate motor fuel pumps located at the retail motor fuel site
35 where the violation is occurring. The department shall suspend

1 the license until it determines that the violation has been
2 corrected.

3 Sec. 5. NEW SECTION. **422.11K Accessibility of motor fuel**
4 **pumps tax credit.**

5 1. The taxes imposed in this division, less the credits
6 allowed under section 422.12, shall be reduced by an
7 accessibility of motor fuel pumps tax credit.

8 2. The taxpayer must qualify as all of the following:

9 *a.* A retail dealer who sells and dispenses motor fuel
10 through a motor fuel pump located at the retail dealer's
11 permanent retail motor fuel site operating in compliance with
12 chapter 214.

13 *b.* An eligible small business as defined in 26 U.S.C. §44.

14 3. *a.* A taxpayer may claim a tax credit for providing
15 refueling assistance to customers as provided in section
16 214.12.

17 *b.* This section does not require that a taxpayer be eligible
18 to claim a tax credit under 26 U.S.C. §44 or actually claim a
19 tax credit under that section.

20 *c.* A taxpayer may claim a tax credit as provided in this
21 section regardless of whether the taxpayer is required to
22 provide refueling assistance under section 214.12.

23 4. The taxpayer must file a claim for a tax credit and
24 any required supporting documentation in a form and manner
25 prescribed by the department.

26 5. The amount of a tax credit under this section shall not
27 exceed actual and necessary expenditures incurred by a retail
28 dealer in preparing and displaying signs and installing one or
29 more call buttons as required in section 214.12.

30 6. The amount of a tax credit shall not exceed five hundred
31 dollars for each retail motor fuel site where the retail dealer
32 sells and dispenses motor fuel and where the retail dealer
33 provides refueling assistance as provided in subsection 5.

34 7. If a tax credit is allowed, the amount of the tax credit
35 claimed shall not be deductible under any other provision of

1 law in determining taxable income for state tax purposes.

2 8. a. A tax credit in excess of the taxpayer's liability
3 for the tax year is not refundable but may be credited to the
4 tax liability for the following five years or until depleted,
5 whichever is earlier.

6 b. A tax credit shall not be carried back to a tax year
7 prior to the tax year in which the taxpayer claims the tax
8 credit.

9 Sec. 6. Section 422.33, Code 2015, is amended by adding the
10 following new subsection:

11 NEW SUBSECTION. 11. The taxes imposed under this division
12 shall be reduced by an accessibility of motor fuel pumps tax
13 credit. The taxpayer may claim the tax credit according to the
14 same requirements, for the same amount, and calculated in the
15 same manner, as provided in section 422.11K.

16 Sec. 7. EFFECTIVE DATES.

17 1. Except as provided in subsection 2, this Act takes effect
18 July 1, 2015.

19 2. The provisions of this Act enacting section 214.12,
20 subsection 2, requiring that signs and one or more call buttons
21 be located at a retail motor fuel site take effect January 1,
22 2016.

23 Sec. 8. APPLICABILITY. The sections of this Act enacting
24 section 422.11K and section 422.33, subsection 11, apply to tax
25 years beginning on or after January 1, 2016.

26 EXPLANATION

27 The inclusion of this explanation does not constitute agreement with
28 the explanation's substance by the members of the general assembly.

29 GENERAL. This bill provides that a retail dealer (dealer)
30 operating a retail motor fuel site (site) selling motor fuel,
31 including gasoline, E-85 gasoline, and diesel fuel dispensed at
32 a motor fuel pump (pump) must comply with the federal Americans
33 with Disabilities Act (ADA). In addition, the dealer must
34 offer refueling assistance to a disabled customer upon request.
35 This includes posting signs at the site and installing one or

1 more call buttons near a pump which can be used by the customer
2 to alert a dealer's employee that assistance is requested.
3 The bill provides for the enforcement of its provisions by
4 the department of agriculture and land stewardship, including
5 during routine and special inspections. Finally, the bill
6 provides an income tax credit to retail dealers to partially
7 defray the costs of compliance.

8 EFFECTIVE AND APPLICABILITY DATES. The bill's provisions
9 requiring a dealer to comply with the ADA take effect on July
10 1, 2015. The other provisions take effect on January 1, 2016.
11 The tax credit applies to tax years beginning on or after
12 January 1, 2016.