

Senate File 509 - Introduced

SENATE FILE 509

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SF 396)

(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 subsections:

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 NEW SUBSECTION. 6. *"Refueling assistance device"* means
10 equipment and any associated programming that allows an
11 employee of a retail dealer who is located at a retail motor
12 fuel site to receive communication initiated by an individual
13 with a disability who is sitting on the driver's side of a
14 motor vehicle requesting refueling assistance, so long as the
15 device is capable of being operated by the individual's closed
16 fist or other method that does not require manual operation.

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

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

22 Sec. 3. NEW SECTION. 214.12 **Accessibility of motor fuel**
23 **pumps — rules.**

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

27 2. a. A retail dealer operating a retail motor fuel site
28 shall offer refueling assistance by the use of a refueling
29 assistance device accessible at the site by a customer who
30 is an individual with a disability. However, this paragraph
31 applies only if the retail dealer does any of the following:

32 (1) Constructs a structure that is part of a new retail
33 motor fuel site, including a building, motor fuel pump, or a
34 motor fuel storage tank.

35 (2) Constructs a new structure or modifies or replaces a

1 structure that is part of an existing retail motor fuel site,
2 including but not limited to the exterior or interior of any
3 building, a motor fuel pump, or a motor fuel storage tank. A
4 modification does not include a cosmetic improvement or minor
5 repair. A replacement does not include the incidental exchange
6 of parts or materials.

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

9 (1) Displaying two signs indicating that the retail motor
10 fuel site offers refueling assistance as follows:

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

18 (b) The second sign shall notify customers of the hours
19 that refueling assistance is available. The second sign shall
20 be posted near a motor fuel pump where a refueling assistance
21 device is located as provided in subparagraph (2) and be easily
22 readable by customers. The sign shall be nine inches in width
23 and nine inches in height.

24 (2) Installing and maintaining at least one refueling
25 assistance device that is accessible by a customer who may
26 request refueling assistance during the hours posted.

27 (a) A refueling assistance device shall be located near the
28 front side of a motor fuel pump where a customer may dispense
29 motor fuel. However, only one refueling assistance device is
30 required to be located at the retail motor fuel site.

31 (b) When used, the refueling assistance device must alert a
32 retail dealer's employee who is on duty.

33 *c.* Notwithstanding paragraphs "a" and "b", a retail dealer
34 is not required to provide refueling assistance as follows:

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

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

3 (3) At any time that the retail motor fuel site is operating
4 as follows:

5 (a) With no employee on duty at the retail motor fuel
6 site when the retail motor fuel site is operating on a remote
7 control basis.

8 (b) With only one employee on duty at the retail motor fuel
9 site.

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

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

15 **Sec. 4. NEW SECTION. 214.13 Accessibility of motor fuel**
16 **pumps — enforcement.**

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

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

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

32 4. Upon determining that a retail dealer has violated
33 section 214.12, and has failed to comply with a notice for
34 corrective action as provided in this section, the department
35 may suspend one or more licenses issued under this chapter to

1 operate motor fuel pumps located at the retail motor fuel site
2 where the violation is occurring. If the department suspends
3 a license, the department shall suspend the license until it
4 determines that the violation has been corrected.

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

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

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

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

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

16 3. a. A taxpayer may claim a tax credit for providing
17 refueling assistance to customers as provided in section
18 214.12. However, the taxpayer must comply with the
19 requirements of section 214.12, regardless of when the retail
20 motor fuel site was constructed.

21 b. This section does not require that a taxpayer be eligible
22 to claim a tax credit under 26 U.S.C. §44 or actually claim a
23 tax credit under that section.

24 c. A taxpayer may claim a tax credit as provided in this
25 section only if the taxpayer is not required to provide
26 refueling assistance under section 214.12, subsection 2.

27 4. The taxpayer must file a claim for a tax credit and
28 any required supporting documentation in a form and manner
29 prescribed by the department.

30 5. The amount of a tax credit under this section shall not
31 exceed actual and necessary expenditures incurred by a retail
32 dealer in preparing and displaying signs and installing a
33 refueling assistance device as required in section 214.12.

34 6. The amount of a tax credit shall not exceed five hundred
35 dollars for each retail motor fuel site where the retail dealer

1 sells and dispenses motor fuel and where the retail dealer
2 provides refueling assistance as provided in subsection 5.

3 7. If a tax credit is allowed, the amount of the tax credit
4 claimed shall not be deductible under any other provision of
5 law in determining taxable income for state tax purposes.

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

10 b. A tax credit shall not be carried back to a tax year
11 prior to the tax year in which the taxpayer claims the tax
12 credit.

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

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

20 Sec. 7. EFFECTIVE DATES.

21 1. Except as provided in subsection 2, this Act takes effect
22 July 1, 2015.

23 2. The provisions of this Act enacting section 214.12,
24 subsection 2, requiring that signs and a refueling assistance
25 device be located at a retail motor fuel site take effect
26 January 1, 2016.

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

30 EXPLANATION

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

33 GENERAL. This bill provides that a retail dealer (dealer)
34 operating a retail motor fuel site (site) selling motor fuel,
35 including gasoline, E-85 gasoline, and diesel fuel dispensed at

1 a motor fuel pump (pump) must comply with the federal Americans
2 with Disabilities Act (ADA). In addition, the dealer must
3 offer refueling assistance to a disabled customer upon request.
4 This includes posting signs at the site and installing a
5 refueling assistance device (e.g., a call button) near a pump
6 which can be used by the customer to alert a dealer's employee
7 that assistance is requested. The bill provides for the
8 enforcement of its provisions by the department of agriculture
9 and land stewardship, including during routine and special
10 inspections. Finally, the bill provides an income tax credit
11 to certain dealers for providing refueling assistance.

12 EFFECTIVE AND APPLICABILITY DATES. The bill's provisions
13 requiring a dealer to comply with the ADA take effect on July
14 1, 2015. The other provisions take effect on January 1, 2016.
15 The tax credit applies to tax years beginning on or after
16 January 1, 2016.