

FIRST REGULAR SESSION

SENATE BILL NO. 204

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR STOUFFER.

Pre-filed December 27, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

0926S.011

AN ACT

To repeal section 414.255, RSMo, and to enact in lieu thereof one new section relating to biodiesel.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 414.255, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 414.255, to read as follows:

414.255. 1. This section shall be known and may be cited as the "Missouri
2 Renewable Fuel Standard Act".

3 2. For purposes of this section, the following terms shall mean:

4 (1) "Aviation fuel", any motor fuel specifically compounded for use in
5 reciprocating aircraft engines;

6 (2) "**Biodiesel**", fuel as defined in ASTM Standard D-6751 or its
7 subsequent standard specifications for biodiesel fuel (B100) blend stock
8 for distillate fuels and that is produced and distributed by an
9 accredited producer and a certified marketer under the National
10 Biodiesel Accreditation Commission;

11 (3) "**Biodiesel-blended fuel**", a blend of biodiesel and conventional
12 diesel fuel where the volume percentage of biodiesel is at least two
13 percent;

14 (4) "**Conventional diesel fuel**", any liquid commonly or
15 commercially known or sold as a fuel suitable for use in a diesel-
16 powered highway vehicle. A liquid meets this requirement if, without
17 further processing or blending, the liquid has practical and commercial
18 fitness for use in the propulsion engine of a diesel-powered highway
19 vehicle. "**Conventional diesel fuel**" does not include biodiesel or

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 **biodiesel-blended fuel;**

21 (5) "Distributor", a person who either produces, refines, blends,
22 compounds or manufactures motor fuel, imports motor fuel into a state or exports
23 motor fuel out of a state, or who is engaged in distribution of motor fuel;

24 [(3)] (6) "Fuel ethanol-blended gasoline", a mixture of ninety percent
25 gasoline and ten percent fuel ethanol in which the fuel ethanol meets ASTM
26 International Specification D4806, as amended. The ten percent fuel ethanol
27 portion may be derived from any agricultural source;

28 [(4)] (7) "Position holder", the person who holds the inventory position
29 in motor fuel in a terminal, as reflected on the records of the terminal operator.
30 A person holds the inventory position in motor fuel when that person has a
31 contract with the terminal operator for the use of storage facilities and
32 terminating services for motor fuel at the terminal. The term includes a terminal
33 operator who owns motor fuel in the terminal;

34 [(5)] (8) "Premium gasoline", gasoline with an antiknock index number
35 of ninety-one or greater;

36 [(6)] (9) "Price", the cost of the fuel ethanol plus fuel taxes and
37 transportation expenses less tax credits, if any; or the cost of the fuel
38 ethanol-blended gasoline plus fuel taxes and transportation expenses less tax
39 credits, if any; or the cost of the unblended gasoline plus fuel taxes and
40 transportation expenses less tax credits, if any; **or the cost of the biodiesel-**
41 **blended fuel plus fuel taxes and transportation expenses less tax**
42 **credits, if any; or the cost of conventional diesel fuel plus fuel taxes and**
43 **transportation expenses less tax credits, if any;**

44 [(7)] (10) "Qualified terminal", a terminal that has been assigned a
45 terminal control number (tcn) by the Internal Revenue Service;

46 [(8)] (11) "Supplier", a person that is:

47 (a) Registered or required to be registered pursuant to 26 U.S.C., Section
48 4101, for transactions in motor fuels in the bulk transfer/terminal distribution
49 system; and

50 (b) One or more of the following:

51 a. The position holder in a terminal or refinery in this state;

52 b. Imports motor fuel into this state from a foreign country;

53 c. Acquires motor fuel from a terminal or refinery in this state from a
54 position holder pursuant to either a two-party exchange or a qualified buy-sell
55 arrangement which is treated as an exchange and appears on the records of the

56 terminal operator; or

57 d. The position holder in a terminal or refinery outside this state with
58 respect to motor fuel which that person imports into this state. A terminal
59 operator shall not be considered a supplier based solely on the fact that the
60 terminal operator handles motor fuel consigned to it within a
61 terminal. "Supplier" also means a person that produces fuel grade alcohol or
62 alcohol-derivative substances in this state, produces fuel grade alcohol or
63 alcohol-derivative substances for import to this state into a terminal, or acquires
64 upon import by truck, rail car or barge into a terminal, fuel grade alcohol or
65 alcohol-derivative substances. "Supplier" includes a permissive supplier unless
66 specifically provided otherwise;

67 ~~[(9)]~~ **(12)** "Terminal", a bulk storage and distribution facility which
68 includes:

69 (a) For the purposes of motor fuel, is a qualified terminal;

70 (b) For the purposes of fuel grade alcohol, is supplied by truck, rail car,
71 boat, barge or pipeline and the products are removed at a rack; and

72 ~~[(10)]~~ **(13)** "Unblended gasoline", gasoline that has not been blended with
73 fuel ethanol.

74 3. Except as otherwise provided under subsections ~~[4 and]~~ **5 and 7** of this
75 section, on and after January 1, 2008, all gasoline sold or offered for sale in
76 Missouri at retail shall be fuel ethanol-blended gasoline.

77 4. **Except as otherwise provided in subsections 6 and 7 of this**
78 **section, on and after January 1, 2009, all diesel fuel sold or offered for**
79 **sale in Missouri at retail shall be a biodiesel-blended fuel containing at**
80 **least two percent biodiesel by volume.**

81 5. If a distributor is unable to obtain fuel ethanol or fuel ethanol-blended
82 gasoline from a position holder or supplier at the terminal at the same or lower
83 price as unblended gasoline, then the purchase of unblended gasoline by the
84 distributor and the sale of the unblended gasoline at retail shall not be deemed
85 a violation of this section. The position holder, supplier, distributor, and ultimate
86 vendor shall, upon request, provide the required documentation regarding the
87 sales transaction and price of fuel ethanol, fuel ethanol-blended gasoline, and
88 unblended gasoline to the department of agriculture and the department of
89 revenue. All information obtained by the departments from such sources shall
90 be confidential and not disclosed except by court order or as otherwise provided
91 by law.

92 **6. If a distributor is unable to obtain biodiesel-blended fuel from**
93 **a position holder or supplier at the terminal at the same price or lower**
94 **price than conventional diesel fuel, then the purchase of conventional**
95 **diesel fuel by the distributor and the sale of conventional diesel fuel**
96 **shall not be deemed a violation of this section. The position holder,**
97 **supplier, distributor, and ultimate vendor shall, upon request, provide**
98 **the required documentation regarding the sales transaction and price**
99 **of biodiesel-blended fuel and conventional diesel fuel to the department**
100 **of agriculture and the department of revenue. All information obtained**
101 **by the departments from such sources shall be confidential and not**
102 **disclosed except by court order or as otherwise provided by law.**

103 **[5.] 7.** The following shall be exempt from the provisions of this section:

- 104 (1) Aviation fuel and automotive gasoline used in aircraft;
105 (2) Premium gasoline;
106 (3) E75-E85 fuel ethanol;
107 (4) Any specific exemptions declared by the United States Environmental
108 Protection Agency; and
109 (5) Bulk transfers between terminals.

110 The director of the department of agriculture may by rule exempt or rescind
111 additional gasoline uses from the requirements of this section. The governor may
112 by executive order waive the requirements of this section or any part thereof in
113 part or in whole for all or any portion of this state for reasons related to air
114 quality. Any regional waiver shall be issued and implemented in such a way as
115 to minimize putting any region of the state at a competitive advantage or
116 disadvantage with any other region of the state.

117 **[6.] 8.** The provisions of section 414.152 shall apply for purposes of
118 enforcement of this section.

119 **[7.] 9.** The department of agriculture is hereby authorized to promulgate
120 rules to ensure implementation of, and compliance and consistency with, this
121 section. Any rule or portion of a rule, as that term is defined in section 536.010,
122 RSMo, that is created under the authority delegated in this section shall become
123 effective only if it complies with and is subject to all of the provisions of chapter
124 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter
125 536, RSMo, are nonseverable and if any of the powers vested with the general
126 assembly pursuant to chapter 536, RSMo, to review, to delay the effective date,
127 or to disapprove and annul a rule are subsequently held unconstitutional, then

128 the grant of rulemaking authority and any rule proposed or adopted after August
129 28, 2006, shall be invalid and void.

130 [8.] 10. All terminals in Missouri that sell gasoline shall offer for sale,
131 in cooperation with position holders and suppliers, fuel ethanol-blended gasoline,
132 fuel ethanol, [and] unblended gasoline, **biodiesel-blended fuel, and**
133 **conventional diesel fuel**. Terminals that only offer for sale federal
134 reformulated gasolines, in cooperation with position holders and suppliers, shall
135 not be required to offer for sale unblended gasoline **or conventional diesel**
136 **fuel**.

137 [9.] 11. Notwithstanding any other law to the contrary, all fuel retailers,
138 wholesalers, distributors, and marketers shall be allowed to purchase fuel ethanol
139 from any terminal, position holder, fuel ethanol producer, fuel ethanol wholesaler,
140 or supplier. In the event a court of competent jurisdiction finds that this
141 subsection does not apply to or improperly impairs existing contractual
142 relationships, then this subsection shall only apply to and impact future
143 contractual relationships.

Bill ✓

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