

SECOND REGULAR SESSION
[PERFECTED]
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NOS. 1270 & 1027
93RD GENERAL ASSEMBLY

Reported from the Committee on Agriculture Policy, March 1, 2006 with recommendation that House Committee Substitute for House Bill Nos. 1270 & 1027 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

Reported from the Committee on Rules March 2, 2006 with recommendation that House Committee Substitute for House Bill Nos. 1270 & 1027 Be Returned to Committee of Origin.

Reported from the Committee on Agriculture Policy March 9, 2006 with recommendation that House Committee Substitute for House Bill Nos. 1270 & 1027 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

Reported from the Committee on Rules March 15, 2006 with recommendation that House Committee Substitute for House Bill Nos. 1270 & 1027 Do Pass.

Taken up for Perfection April 5, 2006. House Committee Substitute for House Bill Nos. 1270 & 1027 ordered Perfected and printed, as amended.

STEPHEN S. DAVIS, Chief Clerk

3181L.09P

AN ACT

To amend chapter 414, RSMo, by adding thereto one new section relating to ethanol blend fuel.

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

Section A. Chapter 414, RSMo, is amended by adding thereto one new section, to be
2 known as section 414.255, to read as follows:

414.255. 1. For purposes of this section, the following terms shall mean:

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

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

7 (3) "Fuel ethanol-blended gasoline", a mixture of ninety percent gasoline and ten
8 percent fuel ethanol in which the fuel ethanol meets ASTM International Specification D

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

9 4806, as amended. The ten percent fuel ethanol portion may be derived from any
10 agricultural source;

11 (3) "Position holder", the person who holds the inventory position in motor fuel in
12 a terminal, as reflected on the records of the terminal operator. A person holds the
13 inventory position in motor fuel when that person has a contract with the terminal
14 operator for the use of storage facilities and terminating services for motor fuel at the
15 terminal. The term includes a terminal operator who owns motor fuel in the terminal;

16 (4) "Premium gasoline", gasoline with an antiknock index number of ninety-one
17 or greater;

18 (5) "Price", the cost of the fuel ethanol plus fuel taxes and transportation expenses
19 less tax credits, if any; or the cost of the fuel ethanol-blended gasoline plus fuel taxes and
20 transportation expenses less tax credits, if any; or the cost of the unblended gasoline plus
21 fuel taxes and transportation expenses less tax credits, if any;

22 (6) "Qualified terminal", a terminal that has been assigned a terminal control
23 number ("tcn") by the Internal Revenue Service;

24 (7) "Supplier", a person that is:

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

27 (b) One or more of the following:

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

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

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

33 d. The position holder in a terminal or refinery outside this state with respect to
34 motor fuel which that person imports into this state. A terminal operator shall not be
35 considered a supplier based solely on the fact that the terminal operator handles motor fuel
36 consigned to it within a terminal. "Supplier" also means a person that produces fuel grade
37 alcohol or alcohol-derivative substances in this state, produces fuel grade alcohol or
38 alcohol-derivative substances for import to this state into a terminal, or acquires upon
39 import by truck, rail car or barge into a terminal, fuel grade alcohol or alcohol-derivative
40 substances. "Supplier" includes a permissive supplier unless specifically provided
41 otherwise;

42 (8) "Terminal", a bulk storage and distribution facility which includes:

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

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

(9) "Unblended gasoline", gasoline that has not been blended with fuel ethanol.

2. Except as otherwise provided under subsections 4 and 5 of this section, on and after January 1, 2008, all gasoline sold or offered for sale in Missouri at retail shall be fuel ethanol-blended gasoline.

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

4. The following shall be exempt from the provisions of this section:

(1) Aviation fuel and automotive gasoline used in aircraft;

(2) Premium gasoline;

(3) E75-E85 fuel ethanol;

(4) Any specific exemptions declared by the United States Environmental Protection Agency; and

(5) Bulk transfers between terminals.

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

5. The provisions of section 414.152 shall apply for purposes of enforcement of this section.

6. The department of agriculture is hereby authorized to promulgate rules to ensure implementation of, and compliance and consistency with, this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and

80 is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028,
81 RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers
82 vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the
83 effective date, or to disapprove and annul a rule are subsequently held unconstitutional,
84 then the grant of rulemaking authority and any rule proposed or adopted after August 28,
85 2006, shall be invalid and void.

86 7. All terminals in Missouri shall offer for sale, in cooperation with position
87 holders and suppliers, fuel ethanol-blended conventional gasoline, fuel ethanol, and
88 unblended conventional gasoline. This subsection does not apply to terminals supplying
89 federal reformulated gasolines.

90 8. Notwithstanding any other law to the contrary, all fuel retailers, wholesalers,
91 distributors, and marketers shall be allowed to purchase fuel ethanol from any terminal
92 or supplier. In the event a court of competent jurisdiction rules that this subsection does
93 not apply to or impact existing contractual relationships, then this subsection shall only
94 apply to and impact future contractual relationships.

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