

SECOND REGULAR SESSION
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).

STEPHEN S. DAVIS, Chief Clerk

3181L.07C

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. Except as otherwise exempted under subsection 3 of this section, on and
2 **after January 1, 2008, all gasoline sold or offered for sale in Missouri shall contain at least**
3 **ten percent agriculturally derived, denatured ethanol by volume.**

4 **2. For purposes of enforcing the minimum ethanol requirement in subsection 1 of**
5 **this section, a gasoline/ethanol blend shall be deemed in compliance if the ethanol content,**
6 **exclusive of denaturants and permitted contaminants, comprises not less than nine and**
7 **two-tenths percent and not more than ten percent by volume of the blend as determined**
8 **by an appropriate American Society for Testing and Materials standard method of analysis**
9 **of alcohol content in motor fuels.**

10 **3. Beginning January 1, 2007, and every year thereafter, the director of the**
11 **department of agriculture shall provide a report to the general assembly and the governor**
12 **containing data and general information concerning the production of and the past,**
13 **present, and projected demand for ethanol and ethanol-blended gasoline. The report shall**
14 **include, but not be limited to, the following:**

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.

15 (1) For each production facility, the number of gallons of ethanol produced in the
16 previous three years and projected production figures for the present year and the
17 immediately following year;

18 (2) The number of gallons of blended gasoline sold in the state for the previous
19 three years;

20 (3) Procedures and statistics relevant to compliance with the provisions of this
21 section; and

22 (4) Recommendations for legislation which would aid the marketing, sale,
23 production, and regulation of ethanol and ethanol-blended gasoline.

24 4. Any information requested by the director of the department of agriculture for
25 the purposes of compiling the report required by subsection 3 of this section shall be timely
26 provided by any production facility, terminal, supplier, distributor, or ultimate vendor.
27 All information obtained by the director from such sources shall be confidential and not
28 disclosed except by court order or as otherwise provided by law.

29 5. The following shall not be subject to the provisions of this section:

30 (1) Any specific exemptions declared by the federal Environmental Protection
31 Agency;

32 (2) Gasoline for use in motorboats as defined in section 306.010, RSMo;

33 (3) Gasoline for use in vehicles as defined in section 301.010, RSMo, that are more
34 than twenty-five years old;

35 (4) Aviation fuel as defined in section 142.800, RSMo, for use in aircraft as defined
36 in section 105.1077, RSMo;

37 (5) Terminal bulk transfers as defined in section 142.800, RSMo; and

38 (6) The director of the department of agriculture may by rule exempt additional
39 gasoline uses or rescind any gasoline-use exemption. The governor may waive the
40 requirements for all or any portion of this state or rescind such waiver.

41 6. A distributor may sell and deliver directly to a bulk fuel storage tank unblended
42 gasoline if all of the following conditions are met:

43 (1) The bulk fuel storage tank is stationary or permanent;

44 (2) The bulk storage tank is under the control of an owner of littoral or riparian
45 property and located on such property; and

46 (3) The unblended gasoline is available for purchase for use in vehicles, motorboats,
47 or aircraft as defined in subsection 5 of this section.

48 7. For purposes of this section, a gasoline/ethanol blend with ethanol comprising
49 not less than seventy percent and not more than eighty-five percent by volume of the blend

50 shall be deemed in compliance with this section as determined by an appropriate American
51 Society of Testing Materials standard method of analysis of alcohol content in motor fuels.

52 8. The provisions of section 414.152 shall apply for purposes of enforcement of this
53 section.

54 9. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,
55 that is created under the authority delegated in this section shall become effective only if
56 it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if
57 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
58 and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,
59 to review, to delay the effective date, or to disapprove and annul a rule are subsequently
60 held unconstitutional, then the grant of rulemaking authority and any rule proposed or
61 adopted after August 28, 2006, shall be invalid and void.

62 10. (1) If a distributor seeking to purchase ethanol or ethanol blend gasoline in
63 compliance with this section is unable to obtain ethanol or ethanol blend gasoline from a
64 terminal or supplier, as defined in section 142.800, RSMo, due to an insufficient supply in
65 the available market of ethanol or ethanol blend gasoline, the terminal or supplier shall
66 submit an affidavit to such distributor attesting to the insufficient supply in the available
67 market of ethanol or ethanol blend gasoline. Such affidavit shall be submitted in the form
68 and manner required by the department of agriculture and may require additional
69 information the governor deems necessary to verify and track such insufficiency in supply
70 and to enforce the provisions of this section.

71 (2) In the event of a verifiable insufficient supply in the available market of ethanol
72 or ethanol blend gasoline, the purchase of unblended gasoline shall be deemed in
73 compliance with this section. For any purchase of unblended gasoline due to such an
74 insufficiency, the bill of sale, bill of lading, or invoice accompanying the purchase of
75 unblended gasoline shall indicate "no ethanol or ethanol blend gasoline is available for
76 sale". The terminal or supplier and the distributor or ultimate vendor shall, upon request,
77 provide the required documentation regarding such insufficiency in supply to the
78 department of agriculture and the governor.

79 (3) The provisions of this subsection shall expire December 31, 2008.

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