

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 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).

Rereferred to the Committee on Agriculture Policy.

Reported from the Committee on Agriculture Policy March 9, 2006 with recommendation that House Committee Substitute for House Bill No. 1270 & 1027 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

STEPHEN S. DAVIS, Chief Clerk

3181L.09C

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 5 of this section, on and
2 **after January 1, 2009, all gasoline sold or offered for sale in Missouri shall contain at least**
3 **ten percent agriculturally derived, denatured fuel ethanol by volume.**

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

10 **3. Beginning January 1, 2008, 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,**

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.

13 present, and projected demand for fuel ethanol and fuel ethanol-blended gasoline. The
14 report shall include, but not be limited to, the following:

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

18 (2) The number of gallons of fuel ethanol-blended gasoline sold in the state for the
19 previous 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 fuel ethanol and fuel 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) Aviation fuel as defined in section 142.800, RSMo;

33 (3) Premium gasoline. For purposes of this section, "premium gasoline" means
34 premium grade gasoline which has not been blended with fuel ethanol and has an
35 antiknock index number of ninety-one or greater; and

36 (4) Terminal bulk transfers as defined in section 142.800, RSMo.

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38 The director of the department of agriculture may by rule exempt additional gasoline uses
39 from the requirements of this section or rescind any gasoline-use exemption provided for
40 in this section other than the premium gasoline exemption in this section. The governor,
41 or the governor's designated agency, may waive the requirements of this section or any
42 part thereof for all or any portion of this state or rescind such waiver.

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

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

46 (2) The bulk storage tank is under the control of an owner of littoral or riparian
47 property and located on such property.

48 **7. For purposes of this section, a fuel ethanol-blended gasoline with fuel ethanol**
49 **comprising not less than seventy percent and not more than eighty-five percent by volume**
50 **of the blend shall be deemed in compliance with this section as determined by an**
51 **appropriate American Society of Testing Materials standard method of analysis of alcohol**
52 **content in motor fuels.**

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

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

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

73 **(2) In the event of a verifiable insufficient supply in the available market of fuel**
74 **ethanol or fuel ethanol-blended gasoline, the purchase of unblended gasoline shall not be**
75 **deemed a violation of the fuel ethanol content requirements of this section. For any**
76 **purchase of unblended gasoline due to such an insufficiency, the bill of sale, bill of lading,**
77 **or invoice accompanying the purchase of unblended gasoline shall indicate "no fuel ethanol**
78 **or fuel ethanol-blended gasoline is available for sale". The terminal or supplier and the**
79 **distributor or ultimate vendor shall, upon request, provide the required documentation**
80 **regarding such insufficiency in supply to the department of agriculture and the governor.**

81 **11. All fuel terminal owners and operators in this state shall offer for sale fuel**
82 **ethanol-blended gasoline, fuel ethanol, and unblended gasoline at open, competitive, and**

83 fair market prices. For purposes of this subsection, "unblended gasoline" means gasoline
84 that has not been blended with fuel ethanol.

85 12. Nothing in this section shall be construed as prohibiting fuel retailers, fuel
86 wholesalers, fuel marketers, or fuel distributors from the selling of premium gasoline, as
87 defined in subdivision (3) of subsection 5 of this section, in this state.

88 13. No fuel ethanol producer, fuel retailer, fuel wholesaler, fuel distributor, or
89 terminal operator or owner shall be civilly liable for any carcinogenic effect directly
90 attributable to the manufacture, storage, transportation, handling, or selling of fuel
91 ethanol.

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