

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 445,
2 Page 20, Section 260.345, Line 36, by inserting after all of said section and line the following:
3 "414.255. 1. This section shall be known and may be cited as the "Missouri Renewable Fuel
4 Standard Act".

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

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

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

11 (3) "Fuel ethanol-blended gasoline", a mixture of ninety percent gasoline and ten percent
12 fuel ethanol in which the fuel ethanol meets ASTM International Specification D4806, as amended.
13 The ten percent fuel ethanol portion may be derived from any agricultural source;

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

19 (5) "Premium gasoline", gasoline with an antiknock index number of ninety-one or greater;

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

24 (7) "Qualified terminal", a terminal that has been assigned a terminal control number (tcn)
25 by the Internal Revenue Service;

26 (8) "Supplier", a person that is:

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

29 (b) One or more of the following:

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

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

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

35 d. The position holder in a terminal or refinery outside this state with respect to motor fuel
36 which that person imports into this state. A terminal operator shall not be considered a supplier

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1 based solely on the fact that the terminal operator handles motor fuel consigned to it within a
2 terminal. "Supplier" also means a person that produces fuel grade alcohol or alcohol-derivative
3 substances in this state, produces fuel grade alcohol or alcohol-derivative substances for import to
4 this state into a terminal, or acquires upon import by truck, rail car or barge into a terminal, fuel
5 grade alcohol or alcohol-derivative substances. "Supplier" includes a permissive supplier unless
6 specifically provided otherwise;

7 (9) "Terminal", a bulk storage and distribution facility which includes:

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

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

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

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

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

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

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

26 (2) Premium gasoline;

27 (3) E75-E85 fuel ethanol;

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

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

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

37 7. The department of agriculture is hereby authorized to promulgate rules to ensure
38 implementation of, and compliance and consistency with, this section. Any rule or portion of a rule,
39 as that term is defined in section 536.010, that is created under the authority delegated in this section
40 shall become effective only if it complies with and is subject to all of the provisions of chapter 536
41 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the
42 powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective
43 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of
44 rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and
45 void.

46 8. All terminals in Missouri that sell gasoline shall offer for sale, in cooperation with
47 position holders and suppliers, fuel ethanol-blended gasoline, fuel ethanol, and unblended gasoline.
48 Terminals that only offer for sale federal reformulated gasolines, in cooperation with position

1 holders and suppliers, shall not be required to offer for sale unblended gasoline.

2 9. Notwithstanding any other law to the contrary, all fuel retailers, wholesalers, distributors,
3 and marketers shall be allowed to purchase fuel ethanol from any terminal, position holder, fuel
4 ethanol producer, fuel ethanol wholesaler, or supplier. In the event a court of competent jurisdiction
5 finds that this subsection does not apply to or improperly impairs existing contractual relationships,
6 then this subsection shall only apply to and impact future contractual relationships.

7 10. No refiner, supplier, wholesaler, distributor, motor vehicle manufacturer, retailer, or
8 other vendor of motor fuel that contains or is blended with any amount of ethanol, biodiesel, or other
9 renewable fuel or biofuel and that complies with labeling and motor fuel quality laws shall be liable
10 for any damages related to a customer's purchase or use of such motor fuel from the vendor. No
11 motor fuel that contains or is blended with any amount of ethanol, biodiesel, or other renewable fuel
12 or biofuel shall be considered a defective product if such motor fuel complies with motor fuel quality
13 laws."; and

14
15 Further amend said bill by amending the title, enacting clause, and intersectional references
16 accordingly.