

SENATE FILE 38
BY KIBBIE

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to motor vehicle fuels, by providing for motor
2 vehicle fuel standards, providing for the transportation,
3 sale, and dispensing of motor fuels, providing for tax
4 revenues, and making penalties applicable.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 38
AGRICULTURE

1 Section 1. Section 214A.1, Code 2001, is amended by
2 striking the section and inserting in lieu thereof the
3 following:

4 214A.1 DEFINITIONS.

5 The following definitions shall apply to the various terms
6 used in this chapter:

7 1. "A.S.T.M." means the American society for testing and
8 materials.

9 2. "Dealer" means a retail dealer or a wholesale dealer.

10 3. "Dispense" means to do any of the following:

11 a. Sell motor vehicle fuel on a retail basis.

12 b. Place motor vehicle fuel in the fuel tank of a motor
13 vehicle or small engine for the operation of that motor
14 vehicle or small engine.

15 c. Place motor vehicle fuel in or remove motor vehicle
16 fuel from a motor vehicle fuel container, including for
17 storage in a motor vehicle fuel storage tank or transfer by
18 motor vehicle storage tank piping.

19 4. "Fiberglass motor vehicle fuel storage tank" or
20 "fiberglass storage tank" means a motor vehicle fuel storage
21 tank that is fiberglass or fiberglass lined when manufactured.

22 5. "Gasoline" means a motor vehicle fuel which is not any
23 of the following:

24 a. Diesel fuel.

25 b. Aviation gasoline or special fuel as defined in section
26 452A.2.

27 6. "Gasoline station" means the location of a profit or
28 nonprofit business where gasoline is sold or offered for sale
29 by a retail dealer.

30 7. "Motor vehicle" means a self-propelled vehicle that
31 operates using gasoline, including but not limited to any of
32 the following:

33 a. An automobile as defined in section 321.1.

34 b. A motor truck as defined in section 321.1.

35 c. A motor bus as used in section 452A.57.

1 d. A motorcycle as defined in section 321.1.

2 e. A watercraft as defined in section 462A.2.

3 f. An off-road vehicle which is a snowmobile or an all-
4 terrain vehicle as defined in section 321G.1.

5 8. "Motor vehicle fuel" means the same as defined in
6 section 214.1.

7 9. "Motor vehicle fuel container" means a container used
8 for the temporary storage of motor vehicle fuel by the
9 consumer of that motor vehicle fuel.

10 10. "Motor vehicle fuel pump" or "pump" means the same as
11 defined in section 214.1.

12 11. "Motor vehicle fuel storage tank" or "storage tank"
13 means a tank that is a fixture on the surface or underground
14 on the premises of a gasoline station, if the tank and piping
15 are used to store and dispense gasoline to customers on a
16 retail basis.

17 12. "Motor vehicle fuel storage tank equipment" or
18 "storage tank equipment" means a motor vehicle fuel storage
19 tank and motor vehicle fuel storage tank piping.

20 13. "Motor vehicle fuel storage tank piping" or "storage
21 tank piping" means any rigid or flexible piping used to
22 transport motor vehicle fuel from a motor vehicle fuel storage
23 tank to a motor vehicle storage tank pump.

24 14. "MTBE" means methyl tertiary butyl ether.

25 15. "Oxygenate octane enhancer" means oxygen-containing
26 compounds, including but not limited to alcohols, ethers, or
27 ethanol.

28 16. "Oxygenated gasoline" means gasoline that contains an
29 oxygenate octane enhancer as provided in section 214A.2.

30 17. "Qualified motor vehicle" means a motor vehicle that
31 is any of the following:

32 a. A watercraft.

33 b. A motorcycle.

34 c. An antique vehicle registered under section 321.115.

35 d. An off-road vehicle that is a snowmobile or an all-

1 terrain vehicle.

2 18. "Raceway" means an enclosed area in which there is
3 located a public or private road used for racing.

4 19. "Retail dealer" means a person who operates,
5 maintains, or conducts, either in person, or by any agent,
6 employee, or servant, any place of business from which motor
7 vehicle fuel is sold or offered for sale, at retail.

8 20. "Sell" means to sell or offer to sell.

9 21. "Unoxygenated gasoline" means gasoline other than
10 oxygenated gasoline.

11 22. "Wholesale dealer" means a person, other than a retail
12 dealer, who provides motor vehicle fuel for sale within this
13 state.

14 Sec. 2. Section 214A.2, subsection 1, Code 2001, is
15 amended to read as follows:

16 1. a. The secretary department shall adopt rules pursuant
17 to chapter 17A for carrying out this chapter. The rules may
18 shall include, but are not limited to, establishing
19 specifications relating to motor vehicle fuel or oxygenate
20 octane enhancers.

21 b. In the interest of uniformity, the secretary department
22 shall adopt rules, by reference or otherwise, to establish
23 specifications relating to tests and standards for motor
24 vehicle fuel or oxygenate octane enhancers, ~~established.~~ The
25 specifications shall be based on those established by the
26 American society for testing and materials (A.S.T.M.), unless
27 the secretary department determines that those specifications
28 are inconsistent with this chapter or are not appropriate to
29 the conditions which exist in this state.

30 Sec. 3. Section 214A.2, Code 2001, is amended by adding
31 the following new subsection:

32 NEW SUBSECTION. 1A. An oxygenated gasoline must contain
33 at least three and five-tenths percent oxygen by weight.

34 Sec. 4. Section 214A.2A, Code 2001, is amended to read as
35 follows:

1 214A.2A KEROSENE LABELING AND LOW GRAVITY PETROLEUM
2 PRODUCTS.

3 1. Fuel which is sold or is kept, offered, or exposed for
4 sale as kerosene shall be labeled as kerosene. The label
5 shall include the word "kerosene" and a designation as either
6 "K1" or "K2", and shall indicate that the kerosene is in
7 compliance with the standard specification adopted by the
8 A.S.T.M. in specification D-3699 (1982).

9 2. Kerosene and distillate or petroleum products of lower
10 gravity (Baume scale), when not used to propel a motor vehicle
11 or compounded or combined with a motor vehicle fuel, are
12 exempt from this chapter.

13 Sec. 5. Section 214A.4, Code 2001, is amended to read as
14 follows:

15 214A.4 INTRASTATE SHIPMENTS.

16 A ~~wholesale dealer or-retail-dealer~~ shall not receive or
17 sell or hold for sale, within this state, ~~any motor vehicle~~
18 ~~fuel or an oxygenate octane enhancer for-which-specifications~~
19 ~~are-prescribed-in-this-chapter~~, unless the all of the
20 following apply:

21 1. The motor vehicle fuel complies with specifications
22 required in this chapter, other than standards relating to the
23 oxygen content of oxygenated gasoline as provided pursuant to
24 section 214A.2.

25 2. The dealer first-secures receives from the refiner or
26 producer of the motor vehicle fuel or oxygenate octane
27 enhancer, a certified statement;-verified-by-the-oath-of by a
28 competent chemist qualified according to requirements of the
29 department, who is employed by or representing represents the
30 refiner or producer;-showing. The statement shall certify
31 that the true-standards-and-tests-of-the motor vehicle fuel or
32 oxygenate octane enhancer;-obtained-by-the-methods-referred-to
33 satisfies specifications for the motor vehicle fuel or
34 oxygenate octane enhancer as required by the department
35 pursuant to section 214A.2. The statement shall be based on

1 tests and standards approved by the department as provided in
2 section 214A.2. The ~~verified-tests-are-required-and~~ statement
3 must accompany the bill of lading or shipping documents
4 representing the shipment of the motor vehicle fuel or
5 oxygenate octane enhancer into this state before the shipment
6 can be received and unloaded, and shall be included with any
7 cargo documents required pursuant to section 452A.12.

8 Sec. 6. NEW SECTION. 214A.21 GENERAL REQUIREMENTS.

9 1. Except as provided in this section, a person shall not
10 dispense gasoline other than oxygenated gasoline in this
11 state.

12 2. This section shall not apply to gasoline used to
13 operate any of the following:

14 a. An aircraft as defined in section 328.1.

15 b. A motor vehicle used exclusively for motor sports,
16 including a raceway, if the motor vehicle cannot operate on a
17 highway as provided in chapter 321 or rules adopted by the
18 state department of transportation.

19 3. A person may dispense unoxygenated gasoline only as
20 provided in this subsection. All unoxygenated gasoline
21 dispensed in this state shall be premium grade unleaded
22 gasoline as provided in section 214A.2. The unoxygenated
23 gasoline shall only be dispensed for one of the following
24 purposes:

25 a. The operation of a qualified motor vehicle or a small
26 engine.

27 b. The temporary storage of unoxygenated gasoline in a
28 small motor vehicle fuel container. The small motor vehicle
29 fuel container shall meet all of the following requirements:

30 (1) It shall comply with the standards set forth in
31 section 214A.15, or rules adopted by the department.

32 (2) It shall have a capacity of not more than six gallons.

33 c. A retail dealer shall only dispense unoxygenated
34 gasoline at a gasoline station. A gasoline station that is a
35 marina, mooring facility, or resort shall only dispense

1 unoxygenated gasoline for use by a watercraft.

2 Sec. 7. NEW SECTION. 214A.22 MOTOR VEHICLE FUEL STORAGE
3 TANK -- EQUIPMENT.

4 1. A retail dealer shall not install storage tank
5 equipment used to store or dispense gasoline, unless the
6 storage tank equipment is compatible with the storage and
7 dispensing of oxygenated gasoline.

8 2. a. Except as provided in this section, a retail dealer
9 shall not use more than one motor vehicle fuel storage tank
10 and connecting motor vehicle fuel storage tank piping located
11 on the premises of a retail gasoline station for dispensing
12 nonoxygenated gasoline as provided in section 214A.21.

13 b. A retail dealer may use storage tank equipment located
14 on the premises of a retail gasoline station for storing and
15 dispensing nonoxygenated gasoline, if the storage tank
16 equipment is certified as exempt by the department pursuant to
17 this section.

18 c. In order to receive an exemption certificate, the motor
19 vehicle storage tank equipment must be incompatible with the
20 storage or dispensing of oxygenated gasoline according to
21 manufacturer specifications. If the storage tank equipment is
22 a motor vehicle fuel storage tank, it must be a fiberglass
23 motor vehicle fuel storage tank.

24 3. The department shall grant an exemption certificate
25 upon application by the retail dealer in a manner and
26 according to procedures approved by the department. The
27 application shall contain all information required by the
28 department and shall at least include all of the following:

29 a. The name of the retail dealer and the address of the
30 gasoline station.

31 b. A detailed description of the storage tank equipment,
32 including all of the following:

33 (1) The location of the storage tank equipment on the
34 premises of the gasoline station.

35 (2) The date that the storage tank equipment was installed

1 on the premises of the gasoline station.

2 (3) The model number of the storage tank equipment, if
3 available.

4 (4) A statement certified by the retail dealer that the
5 conversion necessary to store oxygenated gasoline in the
6 fiberglass storage tank or dispense oxygenated gasoline using
7 storage tank piping has not begun or been completed since the
8 date of installation.

9 c. A statement certified by the manufacturer of the
10 storage tank equipment verifying that the storage tank
11 equipment is not warranted for the storage or dispensing of
12 oxygenated gasoline.

13 4. The exemption certificate shall expire upon the earlier
14 of the following:

15 a. The date that the storage tank equipment is replaced or
16 converted with modifications necessary to store or dispense
17 oxygenated gasoline. The retail dealer shall immediately
18 notify the department in writing of the date that the
19 exemption certificate expires under this paragraph.

20 b. The twenty-year anniversary date of the installation of
21 the storage tank equipment.

22 5. The department shall extend an exemption certificate
23 upon application by the retail dealer in a manner and
24 according to procedures approved by the department. The
25 application shall contain all information required in order to
26 grant a certificate.

27 a. The retail dealer may apply for an extension within one
28 hundred eighty days from the certificate's expiration date.

29 b. The retail dealer may apply for any number of
30 additional extensions within one hundred eighty days from the
31 last extended certificate's expiration date. The department
32 shall grant the extension if the application meets all
33 requirements for granting an original certificate.

34 c. An extended exemption certificate shall expire upon the
35 earlier of the following:

1 (1) The date that the storage tank equipment is replaced
2 or converted with modifications necessary to store or dispense
3 oxygenated gasoline. The retail dealer shall immediately
4 notify the department in writing of the date that the
5 exemption certificate expires under this paragraph.

6 (2) The ten-year anniversary date of the expiration of the
7 original or an extended certificate.

8 Sec. 8. Section 452A.3, subsection 2, Code 2001, is
9 amended to read as follows:

10 2. a. For the privilege of operating aircraft in this
11 state an excise tax of eight cents per gallon is imposed on
12 the use of all aviation gasoline.

13 ~~b. --For the privilege of operating motor vehicles in this
14 state, an excise tax of nineteen cents per gallon until June
15 30, 2007, is imposed upon the use of motor fuel containing at
16 least ten percent alcohol distilled from cereal grains grown
17 in the United States and used for any purpose except as
18 otherwise provided in this division.~~

19 Sec. 9. Section 452A.12, Code 2001, is amended to read as
20 follows:

21 452A.12 LOADING AND DELIVERY EVIDENCE ON TRANSPORTATION
22 EQUIPMENT.

23 1. As used in this section, unless the context otherwise
24 requires:

- 25 a. "Cargo document" means a manifest or loading and
26 delivery evidence as provided in this section.
- 27 b. "Gasoline" means the same as defined in section 214A.1.
- 28 c. "Oxygenate octane enhancer" means the same as defined
29 in section 214A.1.
- 30 d. "Oxygenated gasoline" means the same as defined in
31 section 214A.1.
- 32 e. "Premium grade unleaded gasoline" means a gasoline that
33 complies with the requirements of section 214A.2.

34 2. A cargo document shall describe any transportation of
35 motor fuel as required in this section.

1 2A. a. A serially-numbered-manifest cargo document shall
2 be carried on every vehicle, except small tank wagons, while
3 in use in transportation service, ~~on which shall be entered~~
4 the following. The cargo document shall be a serially
5 numbered manifest. The manifest shall include information as
6 to about the cargo of motor fuel or special fuel being moved
7 in the vehicle as required by the department, including all of
8 the following:

9 (1) The date and place of loading, and the place to be
10 unloaded, the of unloading the cargo.

11 (2) The person for whom it the cargo is to be delivered,
12 the.

13 (3) The nature and kind of product, the being delivered.
14 The manifest shall state whether the motor fuel is gasoline or
15 another type of motor fuel.

16 (4) The amount of product, and other information required
17 by the department including the number of gallons of motor
18 fuel or special fuel being delivered.

19 (5) If the motor fuel is gasoline, the manifest shall
20 include the provisions required in subsection 4.

21 b. The manifest for small tank wagons shall be retained at
22 the home office. The manifest covering each load transported,
23 upon consummation of the delivery, shall be completed by
24 showing the date and place of actual delivery and the person
25 to whom actually delivered and shall be kept as a permanent
26 record for a period of three years. ~~However, the~~ The record
27 of the manifest of past cargoes need is not required to be
28 carried on the conveyance but shall be preserved by the
29 carrier for inspection by the department. A carrier subject
30 to this subsection when distributing for a licensee may with
31 the approval of the department substitute the loading and
32 delivery evidence required in subsection 2 ~~for~~ 3 in lieu of
33 the manifest.

34 2- 3. A person while transporting motor fuel or undyed
35 special fuel from a refinery or marine or pipeline terminal in

1 this state or from a point outside this state over the
2 highways of this state in service other than that under
3 subsection † 2A shall carry in the vehicle a loading-invoice
4 cargo document which shall be loading and delivery evidence
5 showing all of the following:

6 a. The name and address of the seller or consignor, -the.

7 b. The date and place of loading, -and-the.

8 c. The kind and quantity of motor fuel or special fuel
9 loaded, -together-with-invoices. The loading and delivery
10 evidence shall state whether the motor fuel is gasoline or
11 another type of motor fuel.

12 d. Invoices showing the kind and quantity of each delivery
13 and the name and address of each purchaser or consignee. If
14 the cargo is gasoline, the invoice shall state the number of
15 gallons of gasoline being delivered. The loading invoice
16 shall include the provisions required in subsection 4.

17 4. a. Except as provided in paragraph "b", if the cargo
18 is gasoline, the cargo document shall identify the volume
19 percentage or gallons of oxygenate octane enhancers in the
20 gasoline, and the octane number for the gasoline as provided
21 in section 214A.2. The cargo document shall include a
22 statement printed in at least ten-point boldface type. The
23 statement shall provide as follows:

24 (1) If the cargo is oxygenated gasoline, the statement
25 shall provide: "This motor fuel is oxygenated gasoline legal
26 for sale in this state as provided by Iowa Code chapter 214A."

27 (2) If the cargo is not oxygenated gasoline, one of the
28 following shall apply:

29 (a) If the unoxxygenated gasoline is a premium grade
30 unleaded gasoline, the statement shall provide: "This motor
31 fuel is nonoxxygenated unleaded premium grade gasoline legal
32 for restricted retail sale in this state as provided in Iowa
33 Code chapter 214A."

34 (b) If the unoxxygenated gasoline is not a premium grade
35 unleaded gasoline, the statement shall provide: "This motor

1 fuel is nonoxygenated gasoline and shall not be sold on a
2 retail basis in this state."

3 b. This subsection shall not apply to the transport of
4 gasoline between refineries, between terminals, or between a
5 refinery and a terminal.

6 EXPLANATION

7 This bill amends Code chapter 214A by prohibiting a person
8 from dispensing gasoline other than oxygenated gasoline on a
9 retail basis. According to the bill, oxygenated gasoline is
10 gasoline with an oxygen content of at least 3.5 percent. The
11 bill also establishes a number of exceptions to this
12 prohibition. The bill's requirement does not apply to
13 gasoline used to operate aircraft or motor vehicles involved
14 exclusively in motor sports events. The requirement also does
15 not apply to the dispensing of unoxygenated gasoline for
16 certain limited purposes. The bill provides that all
17 unoxygenated gasoline dispensed in this state must be premium
18 grade unleaded gasoline. In addition, the bill provides that
19 unoxygenated gasoline must be dispensed for the operation of a
20 qualified motor vehicle or a small engine, or the temporary
21 storage of unoxygenated gasoline in a small container.

22 The bill prohibits a retail dealer from using more than one
23 motor fuel vehicle storage tank located on the premises of a
24 retail gasoline station for dispensing nonoxygenated gasoline.
25 The bill provides an exception, if the tank or related piping
26 is incompatible with the storage of oxygenated gasoline, as
27 certified by the department of agriculture and land
28 stewardship. The bill provides that the certification expires
29 on the 20-year anniversary date of the installation of the
30 storage tank or the date that the storage tank equipment is
31 replaced or modifications necessary to store and dispense
32 oxygenated fuel are completed, whichever occurs earlier. The
33 bill allows for multiple 10-year extensions of the
34 certificate.

35 Code section 214A.11 provides that any person violating the

1 provisions of Code chapter 214A is guilty of a simple
2 misdemeanor.

3 The bill repeals a provision contained in Code section
4 452A.2 that provides a one cent reduction in the excise tax on
5 gasoline that contains ethanol.

6 The bill also amends Code section 452A.12 requiring that
7 special information be contained on cargo documents such as
8 manifests that are associated with the transportation of motor
9 vehicle fuel, including the type of motor vehicle fuel or
10 special fuel being transported, the volume percentage or
11 gallons of oxygenate octane enhancers contained in the
12 gasoline, and a notice identifying any legal requirements or
13 restrictions upon dispensing the gasoline.

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