

Angelo
Bartz
Seukup

SSB-1057

Agriculture

SENATE FILE

Succeeded By

SP/HF 149

BY (PROPOSED COMMITTEE ON

AGRICULTURE BILL BY

CHAIRPERSON McLAREN)

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act providing for ethanol blended gasoline and providing
2 penalties.

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

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1 Section 1. Section 214A.1, Code 2001, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 1A. "Conventional gasoline" means
4 gasoline other than ethanol blended gasoline.

5 NEW SUBSECTION. 1B. "Ethanol blended gasoline" means a
6 conventional blend ethanol or a high blend ethanol as provided
7 in section 214A.2.

8 NEW SUBSECTION. 2A. "Motor vehicle fuel pump" means the
9 same as defined in section 214.1.

10 Sec. 2. Section 214A.2, subsection 3, paragraph c, Code
11 2001, is amended by striking the paragraph.

12 Sec. 3. NEW SECTION. 214A.16A ETHANOL BLENDED GASOLINE
13 -- AVAILABILITY REQUIRED.

14 1. Except as otherwise provided in this section, on or
15 after January 1, 2002, a retail dealer shall not sell gasoline
16 at a site, unless the retail dealer sells ethanol blended
17 gasoline from at least one motor vehicle fuel pump at that
18 site.

19 2. This section shall not apply to the extent any of the
20 following applies:

21 a. A retail dealer cannot sell ethanol blended gasoline at
22 a site because each motor vehicle fuel storage tank located on
23 the site is not compatible with storing ethanol blended
24 gasoline. In order to claim this exemption, the department
25 must issue a letter to the retail dealer stating that the
26 retail dealer's motor vehicle fuel storage tank is not
27 warranted by its manufacturer for ethanol blended gasoline.
28 The department shall issue the letter after the retail dealer
29 submits all information and affirmations as required by the
30 department. An exemption granted under this paragraph shall
31 expire on July 1, 2002.

32 b. The site has only one single motor vehicle fuel storage
33 tank, the tank is located above ground, and the tank has a
34 capacity of one thousand gallons or less.

35 3. This section does not require a retail dealer to cease

1 selling conventional gasoline during any period when the
2 retail dealer cannot sell ethanol blended gasoline due to any
3 of the following:

4 a. A wholesale dealer fails to supply the retail dealer
5 with ethanol blended gasoline on a timely basis. This
6 paragraph does not apply if the retail dealer and the
7 wholesale dealer are the same person.

8 b. A temporary depletion of the retail dealer's ethanol
9 blended gasoline inventory. This paragraph does not apply if
10 the retail dealer stores conventional gasoline in the depleted
11 tank.

12 c. A communication, including the issuance of an order or
13 letter, by a federal or state agency, including the United
14 States environmental protection agency, the department of
15 natural resources, or the department of agriculture and land
16 stewardship, requiring or requesting that the retail dealer
17 cease using a motor vehicle fuel storage tank storing ethanol
18 blended gasoline or related motor vehicle fuel storage tank
19 equipment, including a connecting motor vehicle fuel pump.
20 This paragraph does not apply once the terms of the
21 communication have expired.

22 d. A motor vehicle fuel storage tank used to store ethanol
23 blended gasoline or related motor vehicle fuel storage tank
24 equipment, including a connecting motor vehicle fuel pump,
25 cannot function because of repair, replacement, or
26 maintenance. This paragraph does not apply after the tank or
27 related equipment has been repaired, replaced, or maintained
28 or should have been repaired, replaced, or maintained within a
29 period customary for that type of repair, replacement, or
30 maintenance.

31 4. The department shall adopt pursuant to chapter 17A all
32 rules necessary in order to administer this section.

33 Sec. 4. NEW SECTION. 214A.20 GENERAL VIOLATIONS AND
34 PENALTIES.

35 A person who violates provisions of this chapter other than

1 section 214A.16A is guilty of a simple misdemeanor.

2 Sec. 5. NEW SECTION. 214A.20A PENALTIES AND LEGAL
3 PROCEEDINGS FOR VIOLATIONS OF ETHANOL BLENDED GASOLINE
4 AVAILABILITY REQUIREMENTS.

5 1. A retail dealer who violates section 214A.16A is
6 subject to a civil penalty of not more than one hundred
7 dollars. Each day that a violation continues constitutes a
8 separate offense.

9 2. The department shall issue an order assessing a civil
10 penalty against a retail dealer acting in violation of section
11 214A.16A. The order shall include the amount of the civil
12 penalty. The civil penalty shall be paid in accordance with
13 rules adopted by the department pursuant to chapter 17A and as
14 provided in the order.

15 3. A retail dealer who fails to timely pay a civil penalty
16 assessed pursuant to the department's final order shall pay,
17 in addition to the amount of the civil penalty, interest at
18 the rate of one and one-half percent of the unpaid balance of
19 the assessed civil penalty for each month or part of a month
20 that the penalty remains unpaid. The interest shall begin to
21 accrue not earlier than thirty days after the civil penalty
22 amount is required to be paid. When a retail dealer against
23 whom a civil penalty is assessed under this section seeks
24 timely judicial review, as provided under chapter 17A, of an
25 order imposing the civil penalty, the order is not final for
26 the purposes of this section until all judicial review
27 processes are completed.

28 4. The attorney general shall institute, at the request of
29 the department, legal proceedings in the county in which the
30 violation occurred in order to recover the civil penalty and
31 any accrued interest.

32 5. The civil penalty assessed by the department and
33 interest on the civil penalty shall be deposited in the
34 general fund of the state.

35

EXPLANATION

1 This bill amends Code chapter 214A, which provides for the
 2 regulation of motor vehicle fuel, including gasoline blended
 3 with ethanol. The bill provides that on or after January 1,
 4 2002, a retail dealer is prohibited from selling gasoline from
 5 a site, unless the retail dealer also sells ethanol blended
 6 gasoline from at least one motor vehicle fuel pump at the
 7 site. The bill excuses a retail dealer from complying with
 8 the bill's requirements, if the retail dealer cannot sell
 9 ethanol blended gasoline due to a number of reasons, including
 10 the incompatibility of motor vehicle fuel storage tanks
 11 located on the site (until July 1, 2002); the site has only
 12 one small single motor vehicle fuel storage tank; the failure
 13 of a wholesale dealer to supply the ethanol blended gasoline;
 14 the temporary depletion of the retail dealer's inventory of
 15 ethanol blended gasoline; a communication by a federal or
 16 state agency requiring or requesting that the retail dealer
 17 cease using a motor vehicle storage tank storing ethanol
 18 blended gasoline; or the repair, replacement, or maintenance
 19 of a tank or related equipment.

20 Generally, a retail dealer who violates the provisions of
 21 Code chapter 214A is guilty of a simple misdemeanor. This
 22 bill provides that a retail dealer who violates the provisions
 23 of the bill is subject to a civil penalty of not more than
 24 \$100, and each day that a violation continues constitutes a
 25 separate offense.

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4/5/01 Rereferred To: Agriculture

FILED FEB 12 '01

149

SENATE FILE
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO SSB 1057)

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

A BILL FOR

1 An Act providing for ethanol blended gasoline and providing
2 penalties.

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

SF 149

SENATE FILE 149

S-3070

1 Amend Senate File 149 as follows:
2 1. Page 1, by striking lines 33 and 34 and
3 inserting the following: "tank."

By JEFF ANGELO

S-3070 FILED FEBRUARY 15, 2001

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1 Section 1. Section 214A.1, Code 2001, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 1A. "Conventional gasoline" means
4 gasoline other than ethanol blended gasoline.

5 NEW SUBSECTION. 1B. "Ethanol blended gasoline" means a
6 conventional blend ethanol or a high blend ethanol as provided
7 in section 214A.2.

8 NEW SUBSECTION. 2A. "Motor vehicle fuel pump" means the
9 same as defined in section 214.1.

10 Sec. 2. Section 214A.2, subsection 3, paragraph c, Code
11 2001, is amended by striking the paragraph.

12 Sec. 3. NEW SECTION. 214A.16A ETHANOL BLENDED GASOLINE
13 -- AVAILABILITY REQUIRED.

14 1. Except as otherwise provided in this section, on or
15 after January 1, 2002, a retail dealer shall not sell gasoline
16 at a site, unless the retail dealer sells ethanol blended
17 gasoline from at least one motor vehicle fuel pump at that
18 site.

19 2. This section shall not apply to the extent any of the
20 following applies:

21 a. A retail dealer cannot sell ethanol blended gasoline at
22 a site because each motor vehicle fuel storage tank located on
23 the site is not compatible with storing ethanol blended
24 gasoline. In order to claim this exemption, the department
25 must issue a letter to the retail dealer stating that the
26 retail dealer's motor vehicle fuel storage tank is not
27 warranted by its manufacturer for ethanol blended gasoline.
28 The department shall issue the letter after the retail dealer
29 submits all information and affirmations as required by the
30 department. An exemption granted under this paragraph shall
31 expire on July 1, 2003.

32 b. The site has only one single motor vehicle fuel storage
33 tank, the tank is located above ground, and the tank has a
34 capacity of one thousand gallons or less.

35 3. This section does not require a retail dealer to cease

1 selling conventional gasoline during any period when the
2 retail dealer cannot sell ethanol blended gasoline due to any
3 of the following:

4 a. A wholesale dealer fails to supply the retail dealer
5 with ethanol blended gasoline on a timely basis. This
6 paragraph does not apply if the retail dealer and the
7 wholesale dealer are the same person.

8 b. A temporary depletion of the retail dealer's ethanol
9 blended gasoline inventory. This paragraph does not apply if
10 the retail dealer stores conventional gasoline in the depleted
11 tank.

12 c. A communication, including the issuance of an order or
13 letter, by a federal or state agency, including the United
14 States environmental protection agency, the department of
15 natural resources, or the department of agriculture and land
16 stewardship, requiring or requesting that the retail dealer
17 cease using a motor vehicle fuel storage tank storing ethanol
18 blended gasoline or related motor vehicle fuel storage tank
19 equipment, including a connecting motor vehicle fuel pump.
20 This paragraph does not apply once the terms of the
21 communication have expired.

22 d. A motor vehicle fuel storage tank used to store ethanol
23 blended gasoline or related motor vehicle fuel storage tank
24 equipment, including a connecting motor vehicle fuel pump,
25 cannot function because of repair, replacement, or
26 maintenance. This paragraph does not apply after the tank or
27 related equipment has been repaired, replaced, or maintained
28 or should have been repaired, replaced, or maintained within a
29 period customary for that type of repair, replacement, or
30 maintenance.

31 4. The department shall adopt pursuant to chapter 17A all
32 rules necessary in order to administer this section.

33 Sec. 4. NEW SECTION. 214A.20 GENERAL VIOLATIONS AND
34 PENALTIES.

35 A person who violates provisions of this chapter other than

1 section 214A.16A is guilty of a simple misdemeanor.

2 Sec. 5. NEW SECTION. 214A.20A PENALTIES AND LEGAL
3 PROCEEDINGS FOR VIOLATIONS OF ETHANOL BLENDED GASOLINE
4 AVAILABILITY REQUIREMENTS.

5 1. A retail dealer who violates section 214A.16A is
6 subject to a civil penalty of not more than one hundred
7 dollars. Each day that a violation continues constitutes a
8 separate offense.

9 2. The department shall issue an order assessing a civil
10 penalty against a retail dealer acting in violation of section
11 214A.16A. The order shall include the amount of the civil
12 penalty. The civil penalty shall be paid in accordance with
13 rules adopted by the department pursuant to chapter 17A and as
14 provided in the order.

15 3. A retail dealer who fails to timely pay a civil penalty
16 assessed pursuant to the department's final order shall pay,
17 in addition to the amount of the civil penalty, interest at
18 the rate of one and one-half percent of the unpaid balance of
19 the assessed civil penalty for each month or part of a month
20 that the penalty remains unpaid. The interest shall begin to
21 accrue not earlier than thirty days after the civil penalty
22 amount is required to be paid. When a retail dealer against
23 whom a civil penalty is assessed under this section seeks
24 timely judicial review, as provided under chapter 17A, of an
25 order imposing the civil penalty, the order is not final for
26 the purposes of this section until all judicial review
27 processes are completed.

28 4. The attorney general shall institute, at the request of
29 the department, legal proceedings in the county in which the
30 violation occurred in order to recover the civil penalty and
31 any accrued interest.

32 5. The civil penalty assessed by the department and
33 interest on the civil penalty shall be deposited in the
34 general fund of the state.

35 Sec. 6. Section 455G.9, subsection 1, Code 2001, is

1 amended by adding the following new paragraph:

2 NEW PARAGRAPH. 1. Up to one hundred percent of the costs
3 necessary to reimburse the owner or operator for costs
4 associated with converting a motor vehicle fuel storage tank
5 or storage tank piping used to store and dispense ethanol
6 blended gasoline from a tank to a motor vehicle fuel pump,
7 pursuant to section 455G.23. However, the owner or operator
8 shall not be reimbursed more than ten thousand dollars for
9 converting a motor vehicle fuel storage tank or more than
10 three thousand dollars for converting storage tank piping.

11 Sec. 7. NEW SECTION. 455G.23 CONVERSION NECESSARY TO
12 STORE AND DISPENSE RENEWABLE REFORMULATED GASOLINE.

13 1. As used in this section:

14 a. "Conventional gasoline" means conventional blended
15 gasoline as defined in section 214A.1.

16 b. "Ethanol blended gasoline" means the same as defined in
17 section 214A.1.

18 c. "Motor vehicle fuel pump" or "pump" means the same as
19 defined in section 214.1.

20 d. "Motor vehicle fuel storage tank" or "tank" means an
21 aboveground or belowground container that is a fixture, used
22 to keep an accumulation of motor vehicle fuel.

23 e. "Motor vehicle fuel storage tank equipment" means a
24 motor vehicle fuel storage tank, motor vehicle fuel storage
25 tank piping, or a motor vehicle fuel pump.

26 f. "Motor vehicle fuel storage tank piping" means any
27 rigid or flexible piping used to transport motor vehicle fuel
28 from a motor vehicle fuel storage tank to a motor vehicle fuel
29 pump.

30 g. "Site" means the premises of a retail dealer where a
31 tank is used to serve a connecting motor vehicle fuel pump.

32 2. The board shall establish a program to reimburse the
33 owner or operator of a site for costs necessary to convert
34 motor vehicle fuel storage tank equipment for use in storing
35 or dispensing ethanol blended gasoline as provided pursuant to

1 chapter 214A. The conversion may be in the form of the
2 replacement of or modifications in the motor vehicle fuel
3 storage tank equipment.

4 3. In order to be eligible for reimbursement, all of the
5 following must apply:

6 a. The motor vehicle fuel storage tank equipment is
7 located at a site.

8 b. The site must comply with federal and state standards
9 governing new or upgraded motor vehicle fuel storage tank
10 equipment.

11 4. The owner or operator shall apply to the board in a
12 manner and according to procedures required by the board. The
13 application shall contain all information required by the
14 board and shall at least include all of the following:

15 a. The name of the owner or operator and the address of
16 the site.

17 b. A detailed description of the motor vehicle fuel
18 storage tank equipment, including all of the following:

19 (1) The location of the motor vehicle fuel storage tank
20 equipment on the site.

21 (2) The date that the motor vehicle fuel storage tank
22 equipment was installed on the site.

23 (3) The model number of the motor vehicle fuel storage
24 tank equipment, if available.

25 (4) A statement that the conversion necessary to store
26 ethanol blended gasoline in the motor vehicle fuel storage
27 tank or to dispense ethanol blended gasoline using motor
28 vehicle fuel storage tank piping has not begun or been
29 completed since the date of installation.

30 c. One of the following:

31 (1) A statement certified by the manufacturer of the motor
32 vehicle fuel storage tank equipment verifying that the motor
33 vehicle fuel storage tank equipment is not warranted for the
34 storage or dispensing of ethanol blended gasoline.

35 (2) A letter signed by an agent or representative of two

1 property and casualty insurers of motor vehicle fuel storage
2 tank equipment recognized by the board. Each letter must
3 state that the motor vehicle fuel storage tank equipment is
4 not insurable for the storage or dispensing of ethanol blended
5 gasoline under policies customarily issued by the insurer
6 covering motor vehicle fuel storage tank equipment.

7 5. A site classified as a no further action site pursuant
8 to a certificate issued by the department under section
9 455B.474 shall retain its classification following
10 modifications necessary to store and dispense ethanol blended
11 gasoline, and the owner-operator shall not be required to
12 perform a new site assessment unless the site causes a clear,
13 present, and impending danger to the public health or the
14 environment.

15 6. The board shall not accept an application for
16 reimbursement of conversion costs as provided in this section
17 on or after July 1, 2003.

18 EXPLANATION

19 This bill amends Code chapter 214A, which provides for the
20 regulation of motor vehicle fuel, including gasoline blended
21 with ethanol. The bill provides that on or after January 1,
22 2002, a retail dealer is prohibited from selling gasoline from
23 a site, unless the retail dealer also sells ethanol blended
24 gasoline from at least one motor vehicle fuel pump at the
25 site. The bill excuses a retail dealer from complying with
26 the bill's requirements, if the retail dealer cannot sell
27 ethanol blended gasoline due to a number of reasons, including
28 the incompatibility of motor vehicle fuel storage tanks
29 located on the site (until July 1, 2003); the site has only
30 one small single motor vehicle fuel storage tank; the failure
31 of a wholesale dealer to supply the ethanol blended gasoline;
32 the temporary depletion of the retail dealer's inventory of
33 ethanol blended gasoline; a communication by a federal or
34 state agency requiring or requesting that the retail dealer
35 cease using a motor vehicle storage tank storing ethanol

1 blended gasoline; or the repair, replacement, or maintenance
2 of a tank or related equipment.

3 Generally, a retail dealer who violates the provisions of
4 Code chapter 214A is guilty of a simple misdemeanor. This
5 bill provides that a retail dealer who violates the provisions
6 of the bill is subject to a civil penalty of not more than
7 \$100, and each day that a violation continues constitutes a
8 separate offense.

9 The bill amends Code chapter 455G by requiring the Iowa
10 comprehensive petroleum underground storage tank fund board to
11 establish a program to reimburse the owner or operator of a
12 site for costs necessary to store and dispense ethanol blended
13 gasoline from storage tanks or tank piping. Moneys for
14 reimbursement are derived from the remedial account of the
15 Iowa comprehensive petroleum underground storage tank fund.
16 The bill provides that a site classified as a no further
17 action site pursuant to a certificate issued by the department
18 under Code section 455B.474 shall retain its classification
19 following the replacement or modifications necessary to store
20 and dispense ethanol blended gasoline, unless the site causes
21 a clear, present, and impending danger to the public health or
22 the environment.

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SENATE FILE 149
FISCAL NOTE

A fiscal note for **Senate File 149** is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 149 provides that on or after January 1, 2002, a retail dealer is prohibited from selling gasoline from a site, unless the retailer dealer also sells ethanol-blended gasoline from at least one motor vehicle pump at the site.

1. The Bill exempts a retail dealer from complying with the bill's requirements, if the dealer cannot sell ethanol-blended gasoline due to the following reasons: the incompatibility of motor vehicle fuel storage tanks located on the site (until July 1, 2003); the site has only one small single motor vehicle fuel storage tank; the failure of a wholesale dealer to supply the ethanol-blended gasoline; the temporary depletion of the retail dealer's inventory of ethanol-blended gasoline; a communication by a federal or state agency requiring or requesting that the retail dealer cease using a motor vehicle storage tank storing ethanol-blended gasoline; or the repair, replacement, or maintenance of a tank or related equipment.
2. The Bill establishes a civil penalty of not more than \$100 for noncompliance for the provisions. Each day that a violation continues constitutes a separate offense.

ASSUMPTIONS

1. There are an estimated 2,100 retail sites in Iowa that have at least one ethanol pump.
2. There are approximately 100 gasoline underground storage tanks at 60 sites in Iowa that are not warranted to store alcohol-blended fuels. The estimate provides a range for the replacement of underground storage tanks. Replacement costs will be funded from the Remedial Account of the Underground Storage Tank Fund. The lower end of the range assumes one tank at each site is converted for the purpose of storing and dispensing ethanol. The upper end of the range assumes all 100 tanks are converted.
3. The Department of Agriculture and Land Stewardship would hire one FTE to test for Methyl Tertiary Butyl Ethyl (MTBE), Ethyl Tertiary Butyl Ether (ETBE), Tert-amly Methyl Ether (TAME), and Ethanol as well as several other fuel characteristics. The estimated cost for salary and benefits for one full-time tester is \$36,000 for FY 2002 and subsequent years.
4. Capitol outlay for the Department is based on current prices for pressure

PAGE 2 , FISCAL NOTE, SENATE FILE 149

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analyzers that test for oxygenated additives. Device depreciation, increased fuel costs for vehicles, and additional travel expenses for existing inspectors are also included. The estimated cost for equipment for the Department is \$60,000 for FY 2002.

5. The estimated cost to the Department for supplies is \$8,500 for FY 2002.
6. The Bill allows retail dealers to apply for reimbursement from the Remedial Account of the Underground Storage Tank Fund for the conversion of motor vehicle fuel storage tanks and associated piping if the tanks are not compatible for use with reformulated gasoline. The Bill allows up to \$10,000 for the conversion of tanks and \$3,000 for piping. Retail dealers are required to submit applications for tank conversion costs prior to July 1, 2003.

FISCAL IMPACT

The estimated General Fund fiscal impact of Senate File 149 for the Department of Agriculture and Land Stewardship is an increase of \$105,000 and 1.0 FTE position for FY 2002.

Senate File 149 will result in reimbursements to owners of underground storage tanks from the Remedial Account of the Underground Storage Tank Fund of between \$780,000 and \$1.3 million. These costs would be incurred from FY 2002 through 2004.

SOURCES

Department of Transportation
Department of Agriculture and Land Stewardship
The Iowa Comprehensive Petroleum Underground Storage Tank Fund Board

(LSB 1754SV, MRM)

FILED FEBRUARY 27, 2001

BY DENNIS PROUTY, FISCAL DIRECTOR

REVISED

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2. The Bill establishes a civil penalty of not more than \$100 for noncompliance for the provisions. Each day that a violation continues constitutes a separate offense.

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4. Capitol outlay for the Department is based on current prices for pressure analyzers that test for oxygenated additives. Device depreciation,

-2-

increased fuel costs for vehicles, and additional travel expenses for existing inspectors are also included. The estimated cost for equipment for the Department is \$60,000 for FY 2002.

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