

FEB 28 2006
Place On Calendar

HOUSE FILE 2559
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO HF 2422)

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

A BILL FOR

1 An Act relating to the delivery of E-85 gasoline to franchisees
2 of motor fuel, and providing an effective date.

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

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

HF 2559

1 Section 1. Section 214A.1, Code 2005, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 1A. "E-85 gasoline" means ethanol blended
4 gasoline formulated with a minimum percentage of between
5 seventy-five and eighty-five percent by volume of ethanol, if
6 the formulation meets the standards provided in section
7 214A.2.

8 NEW SUBSECTION. 1B. "Ethanol" means ethyl alcohol that is
9 denatured as required in 23 C.F.R., pts. 20 and 21, for use as
10 an oxygenate in gasoline.

11 NEW SUBSECTION. 1C. "Ethanol blended gasoline" means a
12 formulation of gasoline which is a liquid petroleum product
13 blended with ethanol, if the formulation meets the standards
14 provided in section 214A.2.

15 NEW SUBSECTION. 1D. "Gasoline" means any liquid product
16 prepared, advertised, offered for sale or sold for use as, or
17 commonly and commercially used as, motor vehicle fuel for use
18 in a spark-ignition, internal combustion engine, and which
19 meets the standards provided in section 214A.2.

20 Sec. 2. Section 214A.2, subsection 1, Code 2005, is
21 amended to read as follows:

22 1. The secretary department shall adopt rules pursuant to
23 chapter 17A for carrying out this chapter. The rules may
24 include, but are not limited to, specifications relating to
25 motor vehicle fuel or, including but not limited to gasoline
26 or renewable fuel such as ethanol blended gasoline and its
27 components such as oxygenate octane enhancers. In the
28 interest of uniformity, the secretary department shall adopt
29 by reference or otherwise specifications relating to tests and
30 standards for motor vehicle fuel or-oxygenate-octane-enhancers
31 including renewable fuel, established by A.S.T.M. (American
32 ~~society-for-testing-and-materials~~) international, unless the
33 secretary department determines that those specifications are
34 inconsistent with this chapter or are not appropriate to the
35 conditions which exist in this state.

1 Sec. 3. Section 214A.2, Code 2005, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 2A. For motor fuel advertised for sale or
4 sold as ethanol blended gasoline, the gasoline must comply
5 with departmental standards which to every extent feasible
6 shall comply with specifications adopted by A.S.T.M.

7 international. For ethanol blended gasoline, all of the
8 following shall apply:

9 a. For ethanol blended gasoline other than E-85 gasoline,
10 at least ten percent of the gasoline by volume must be
11 ethanol.

12 b. For E-85 gasoline all of the following must apply:

13 (1) From the first day of April until the last day of
14 October, at least eighty-five percent of the gasoline by
15 volume must be ethanol.

16 (2) From the first day of November until the last day of
17 March, at least seventy-five percent of the gasoline by volume
18 must be ethanol.

19 c. In calculating the percentage of ethanol required for
20 the formulation of ethanol blended gasoline, a percentage of a
21 denaturant or contaminants permitted in the ethanol blended
22 gasoline may be excluded as provided by rules adopted by the
23 department.

24 Sec. 4. Section 323A.1, Code 2005, is amended by adding
25 the following new subsections:

26 NEW SUBSECTION. 0A. "E-85 gasoline" means the same as
27 defined in section 214A.1.

28 NEW SUBSECTION. 0B. "Ethanol blended gasoline" means the
29 same as defined in section 214A.1.

30 Sec. 5. Section 323A.1, subsection 4, Code 2005, is
31 amended to read as follows:

32 4. "Motor fuel" means ~~gasoline-or-diesel-fuel~~ the same as
33 motor vehicle fuel as defined in section 214A.1, which is of a
34 type distributed for use as a fuel in self-propelled vehicles
35 designed primarily for use on public streets, roads, and

1 highways.

2 Sec. 6. Section 323A.2, subsection 1, paragraph a, Code
3 2005, is amended to read as follows:

4 a. At least forty-eight hours prior to entering into an
5 agreement to purchase motor fuel from another source, the
6 franchisee has requested delivery of motor fuel from the
7 franchisor and the requested motor fuel has not been delivered
8 and the franchisor has given the franchisee notice that the
9 franchisor is unable to provide the requested motor fuel, or
10 prior to entering into an agreement the franchisor has stated
11 to the franchisee that the requested motor fuel will not be
12 delivered. The request to the franchisor for delivery shall
13 be for a type of fuel normally provided by the franchisor to
14 the franchisee and for a quantity of fuel not exceeding the
15 average amount sold by the franchisee in one week, based upon
16 average weekly sales in the three months preceding the
17 request, except that this provision shall not restrict a
18 franchisee from purchasing ethanol blended gasoline from a
19 source other than the franchisor or limit the quantity to be
20 purchased when the franchisor does not normally supply the
21 franchisee with ethanol blended gasoline. A franchisee may
22 also purchase E-85 gasoline as provided in section 323A.2A.

23 Sec. 7. NEW SECTION. 323A.2A PURCHASE OF E-85 GASOLINE
24 FROM OTHER SOURCE.

25 1. a. When on and after the effective date of this Act, a
26 franchise is entered into or renewed, the franchisor shall
27 provide for the delivery of volumes of E-85 gasoline at times
28 demanded by the franchisee or shall allow the franchisee to
29 purchase those volumes of E-85 gasoline at those times from
30 another source.

31 b. If a franchise is in effect on the effective date of
32 this Act and does not have an expiration date, the franchisor
33 shall provide for the delivery of volumes of E-85 gasoline at
34 times demanded by the franchisee or shall allow the franchisee
35 to purchase those volumes of E-85 gasoline at those times from

1 another source.

2 2. If the franchisee sells E-85 gasoline delivered from a
3 source other than the franchisor, the franchisee shall
4 prominently post a sign disclosing this fact to the public on
5 each motor fuel pump used for dispensing the E-85 gasoline.
6 The size of the sign shall not be less than eight inches by
7 ten inches and the letters on the sign shall be at least three
8 inches in height.

9 3. A franchisee who sells E-85 gasoline delivered from a
10 source other than the franchisor shall also fully indemnify
11 the franchisor against any claims asserted by a user on which
12 the claimant prevails and in which the court determines that
13 E-85 gasoline not acquired from the franchisor was the
14 proximate cause of the injury.

15 4. a. A purchase of E-85 gasoline in accordance with this
16 section is not good cause for the termination of a franchise.

17 b. A term of a franchise that is inconsistent with this
18 section is void and unenforceable.

19 Sec. 8. EFFECTIVE DATE. This Act, being deemed of
20 immediate importance, takes effect upon enactment.

21 EXPLANATION

22 This bill amends provisions affecting franchises of motor
23 fuel. A franchise is a contract between persons who sell and
24 purchase motor fuel, including refiners, distributors, and
25 retailers.

26 The bill amends Code chapter 214A, which provides authority
27 to the department of agriculture and land stewardship which
28 regulates motor fuel.

29 The bill amends Code section 214A.1 by providing
30 definitions for "E-85 gasoline", "ethanol", and "ethanol
31 blended gasoline". It also amends Code section 214A.2, which
32 provides for different types of gasoline and establishes
33 standards or specifications for gasoline. The bill amends the
34 section to require that ethanol blended gasoline contain a
35 blend of at least 10 percent ethanol. It designates gasoline

1 with a minimum seasonal blend of between 75 and 85 percent or
2 more ethanol as E-85 blended gasoline.

3 Code section 323A.2 provides that when there is a hardship
4 in a community served by a franchisee, and the franchisor
5 cannot honor a request to deliver motor fuel to the
6 franchisee, the franchisee may obtain the motor fuel from
7 another source. This bill provides that when a contract is
8 entered into or renewed, it must provide for the delivery of
9 volumes of E-85 gasoline at times demanded by the franchisee
10 or it must allow the franchisee to purchase those volumes of
11 E-85 gasoline at those times from another source. However, if
12 the contract does not have an expiration date, and the
13 franchisor cannot provide for the delivery of E-85 gasoline,
14 the franchisee may immediately obtain the E-85 gasoline from
15 another source, without regard to the contract.

16 The bill provides that if the franchisee obtains the E-85
17 gasoline from another source, the franchisee must provide
18 notice to the public of its source. The franchisee must fully
19 indemnify the franchisor against any claims for liability
20 arising out of the use of the E-85 gasoline which was
21 delivered by another source.

22 The bill provides that a franchisor cannot terminate a
23 contract based on a franchisee's purchase of E-85 gasoline in
24 accordance with the bill's provisions. The bill also provides
25 that a term of a contract that is inconsistent with the bill
26 is void.

27 The bill takes effect upon enactment.

28
29
30
31
32
33
34
35