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SENATE FILE **2130**

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

A BILL FOR

1 An Act relating to motor vehicle fuel by providing for the
2 establishment of standards, providing for tax credits, and
3 providing for applicability and effective dates.

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

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SF 2130

1 DIVISION I

2 ESTABLISHMENT OF RENEWABLE FUEL STANDARDS

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

5 NEW SUBSECTION. 0A. "Advertise" means to present a
6 commercial message in any medium, including but not limited to
7 print, radio, television, sign, display, label, tag, or
8 articulation.

9 NEW SUBSECTION. 1A. "Dealer" means a wholesale dealer or
10 retail dealer.

11 NEW SUBSECTION. 1B. "E-85 gasoline" means ethanol blended
12 gasoline formulated with a minimum percentage of between
13 seventy-five and eighty-five percent by volume of ethanol, if
14 the formulation meets the standards provided in section
15 214A.2.

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

19 NEW SUBSECTION. 1D. "Ethanol blended gasoline" means a
20 formulation of gasoline which is a liquid petroleum product
21 blended with ethanol, if the formulation meets the standards
22 provided in section 214A.2.

23 NEW SUBSECTION. 1E. "Gasoline" means any liquid product
24 prepared, advertised, offered for sale or sold for use as, or
25 commonly and commercially used as, motor vehicle fuel for use
26 in a spark-ignition, internal combustion engine, and which
27 meets the specifications provided in section 214A.2.

28 NEW SUBSECTION. 1F. "Metered pump" means a motor vehicle
29 fuel pump licensed by the department pursuant to chapter 214.

30 NEW SUBSECTION. 5A. "Renewable fuel" means a combustible
31 liquid derived from grain starch, oilseed, animal fat, or
32 other biomass; or produced from a biogas source, including any
33 nonfossilized decaying organic matter which is capable of
34 powering machinery, including but not limited to an engine or
35 power plant. Renewable fuel includes but is not limited to

1 ethanol blended gasoline, biodiesel, or biodiesel blended fuel
2 meeting the standards of section 214A.2.

3 NEW SUBSECTION. 7A. "Service station" means each
4 geographic location in this state where a retail dealer sells
5 and dispenses motor vehicle fuel on a retail basis.

6 Sec. 2. Section 214A.1, subsections 6 and 8, Code 2005,
7 are amended by striking the subsections and inserting in lieu
8 thereof the following:

9 6. "Retail dealer" means a person who operates a place of
10 business where motor vehicle fuel is stored and dispensed from
11 a metered pump for sale on a retail basis, including a service
12 station or mobile location.

13 8. "Wholesale dealer" means a person, other than a retail
14 dealer, who operates a place of business where motor vehicle
15 fuel is stored and dispensed for sale in this state, including
16 a permanent or mobile location.

17 Sec. 3. Section 214A.2, subsection 1, Code 2005, is
18 amended to read as follows:

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

34 Sec. 4. Section 214A.2, subsection 2, Code 2005, is
35 amended by striking the subsection, and inserting in lieu

1 thereof the following:

2 2. For motor vehicle fuel advertised for sale or sold as
3 gasoline by a dealer, the motor vehicle fuel must meet
4 registration requirements for fuels and fuel additives
5 established by the United States environmental protection
6 agency including as provided under 42 U.S.C. § 7545.

7 a. If the motor vehicle fuel is advertised for sale or
8 sold as ethanol blended gasoline, the gasoline must comply
9 with departmental standards which to every extent feasible
10 shall comply with specifications adopted by A.S.T.M.

11 international. For ethanol blended gasoline, all of the
12 following shall apply:

13 (1) For ethanol blended gasoline other than E-85 gasoline,
14 at least ten percent of the gasoline by volume must be
15 ethanol.

16 (2) For E-85 gasoline, all of the following shall apply:

17 (a) From the first day of April until the last day of
18 October, at least eighty-five percent of the gasoline by
19 volume must be ethanol.

20 (b) From the first day of November until the last day of
21 March, at least seventy-five percent of the gasoline by volume
22 must be ethanol.

23 (2) In calculating the percentage of ethanol required for
24 the formulation of ethanol blended gasoline fuel, a percentage
25 of a denaturant or contaminants permitted in the ethanol
26 blended gasoline may be excluded as provided by rules adopted
27 by the department.

28 b. If the motor vehicle fuel is advertised for sale or
29 sold as gasoline other than ethanol blended gasoline, the
30 gasoline shall be referred to as high-emission gasoline. The
31 gasoline shall be a premium grade unleaded gasoline with an
32 octane number of at least ninety according to specifications
33 of A.S.T.M. international.

34 Sec. 5. Section 214A.2, subsection 3, Code 2005, is
35 amended by striking the subsection and inserting in lieu

1 thereof the following:

2 3. a. Except as provided in paragraph "b", a retail
3 dealer shall not advertise for sale, sell, or dispense
4 gasoline other than ethanol blended gasoline in this state.

5 b. A retail dealer may advertise for sale, sell, or
6 dispense gasoline, other than ethanol blended gasoline, in
7 this state if both of the following apply:

8 (1) The gasoline is used to operate a motor which powers
9 any one of the following:

10 (a) An aircraft as defined in section 328.1.

11 (b) A motor vehicle used exclusively for motor sports,
12 including on a raceway, if the motor vehicle cannot operate on
13 a highway as provided in chapter 321 or rules adopted by the
14 state department of transportation.

15 (c) An antique vehicle registered under section 321.115.

16 (d) A snowmobile as defined in section 321G.1.

17 (e) An all-terrain vehicle as defined in section 321G.1.

18 (f) A watercraft as defined in section 462A.2.

19 (g) A lawnmower or other implement powered by a small
20 motor.

21 (2) The retail dealer does not use more than one metered
22 pump located at a service station to sell and dispense the
23 gasoline.

24 Sec. 6. Section 214A.3, Code 2005, is amended to read as
25 follows:

26 214A.3 FALSE-REPRESENTATIONS ADVERTISING.

27 1. A person for-purposes-of-selling shall not falsely
28 represent do any of the following:

29 a. Falsely advertise the quality or kind of any motor
30 vehicle fuel or oxygenate octane-enhancer-or-add which may be
31 added to motor vehicle fuel.

32 b. Falsely advertise that a motor vehicle fuel is a
33 renewable fuel. The dealer shall not advertise the sale of
34 motor vehicle fuel using the term "ethanol" or "E-85" or use
35 any derivative, plural, or compound of any such term unless

1 the motor vehicle fuel meets the specifications provided in
2 section 214A.2.

3 c. Add a coloring matter thereto to motor vehicle fuel for
4 the purpose of misleading the public as to its quality.

5 2. A retail dealer who advertises the sale of gasoline
6 which is not ethanol blended gasoline shall refer to the
7 gasoline as high-emission gasoline.

8 Sec. 7. Section 214A.8, Code 2005, is amended to read as
9 follows:

10 214A.8 PROHIBITION.

11 ~~A retail-or-wholesale dealer defined-in-this-chapter~~ shall
12 not sell any motor vehicle fuel or oxygenate ~~octane-enhancer~~
13 in the state that fails to meet applicable standards and
14 ~~specifications-set-out~~ provided in this chapter.

15 Sec. 8. Section 214A.16, Code 2005, is amended to read as
16 follows:

17 214A.16 NOTICE TO PUBLIC OF BLENDED-FUEL----DECAL TYPES OF
18 MOTOR VEHICLE FUEL SOLD AT A METERED PUMP.

19 1. If motor vehicle fuel containing a renewable fuel is
20 sold from a ~~motor-vehicle-fuel-pump~~ metered pump, the metered
21 pump shall have affixed a decal identifying the name of the
22 renewable fuel. The decal may be different based on the type
23 of renewable fuel used. The design and location of the decal
24 shall be prescribed by rules adopted by the department. A
25 decal identifying a renewable fuel shall be consistent with
26 standards adopted pursuant to section 159A.6. The department
27 may approve an application to place a decal in a special
28 location on a pump or container or use a decal with special
29 lettering or colors, if the decal appears clear and
30 conspicuous to the consumer. The application shall be made in
31 writing pursuant to procedures adopted by the department.

32 2. If gasoline other than ethanol blended gasoline is sold
33 and dispensed from a metered pump, the metered pump shall have
34 affixed a label. The label shall identify the gasoline as
35 high-emission gasoline and provide notice that its use is

1 restricted to those motor vehicles allowed to operate using
2 the gasoline as specified in section 214A.2.

3 Sec. 9. Section 214A.19, subsection 1, unnumbered
4 paragraph 1, Code 2005, is amended to read as follows:

5 The department of natural resources, conditioned upon the
6 availability of funds, is authorized to award demonstration
7 grants to persons who purchase vehicles which operate on
8 alternative fuels, including but not limited to, ~~high-blend~~
9 ~~ethanol~~ E-85 gasoline, compressed natural gas, electricity,
10 solar energy, or hydrogen. A grant shall be for the purpose
11 of conducting research connected with the fuel or the vehicle,
12 and not for the purchase of the vehicle itself, except that
13 the money may be used for the purchase of the vehicle if all
14 of the following conditions are satisfied:

15 DIVISION II

16 E-85 GASOLINE TAX CREDIT FOR RETAIL DEALERS

17 Sec. 10. NEW SECTION. 422.11M E-85 GASOLINE TAX CREDIT.

18 1. As used in this section, unless the context otherwise
19 requires:

20 a. "E-85 gasoline", "metered pump", "retail dealer", and
21 "service station" mean the same as defined in section 214A.1.

22 b. "Sell" means to sell on a retail basis.

23 c. "Tax credit" means an E-85 gasoline tax credit as
24 provided in this section.

25 2. The taxes imposed under this division, less the credits
26 allowed under sections 422.12 and 422.12B, shall be reduced by
27 the amount of the E-85 gasoline tax credit for each tax year
28 that the taxpayer is eligible to claim under this subsection.

29 a. In order to be eligible, all of the following must
30 apply:

31 (1) The taxpayer is a retail dealer who owns or operates
32 at least one service station at which E-85 gasoline is sold
33 and dispensed through a metered pump in the tax year in which
34 the tax credit is claimed.

35 (2) The taxpayer complies with requirements of the

1 department established to administer this section.

2 b. The tax credit shall be calculated for each service
3 station owned or operated by the taxpayer in the tax year in
4 which the tax credit is claimed. The amount of the tax credit
5 is ten cents multiplied by the total number of gallons of E-85
6 gasoline sold and dispensed through all metered pumps located
7 at that service station during the tax year.

8 3. Any credit in excess of the taxpayer's tax liability
9 shall be refunded. In lieu of claiming a refund, the taxpayer
10 may elect to have the overpayment shown on the taxpayer's
11 final, completed return credited to the tax liability for the
12 following tax year.

13 4. An individual may claim the tax credit allowed a
14 partnership, limited liability company, S corporation, estate,
15 or trust electing to have the income taxed directly to the
16 individual. The amount claimed by the individual shall be
17 based upon the pro rata share of the individual's earnings of
18 the partnership, limited liability company, S corporation,
19 estate, or trust.

20 5. This section is repealed on January 1, 2012.

21 Sec. 11. Section 422.33, Code Supplement 2005, is amended
22 by adding the following new subsection.

23 NEW SUBSECTION. 11A. The taxes imposed under this
24 division shall be reduced by an E-85 tax credit for each tax
25 year that the taxpayer is eligible to claim the tax credit
26 under this subsection.

27 a. The taxpayer may claim the E-85 tax credit according to
28 the same requirements, for the same amount, and calculated in
29 the same manner, as provided for the E-85 gasoline tax credit
30 pursuant to section 422.11M.

31 b. Any E-85 tax credit which is in excess of the
32 taxpayer's tax liability shall be refunded or may be shown on
33 the taxpayer's final, completed return credited to the tax
34 liability for the following tax year in the same manner as
35 provided in section 422.11M.

1 c. This subsection is repealed on January 1, 2012.

2 Sec. 12.

3 1. Section 422.11C, Code 2005, is repealed.

4 2. Section 422.33, subsection 11, Code Supplement 2005, is
5 amended by striking the subsection.

6 Sec. 13. APPLICABILITY DATE. Section 422.11M, as enacted
7 in this Act, and section 422.33, subsection 11A, as enacted in
8 this Act, apply to tax years beginning on or after January 1,
9 2007.

10 DIVISION III

11 COORDINATING PROVISIONS -- GOVERNMENT VEHICLES

12 Sec. 14. Section 8A.362, subsection 3, Code 2005, is
13 amended to read as follows:

14 3. a. The director shall provide for a record system for
15 the keeping of records of the total number of miles state-
16 owned motor vehicles are driven and the per-mile cost of
17 operation of each motor vehicle. Every state officer or
18 employee shall keep a record book to be furnished by the
19 director in which the officer or employee shall enter all
20 purchases of gasoline, lubricating oil, grease, and other
21 incidental expense in the operation of the motor vehicle
22 assigned to the officer or employee, giving the quantity and
23 price of each purchase, including the cost and nature of all
24 repairs on the motor vehicle. Each operator of a state-owned
25 motor vehicle shall promptly prepare a report at the end of
26 each month on forms furnished by the director and forwarded to
27 the director, giving the information the director may request
28 in the report. Each month the director shall compile the
29 costs and mileage of state-owned motor vehicles from the
30 reports and keep a cost history for each motor vehicle and the
31 costs shall be reduced to a cost-per-mile basis for each motor
32 vehicle. The director shall call to the attention of an
33 elected official or the head of any state agency to which a
34 motor vehicle has been assigned any evidence of the
35 mishandling or misuse of a state-owned motor vehicle which is

1 called to the director's attention.

2 b. A motor vehicle operated under this subsection shall
3 not operate on gasoline other than ethanol blended gasoline
4 ~~blended-with-at-least-ten-percent-ethanol~~ as defined in
5 section 214A.1, unless under emergency circumstances. A
6 state-issued credit card used to purchase gasoline shall not
7 be valid to purchase gasoline other than ethanol blended
8 gasoline ~~blended-with-at-least-ten-percent-ethanol~~, if
9 commercially available. The motor vehicle shall also be
10 affixed with a brightly visible sticker which notifies the
11 traveling public that the motor vehicle is being operated on
12 ethanol blended gasoline ~~blended-with-ethanol~~. However, the
13 sticker is not required to be affixed to an unmarked vehicle
14 used for purposes of providing law enforcement or security.

15 Sec. 15. Section 260C.19A, subsection 1, Code 2005, is
16 amended to read as follows:

17 1. A motor vehicle purchased by or used under the
18 direction of the board of directors to provide services to a
19 merged area shall not operate on gasoline other than ethanol
20 blended gasoline ~~blended-with-at-least-ten-percent-ethanol~~ as
21 defined in section 214A.1. The motor vehicle shall also be
22 affixed with a brightly visible sticker which notifies the
23 traveling public that the motor vehicle is being operated on
24 ethanol blended gasoline ~~blended-with-ethanol~~. However, the
25 sticker is not required to be affixed to an unmarked vehicle
26 used for purposes of providing law enforcement or security.

27 Sec. 16. Section 262.25A, subsection 2, Code 2005, is
28 amended to read as follows:

29 2. A motor vehicle purchased by the institutions shall not
30 operate on gasoline other than gasoline blended with at least
31 ten percent ethanol. A state-issued credit card used to
32 purchase gasoline shall not be valid to purchase gasoline
33 other than ethanol blended gasoline ~~blended-with-at-least-ten~~
34 ~~percent-ethanol~~ as defined in section 214A.1. The motor
35 vehicle shall also be affixed with a brightly visible sticker

1 which notifies the traveling public that the motor vehicle is
2 being operated on ethanol blended gasoline ~~blended-with~~
3 ~~ethanol~~. However, the sticker is not required to be affixed
4 to an unmarked vehicle used for purposes of providing law
5 enforcement or security.

6 Sec. 17. Section 279.34, Code 2005, is amended to read as
7 follows:

8 279.34 MOTOR VEHICLES REQUIRED TO OPERATE ON ~~ETHANOL-~~
9 ~~BLENDED~~ ETHANOL BLENDED GASOLINE.

10 A motor vehicle purchased by or used under the direction of
11 the board of directors to provide services to a school
12 corporation shall not, on or after January 1, 1993, operate on
13 gasoline other than ethanol blended gasoline ~~blended-with-at~~
14 ~~least-ten-percent-ethanol~~ as defined in section 214A.1. The
15 motor vehicle shall also be affixed with a brightly visible
16 sticker which notifies the traveling public that the motor
17 vehicle is being operated on ethanol blended gasoline ~~blended~~
18 ~~with-ethanol~~. However, the sticker is not required to be
19 affixed to an unmarked vehicle used for purposes of providing
20 law enforcement or security.

21 Sec. 18. Section 307.21, subsection 4, paragraph d, Code
22 2005, is amended to read as follows:

23 d. A motor vehicle purchased by the administrator shall
24 not operate on gasoline other than ethanol blended gasoline
25 ~~blended-with-at-least-ten-percent-ethanol~~ as defined in
26 section 214A.1. A state-issued credit card used to purchase
27 gasoline shall not be valid to purchase gasoline other than
28 ethanol blended gasoline ~~blended-with-at-least-ten-percent~~
29 ~~ethanol~~. The motor vehicle shall also be affixed with a
30 brightly visible sticker which notifies the traveling public
31 that the motor vehicle is being operated on ethanol blended
32 gasoline ~~blended-with-ethanol~~. However, the sticker is not
33 required to be affixed to an unmarked vehicle used for
34 purposes of providing law enforcement or security.

35 Sec. 19. Section 331.908, Code 2005, is amended to read as

1 follows:

2 331.908 MOTOR VEHICLES REQUIRED TO OPERATE ON ETHANOL-
3 ~~BLENDED~~ ETHANOL BLENDED GASOLINE.

4 A motor vehicle purchased or used by a county to provide
5 county services shall not ~~on or after January 17, 1993~~
6 operate on gasoline other than ethanol blended gasoline
7 ~~blended with at least ten percent ethanol~~ as defined in
8 section 214A.1. The motor vehicle shall also be affixed with
9 a brightly visible sticker which notifies the traveling public
10 that the motor vehicle is being operated on ethanol blended
11 gasoline ~~blended with ethanol~~. However, the sticker is not
12 required to be affixed to an unmarked vehicle used for
13 purposes of providing law enforcement or security.

14 Sec. 20. Section 364.20, Code 2005, is amended to read as
15 follows:

16 364.20 MOTOR VEHICLES REQUIRED TO OPERATE ON ETHANOL-
17 ~~BLENDED~~ ETHANOL BLENDED GASOLINE.

18 A motor vehicle purchased or used by a city to provide city
19 services shall not ~~on or after January 17, 1993~~ operate on
20 gasoline other than ethanol blended gasoline ~~blended with at~~
21 ~~least ten percent ethanol~~ as defined in section 214A.1. The
22 motor vehicle shall also be affixed with a brightly visible
23 sticker which notifies the traveling public that the motor
24 vehicle is being operated on ethanol blended gasoline ~~blended~~
25 ~~with ethanol~~. However, the sticker is not required to be
26 affixed to an unmarked vehicle used for purposes of providing
27 law enforcement or security.

28 Sec. 21. Section 904.312A, subsection 1, Code 2005, is
29 amended to read as follows:

30 1. A motor vehicle purchased by the department shall not
31 operate on gasoline other than ethanol blended gasoline
32 ~~blended with at least ten percent ethanol~~ as defined in
33 section 214A.1. A state-issued credit card used to purchase
34 gasoline shall not be valid to purchase gasoline other than
35 ethanol blended gasoline ~~blended with at least ten percent~~

1 ~~ethanol~~. The motor vehicle shall also be affixed with a
2 brightly visible sticker which notifies the traveling public
3 that the motor vehicle is being operated on ~~gasoline~~ ethanol
4 ~~blended with-ethanol~~ gasoline. However, the sticker is not
5 required to be affixed to an unmarked vehicle used for
6 purposes of providing law enforcement or security.

7 DIVISION IV

8 COORDINATING PROVISIONS -- MISCELLANEOUS

9 Sec. 22. Section 15.401, Code Supplement 2005, is amended
10 to read as follows:

11 15.401 ~~E-85-BLENDED-GASOLINE~~ RENEWABLE FUELS.

12 1. As used in this section, unless the context otherwise
13 requires, "E-85 gasoline" means the same as defined in section
14 214A.1.

15 2. The department shall provide a cost-share program for
16 financial incentives for the installation or conversion of
17 infrastructure used by service stations to ~~sell~~ do all of the
18 following:

19 a. Sell and dispense E-85 blended gasoline and-for-the
20 installation-or-conversion-of.

21 b. Install or convert infrastructure required to establish
22 on-site and off-site terminal facilities that store biodiesel
23 for distribution to service stations.

24 3. The department shall provide for an addition of at
25 least thirty new or converted E-85 gasoline retail outlets and
26 four new or converted on-site or off-site terminal facilities
27 with a maximum expenditure of three hundred twenty-five
28 thousand dollars per year for the fiscal period beginning July
29 1, 2005, and ending June 30, 2008. The department may provide
30 for the marketing of these products in conjunction with this
31 infrastructure program.

32 Sec. 23. Section 159A.2, Code 2005, is amended by adding
33 the following new subsections:

34 NEW SUBSECTION. 3A. "Department" means the department of
35 agriculture and land stewardship.

1 NEW SUBSECTION. 3B. "Ethanol blended gasoline" means the
2 same as defined in section 214A.1.

3 Sec. 24. Section 159A.2, subsection 6, Code 2005, is
4 amended by striking the subsection and inserting in lieu
5 thereof the following:

6 6. "Renewable fuel" means the same as defined in section
7 214A.1.

8 Sec. 25. Section 159A.2, subsection 8, Code 2005, is
9 amended by striking the subsection.

10 Sec. 26. Section 159A.3, subsection 3, paragraph a, Code
11 2005, is amended to read as follows:

12 a. A chief purpose of the office is to further the
13 production and consumption of ethanol ~~fuel~~ blended gasoline in
14 this state. The office shall be the primary state agency
15 charged with the responsibility to promote public consumption
16 of ethanol ~~fuel~~ blended gasoline.

17 Sec. 27. Section 452A.2, Code Supplement 2005, is amended
18 by adding the following new subsection:

19 NEW SUBSECTION. 9A. "E-85 gasoline" means the same as
20 defined in section 214A.1.

21 Sec. 28. Section 452A.2, subsection 11, Code Supplement
22 2005, is amended to read as follows:

23 11. "Ethanol blended gasoline" means ~~motor-fuel-containing~~
24 ~~at-least-ten-percent-alcohol-distilled-from-cereal-grains~~ the
25 same as defined in section 214A.1.

26 Sec. 29. Section 452A.2, subsection 19, unnumbered
27 paragraph 1, Code Supplement 2005, is amended to read as
28 follows:

29 "Motor fuel" means ~~both~~ motor fuel as defined in section
30 214A.1 and includes all of the following:

31 Sec. 30. Section 452A.2, subsection 21, Code Supplement
32 2005, is amended to read as follows:

33 21. "Nonterminal storage facility" means a facility where
34 motor fuel or special fuel, other than liquefied petroleum
35 gas, is stored that is not supplied by a pipeline or a marine

1 vessel. "Nonterminal storage facility" includes a facility
2 that manufactures products such as ~~alcohol~~ ethanol as defined
3 in section 214A.1, biofuel, blend stocks, or additives which
4 may be used as motor fuel or special fuel, other than
5 liquefied petroleum gas, for operating motor vehicles or
6 aircraft.

7 Sec. 31. Section 452A.3, subsection 1B, Code Supplement
8 2005, is amended to read as follows:

9 1B. An excise tax of seventeen cents is imposed on each
10 gallon of E-85 gasoline, ~~which contains at least eighty-five~~
11 ~~percent denatured alcohol by volume from the first day of~~
12 ~~April until the last day of October or seventy percent~~
13 ~~denatured alcohol from the first day of November until the~~
14 ~~last day of March, used for the privilege of operating motor~~
15 ~~vehicles in this state as defined in section 214A.1, subject~~
16 to the determination provided in subsection 1C.

17 Sec. 32. Section 452A.6, Code 2005, is amended to read as
18 follows:

19 452A.6 ETHANOL BLENDED GASOLINE AND OTHER PRODUCTS --
20 BLENDER'S LICENSE.

21 1. a. A person other than a supplier, restrictive
22 supplier, or importer licensed under this division, who blends
23 gasoline with ~~alcohol distilled from cereal grains so that the~~
24 ~~blend contains at least ten percent alcohol distilled from~~
25 ~~cereal grains~~ ethanol as defined in section 214A.1 in order to
26 formulate ethanol blended gasoline, shall obtain a blender's
27 license.

28 b. A person who blends two or more special fuel products
29 or sells one hundred percent biofuel shall obtain a blender's
30 license.

31 2. The A blender's license shall be obtained by following
32 the procedure under section 452A.4 and the blender's license
33 is subject to the same restrictions as contained in that
34 section.

35 3. A blender required to obtain a license pursuant to this

1 section shall maintain records as required by section 452A.10
2 as to motor fuel, ~~alcohol~~ ethanol, ethanol blended gasoline,
3 and special fuels.

4 DIVISION V

5 CHANGE OF TERMS

6 Sec. 33. CHANGE OF TERMS.

7 1. Sections 159A.3 and 214A.17, Code 2005, are amended by
8 striking from the provisions the words "oxygenate octane
9 enhancers" and inserting the following: "oxygenates".

10 2. Sections 214A.1, 214A.4, 214A.5, 214A.7, 214A.8, and
11 214A.10, Code 2005, are amended by striking from the
12 provisions the words "oxygenate octane enhancer" and inserting
13 the following: "oxygenate".

14 DIVISION VI

15 EFFECTIVE DATE

16 Sec. 34. EFFECTIVE DATE. This Act takes effect on January
17 1, 2007.

18 EXPLANATION

19 BACKGROUND. The general assembly has enacted a number of
20 Acts which have promoted the production and consumption of
21 ethanol blended gasoline.

22 In 1991, the general assembly enacted S.F. 545 (1991 Iowa
23 Acts, chapter 254), which requires that state and local
24 government vehicles operate using ethanol blended gasoline and
25 provides that a state-issued credit card can only be used to
26 purchase ethanol blended gasoline. The provisions state that
27 ethanol blended gasoline must contain at least 10 percent
28 ethanol.

29 In 2001, the general assembly enacted H.F. 716 (2001 Iowa
30 Acts, chapter 123), which created a tax credit for retail
31 dealers of gasoline who sell ethanol blended gasoline
32 (containing at least 10 percent alcohol). The tax credit
33 applies to both taxpayers filing as individuals under Code
34 section 422.11C and businesses under Code section 422.33.
35 Specifically, the Act provided a tax credit for a retail

1 dealer who operates at least one service station at which more
2 than 60 percent of the total gallons of gasoline sold by the
3 retail dealer is ethanol blended gasoline.

4 The same Act also amended provisions in Code section 452A.3
5 that provide for an excise tax on each gallon of motor fuel
6 sold in the state. Under the Act, until June 30, 2007, the
7 rates for ethanol blended gasoline and conventional gasoline
8 are adjusted each year based on the number of gallons of
9 ethanol blended gasoline that are distributed in this state as
10 expressed as a percentage of the total number of gallons of
11 motor fuel distributed in this state.

12 In 2005, the general assembly enacted H.F. 868 (2005 Iowa
13 Acts, chapter 150) imposing a special rate of 17 cents on each
14 gallon of E-85 gasoline (a blend containing a minimum of
15 between 75 and 85 percent alcohol depending on the season) if
16 certain conditions were met. The 2005 Act requires the
17 department of revenue to compare the amount of moneys actually
18 collected using the special 17 cents rate with the amount of
19 moneys that would have been collected if the rate were the
20 adjusted rate for ethanol blended gasoline. If the difference
21 is equal to or greater than \$25,000, the tax rate beginning
22 the next year is at the adjusted rate.

23 DIVISION I -- ESTABLISHMENT OF RENEWABLE FUEL STANDARDS AND
24 ETHANOL REQUIREMENTS. This division amends Code chapter 214A,
25 which provides authority to the department of agriculture and
26 land stewardship to regulate the sale of motor vehicle fuel.

27 The division amends Code section 214A.1 by adding a number
28 of definitions to the chapter, including ethanol blended
29 gasoline and E-85 gasoline. It also amends Code section
30 214A.2, which provides for different types of gasoline and
31 establishes standards or specifications for gasoline. The
32 division amends the section to require that ethanol blended
33 gasoline contain a blend of at least 10 percent ethanol. It
34 designates gasoline with a minimum seasonal blend of between
35 75 and 85 percent or more ethanol as E-85 blended gasoline.

1 It also provides that gasoline with a mixture of less than 10
2 percent ethanol is to be known as high-emission gasoline.

3 The division prohibits retail dealers of gasoline from
4 selling gasoline other than ethanol blended gasoline, but
5 provides a number of exceptions. The prohibition does not
6 apply to gasoline used to operate aircraft, or motor vehicles
7 involved exclusively in motor sports events. The requirement
8 also does not apply to selling gasoline for use in certain
9 vehicles such as antique vehicles, snowmobiles, all-terrain
10 vehicles, watercraft, and small motors. The division also
11 provides that all high-emission gasoline must be premium grade
12 unleaded gasoline. The division prohibits a retail dealer
13 from using more than one metered pump to dispense high-
14 emission gasoline, and the metered pump must be labeled
15 notifying the public of its restricted use. Code section
16 214A.8 prohibits a retail dealer or wholesale dealer (defined
17 in division I as a "dealer") from selling any motor vehicle
18 fuel or oxygenate in the state that fails to meet applicable
19 standards provided in Code chapter 214A. Code section 214A.11
20 provides that any person violating the provisions of the Code
21 chapter is guilty of a simple misdemeanor. A simple
22 misdemeanor is punishable by confinement for no more than 30
23 days or a fine of at least \$50, but not more than \$500, or by
24 both.

25 DIVISION II -- E-85 GASOLINE TAX CREDIT FOR RETAIL DEALERS.
26 This division amends tax credit provisions in Code chapter 422
27 to provide that a retail dealer who sells E-85 ethanol blended
28 gasoline is eligible to receive a tax credit. The tax credit
29 applies to taxpayers filing as individuals or businesses. The
30 amount of the tax credit is 10 cents multiplied by the total
31 number of gallons of E-85 ethanol blended gasoline sold and
32 dispensed through all motor vehicle fuel pumps operated at
33 each of the taxpayer's service stations during the tax year.
34 The tax credits are not available after December 31, 2011.

35 This division eliminates the current tax credit provisions

1 which may be claimed by a retail dealer of motor vehicle fuel
2 who operates at least one service station at which more than
3 60 percent of the total gallons of gasoline sold by the retail
4 dealer is ethanol blended gasoline.

5 The provisions in division II which provide a tax credit to
6 retail dealers selling E-85 gasoline apply to tax years
7 beginning on or after January 1, 2007 and are repealed on
8 January 1, 2012.

9 DIVISION III -- COORDINATING PROVISIONS -- GOVERNMENT
10 VEHICLES. This division amends the provisions that require
11 state and local government vehicles that are required to
12 operate using ethanol blended gasoline. The division
13 standardizes the language and refers to common definitions as
14 created in the division amending Code section 214A.1 and
15 related standards created in the division amending Code
16 section 214A.2.

17 DIVISION IV -- COORDINATING PROVISIONS -- MISCELLANEOUS. A
18 number of provisions in the Code refer to alcohol or ethanol
19 blended gasoline, including E-85 gasoline. This division
20 standardizes the language and refers to common definitions as
21 created in the division amending Code section 214A.1 and
22 related standards created in the division amending Code
23 section 214A.2.

24 DIVISION V -- CHANGE IN TERMS. This division amends a
25 number of provisions by changing the term "oxygenate octane
26 enhancer" to "oxygenate" for purposes of consistency in Code
27 chapter 214A.

28 DIVISION VI -- EFFECTIVE DATE. The bill takes effect on
29 January 1, 2007.

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Fiscal Services Division
Legislative Services Agency
Fiscal Note

SF 2130 – Ethanol Promotion (LSB 5772 SS)

Analyst: Mary Beth Mellick (Phone: (515) 281-8223) (marybeth.mellick@legis.state.ia.us)

Fiscal Note Version – New

Requested By – Senator Jack Kibbie

Description

Senate File 2130 provides for the following statutory changes relating to renewable fuels:

1. Modifies the definitions of retail dealer and wholesale dealer.
2. Adds the following definitions – currently codified in other Chapters – to Chapter 214A (Motor Vehicle Fuel), Code of Iowa:
 - Ethanol-blended gasoline – Ethanol-blended gasoline other than E-85-blended gasoline. At least 10.0% of the gasoline by volume must be ethanol.
 - E-85-blended gasoline:
 - From the first day of April until the last day of October, at least 85.0% of the gasoline by volume must be ethanol.
 - From the first day of November until the last day of March, at least 75.0% of the gasoline by volume must be ethanol.
3. Establishes high-emission gasoline as a type of motor fuel, and defines such gasoline as a motor fuel other than ethanol-blended gasoline that is premium-grade unleaded.
4. Prohibits the following:
 - The sale of high-emission gasoline except for limited purposes.
 - A retail dealer from using more than one metered pump to dispense high-emission gasoline. The metered pump must be labeled to specify its restricted use.
 - A person from falsely advertising the quality of motor fuel or that a motor fuel is a renewable fuel.
5. Institutes the following tax changes:
 - From January 1, 2007, through January 1, 2012, provides a 10-cent per gallon income tax credit for retailers that sell E-85-blended gasoline.
 - Effective January 1, 2007, repeals the 2.5-cent per gallon income tax credit on ethanol-blended gasoline for retailers whose total gasoline sales include more than 60.0% in ethanol-blended gasoline sales.
6. The Bill takes effect on January 1, 2007. The 10-cent per gallon income tax credit on E-85-blended gasoline applies to tax years beginning on or after January 1, 2007.

Background

State fuel-tax rates have been affected in previous years due to the following legislation:

1. House File 716 (Ethanol Sales Promotion Act), enacted during the 2001 Legislative Session, established a tax schedule that provides for changes in fuel-tax rates based on the gallons of ethanol-blended gasoline sold each calendar year. The Act allows the tax rates to change each July 1, depending on the percentage of ethanol-blended gasoline sold during the previous calendar year, as determined by the Department of Revenue. The tax schedule sunsets on June 30, 2007.
2. House File 716 also established an income tax credit of 2.5 cents per gallon on ethanol-blended gasoline for retailers whose total gasoline sales include more than 60.0% in ethanol-blended gasoline sales.
3. House File 868 (FY 2006 Iowa Values Fund Act) provides a 17.0-cents per gallon tax rate on E-85-blended gasoline beginning January 1, 2006. The 17.0-cents rate for future years, however, is contingent on the amount collected in the previous year. The Department of Revenue determines the actual tax paid on E-85-blended gasoline each calendar year. If the amount of tax paid in the previous calendar year is equal to or

greater than \$25,000, the tax rate on E-85-blended gasoline will revert to the amount specified in Section 452A.3(1), Code of Iowa, the following fiscal year.

Assumptions

1. In determining the percentage of ethanol-blended gasoline sold each calendar year, the Department of Revenue includes aviation fuel in the total number of gallons of motor fuel sold. The tax on aviation fuel will not be affected by the proposed legislation.
2. In FY 2005, the total amount of motor fuel sold was 1.641 billion gallons, of which 1.143 billion (69.7%) was ethanol-blended gasoline, 494.6 million (30.1%) was gasoline, and 2.6 million (0.2%) was aviation fuel. In the first half of FY 2006, the total amount of motor fuel sold was 836.8 million gallons, of which 632.7 million (75.6%) was ethanol-blended gasoline, 202.5 million (24.2%) was gasoline, and 1.6 million (0.2%) was aviation fuel.
3. The Road Use Tax Fund in the first half of FY 2007 will not be affected by the proposed legislation due to the law's effective date of January 1, 2007; however, the Fund will be affected in the second half of FY 2007 due to the following:
 - Ethanol-blended gasoline, other than E-85-blended gasoline, will be taxed 2.0 cents less per gallon than gasoline in FY 2007 based on the tax schedule implemented in HF 716.
 - E-85-blended gasoline will be taxed 4.0 cents less per gallon than gasoline in FY 2007 based on the 17.0-cents tax rate established in HF 868.
4. The Road Use Tax Fund in FY 2008 and beyond will not be affected by the proposed legislation due to the following:
 - Based on HF 716, the tax rate on gasoline and ethanol-blended gasoline will be the same rate of 20.0 cents per gallon beginning on July 1, 2008.
 - The difference in the total amount of tax paid on E-85-blended gasoline in CY 2006 (17.0 cents per gallon) compared to the amount that would have been paid at the amount specified in Section 452A.3(1), Code of Iowa (19.0 cents per gallon), is estimated to be greater than \$25,000. As a result, the tax rate on E-85-blended gasoline will revert to the amount specified in Section 452A.3(1), Code of Iowa, in FY 2008. Since this provision sunsets on June 30, 2007, thereby establishing a tax rate of 20.0 cents per gallon on gasoline and ethanol-blended gasoline, E-85-blended gasoline will be taxed at 20.0 cents per gallon beginning in FY 2008.
5. This analysis assumes a 1.0% increase in the total gallons of gasoline, ethanol-blended gasoline, and aviation fuel sold annually, and a 79.0% market share of ethanol-blended gasoline in FY 2007. The market share is estimated to increase 2.0% in FY 2008, and remain constant through subsequent calendar years. The amount of high-emission gasoline that will be consumed for the limited purposes specified in the Bill is unknown. This analysis assumes that 2.0% of the total gasoline and ethanol-blended gasoline consumed will be high-emission gasoline.
6. The amount of E-85-blended gasoline consumed in CY 2004 was an estimated 141,000 gallons. The amount consumed in CY 2005 was an estimated 669,000 gallons, an increase of 375.1% compared to CY 2004. This analysis assumes a 100.0% increase in the consumption of E-85 gasoline in CY 2006, for a total of approximately 1.3 million gallons consumed in CY 2006, and that the consumption increase by 100,000 gallons annually in subsequent calendar years. This analysis also assumes the same number of gallons consumed in fiscal years as calendar years.
7. Much of federal highway funding distributed to states is based on the amount of federal gas tax remitted to the Federal Highway Trust Fund. Since ethanol-blended gasoline and gasoline are currently taxed at the same federal tax rate, Iowa's federal fund allotment will not be affected by an increase in the sale of ethanol-blended fuel.

Fiscal Impact

Senate File 2130 will have the following estimated fiscal impacts:

Road Use Tax Fund

A decrease of \$3.2 million in motor fuel tax revenue to the Road Use Tax Fund in the second half of FY 2007. There will be no fiscal impact to the Road Use Tax Fund in FY 2008 and beyond.

General Fund

- *10.0-cents per gallon income tax credit on E-85-blended gasoline:* An estimated decrease in revenues to the General Fund as follows:
 - FY 2007 (second half): \$70,000
 - FY 2008: \$150,000
 - FY 2009: \$160,000
 - FY 2010: \$170,000
 - FY 2011: \$180,000
 - FY 2012: \$190,000

- *Repeal of 2.5-cents income tax credit on ethanol-blended gasoline:* An estimated increase in revenues to the General Fund in the following amounts:
 - FY 2007 (second half): \$4.1 million
 - FY 2008: \$9.5 million

The estimated net fiscal impact to the General Fund in FY 2007 is an increase of \$4.0 million and an increase of \$9.4 million in FY 2008.

Federal Funds

There will be no fiscal impact on Iowa's allotment of federal highway funds.

Correctional Impact

The Bill prohibits retail dealers of gasoline from selling gasoline other than ethanol-blended gasoline, but provides a number of exceptions. Any person guilty of violating these provisions of the Code of Iowa, is guilty of a simple misdemeanor. The correctional impact cannot be determined as the number of persons who will violate these provisions is unknown.

Sources

Department of Transportation
Department of Revenue (Monthly Fuel Tax Reports)

/s/ Holly M. Lyons

February 8, 2006

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

Fiscal Services Division
Legislative Services Agency
Fiscal Note

SF 2130 – Ethanol Promotion (LSB 5772 SS.1)

Analyst: Mary Beth Mellick (Phone: (515) 281-8223) (marybeth.mellick@legis.state.ia.us)

Fiscal Note Version – Revised

Requested By – Senator Jack Kibbie

Description

Senate File 2130 provides for the following statutory changes relating to renewable fuels:

1. Modifies the definitions of retail dealer and wholesale dealer.
2. Adds the following definitions – currently codified in other Chapters – to Chapter 214A (Motor Vehicle Fuel), Code of Iowa:
 - Ethanol-blended gasoline – Ethanol-blended gasoline other than E-85-blended gasoline. At least 10.0% of the gasoline by volume must be ethanol.
 - E-85-blended gasoline:
 - From the first day of April until the last day of October, at least 85.0% of the gasoline by volume must be ethanol.
 - From the first day of November until the last day of March, at least 75.0% of the gasoline by volume must be ethanol.
3. Establishes high-emission gasoline as a type of motor fuel, and defines such gasoline as a motor fuel other than ethanol-blended gasoline that is premium-grade unleaded.
4. Prohibits the following:
 - The sale of high-emission gasoline except for limited purposes.
 - A retail dealer from using more than one metered pump to dispense high-emission gasoline. The metered pump must be labeled to specify its restricted use.
 - A person from falsely advertising the quality of motor fuel or that a motor fuel is a renewable fuel.
5. Institutes the following tax changes:
 - From January 1, 2007, through January 1, 2012, provides a 10-cent per gallon income tax credit for retailers that sell E-85-blended gasoline.
 - Effective January 1, 2007, repeals the 2.5-cent per gallon income tax credit on ethanol-blended gasoline for retailers whose total gasoline sales include more than 60.0% in ethanol-blended gasoline sales.
6. The Bill takes effect on January 1, 2007. The 10-cent per gallon income tax credit on E-85-blended gasoline applies to tax years beginning on or after January 1, 2007.

Background

State fuel-tax rates have been affected in previous years due to the following legislation:

1. House File 716 (Ethanol Sales Promotion Act), enacted during the 2001 Legislative Session, established a tax schedule that provides for changes in fuel-tax rates based on the gallons of ethanol-blended gasoline sold each calendar year. The Act allows the tax rates to change each July 1, depending on the percentage of ethanol-blended gasoline sold during the previous calendar year, as determined by the Department of Revenue. The tax schedule sunsets on June 30, 2007.

2. House File 716 also established an income tax credit of 2.5 cents per gallon on ethanol-blended gasoline for retailers whose total gasoline sales include more than 60.0% in ethanol-blended gasoline sales.
3. House File 868 (FY 2006 Iowa Values Fund Act) provides a 17.0-cents per gallon tax rate on E-85-blended gasoline beginning January 1, 2006. The 17.0-cents rate for future years, however, is contingent on the amount collected in the previous year. The Department of Revenue determines the actual tax paid on E-85-blended gasoline each calendar year. If the amount of tax paid in the previous calendar year is equal to or greater than \$25,000, the tax rate on E-85-blended gasoline will revert to the amount specified in Section 452A.3(1), Code of Iowa, the following fiscal year.

Assumptions

1. In determining the percentage of ethanol-blended gasoline sold each calendar year, the Department of Revenue includes aviation fuel in the total number of gallons of motor fuel sold. The tax on aviation fuel will not be affected by the proposed legislation.
2. In FY 2005, the total amount of motor fuel sold was 1.641 billion gallons, of which 1.143 billion (69.7%) was ethanol-blended gasoline, 494.6 million (30.1%) was gasoline, and 2.6 million (0.2%) was aviation fuel. In the first half of FY 2006, the total amount of motor fuel sold was 836.8 million gallons, of which 632.7 million (75.6%) was ethanol-blended gasoline, 202.5 million (24.2%) was gasoline, and 1.6 million (0.2%) was aviation fuel.
3. In FY 2006 through FY 2012, gasoline and ethanol-blended gasoline will be taxed, per gallon, as follows:
 - FY 2006 (second half): Gasoline 20.7 cents; E-10 19.0 cents; and E-85 17.0 cents.
 - FY 2007: Gasoline 21.0 cents; E-10 19.0 cents; and E-85 17.0 cents.
 - FY 2008 and beyond: Gasoline 20.0 cents; E-10 20.0 cents; and E-85 20.0 cents.
4. Compared to gasoline, this analysis assumes E-10 receives 2.35% less mileage per gallon, and E-85 receives 20.0% less mileage per gallon. As a result, more of each fuel type will be sold.
5. This analysis assumes an annual increase of 1.0% for the total number of taxable gallons sold, in addition to an annual increase in gallons to account for the decrease in the miles per gallon.
6. The percentages of gasoline, E-10, and E-85 sold in FY 2007 through FY 2012 will be as follows. The percentage of aviation fuel sold will be 0.2% each year:
 - FY 2007: Gasoline 10.3%; E-10 89.0%; E-85 0.5%
 - FY 2008: Gasoline 3.8%; E-10 95.0%; E-85 1.0%
 - FY 2009: Gasoline 1.8%; E-10 96.0%; E-85 2.0%
 - FY 2010: Gasoline 1.8%; E-10 95.0%; E-85 3.0%
 - FY 2011: Gasoline 1.8%; E-10 94.0%; E-85 4.0%
 - FY 2012: Gasoline 1.8%; E-10 93.0%; E-85 5.0%
7. The tax credits claimed in FY 2007 represent credits earned from January 1, 2006, through December 31, 2006. As a result, there will be no savings in FY 2007 due to ending the credit on December 31, 2006.
8. Much of federal highway funding distributed to states is based on the amount of federal gas tax remitted to the Federal Highway Trust Fund. Currently, ethanol-blended gasoline and gasoline are taxed at the same federal tax rate, thereby not impacting the

Federal Highway Trust Fund. Iowa's federal fund allotment may increase as the sale of ethanol-blended fuel increases; however, the amount cannot be determined.

Fiscal Impact

Senate File 2130 will have the following estimated fiscal impacts:

Road Use Tax Fund

A decrease of \$1.4 million in motor fuel tax revenue to the Road Use Tax Fund in the second half of FY 2007 due to a decrease in gasoline tax resulting from decreased gasoline gallons sold. Road Use Tax Fund revenues will increase in FY 2008 through FY 2012 in the following amounts due to the increase in gasoline tax resulting from increased gasoline gallons sold:

- FY 2008: \$1.6 million
- FY 2009: \$1.9 million
- FY 2010: \$2.0 million
- FY 2011: \$2.3 million
- FY 2012: \$2.5 million

General Fund

- *10.0-cents per gallon income tax credit on E-85-blended gasoline:* An estimated decrease in revenues to the General Fund as follows:
 - FY 2008: \$840,000
 - FY 2009: \$1.7 million
 - FY 2010: \$3.4 million
 - FY 2011: \$5.2 million
 - FY 2012: \$7.0 million
- *Repeal of 2.5-cents income tax credit on ethanol-blended gasoline:* An estimated increase in revenues to the General Fund in the following amounts:
 - FY 2007 (second half): No fiscal impact. The tax credits claimed in FY 2007 represent credits earned from January 1, 2006, through December 31, 2006. As a result, there will be no savings in FY 2007 due to ending the credit on December 31, 2006.
 - FY 2008: \$9.5 million

The estimated net fiscal impact to the General Fund in FY 2008 is an increase of \$8.7 million.

Federal Funds

An estimated increase in federal highway funds due to an increase in the number of gallons of E-10 and E-85 sold. The increase, however, is unknown.

Correctional Impact

The Bill prohibits retail dealers of gasoline from selling gasoline other than ethanol-blended gasoline, but provides a number of exceptions. Any person guilty of violating these provisions of the Code of Iowa, is guilty of a simple misdemeanor. The correctional impact cannot be determined as the number of persons who will violate these provisions is unknown.

Sources

Department of Transportation
Department of Revenue (Monthly Fuel Tax Reports)

/s/ Holly M. Lyons

March 1, 2006