

SENATE Substitute for HOUSE BILL No. 2508

By Committee on Agriculture

3-16

- 9 AN ACT concerning motor vehicle fuel; relating to blending of fuels.
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- 11 *Be it enacted by the Legislature of the State of Kansas:*
- 12 Section 1. (a) As used in this act, except in those instances clearly
13 indicating a different meaning:
- 14 (1) “Biodiesel fuel” means the same as defined in K.S.A. 2009 Supp.
15 79-34,155, and amendments thereto;
- 16 (2) “blending stock” means any liquid compound used for blending
17 with other liquid compounds, to produce gasoline and gasoline-oxygenate
18 blends including, but not limited to, all grades of nonblend fuel;
- 19 (3) “bulk-storage plant” means a facility used for the temporary stor-
20 age of gasoline, diesel fuel, fuel oils and similar liquid products prior to
21 the distribution of these products to retail, commercial or consumer out-
22 lets by wheeled tank vehicles;
- 23 (4) “diesel fuel” means a liquid suitable for use in a diesel-powered
24 highway vehicle;
- 25 (5) “ethanol” means nominally anhydrous ethyl alcohol that is in-
26 tended to be blended with gasoline for use as fuel in a spark-ignition
27 internal combustion engine;
- 28 (6) “motor vehicle” means a motor vehicle as defined in K.S.A. 8-
29 126, and amendments thereto, and which is required to be registered
30 pursuant to K.S.A. 8-126 et seq., and amendments thereto;
- 31 (7) “preblended fuel” means a mixture composed of gasoline or diesel
32 fuel and another liquid, other than a de minimis amount of a product
33 such as carburetor detergent or oxidation inhibitor, that can be used as a
34 fuel in a highway vehicle;
- 35 (8) “renewable identification number” is a unique number assigned
36 to each batch of renewable fuel by the renewable fuel producer or im-
37 porter that allows the United States environmental protection agency to
38 measure and track renewable fuel volumes starting at the point of such
39 fuel’s production;
- 40 (9) “secretary” means the secretary of agriculture;
- 41 (10) “terminal operator” means the person who by ownership or con-
42 tractual agreement is charged with the responsibility for, or physical con-
43 trol over, and operation of a terminal.

1 (b) As used in this act, the following words or phrases shall have the
2 meanings provided by K.S.A. 79-3401, and amendments thereto: (1) “Dis-
3 tributor”; (2) “importer”; (3) “manufacturer or refiner”; (4) “motor-ve-
4 hicle fuels”; (5) “person”; (6) “retailer”; and (7) “special fuels”.

5 Sec. 2. (a) Each distributor, importer or manufacturer which offers
6 for sale in this state, at any terminal or bulk-storage plant or through
7 delivery by motor vehicle:

8 (1) Any motor-vehicle fuel, including any such fuel which has been
9 preblended with ethanol, shall offer for sale at such terminal or bulk-
10 storage plant or through delivery by motor vehicle, each grade of motor-
11 vehicle fuel which is not preblended with ethanol and which is suitable
12 for subsequent blending with ethanol; and

13 (2) diesel fuel which has not been preblended to produce biodiesel
14 or a biodiesel blend, shall offer for sale at such terminal or bulk-storage
15 plant or through delivery by motor vehicle, diesel fuel that is suitable for
16 subsequent blending with biodiesel fuel.

17 (b) Any motor-vehicle fuel which is offered for sale in this state by
18 any manufacturer, importer or distributor, and which has not been pre-
19 blended with ethanol, shall contain detergent additives in sufficient con-
20 centrations such that after the addition of ethanol at the maximum volume
21 percent permitted by state and federal law, the final product meets or
22 exceeds the lowest additive concentrations as required by the United
23 States environmental protection agency.

24 (c) No person or entity shall take an action that restricts or prevents
25 a retailer or distributor from blending motor-vehicle fuel with ethanol or
26 from qualifying for any federal or state tax credit due to such retailer or
27 distributor blending motor-vehicle fuel with ethanol. Any provision of any
28 contract that would make such restrictions is void. In the event a court
29 of competent jurisdiction finds that this subsection does not apply to or
30 improperly impairs any contractual relationship existing at the effective
31 date of this act, this subsection shall only apply to and impact any con-
32 tractual relationship entered into after the effective date of this act.

33 (d) Nothing in this section shall prohibit a franchisor or licensor from
34 selecting its own customers in bona fide transactions and not in restraint
35 of trade, and from including in its contracts or its franchise or licensing
36 agreements, reasonable terms which allow such franchisor or licensor to
37 require its franchisees or licensees to maintain the quality and integrity
38 of motor-vehicle fuels blended with ethanol or of diesel fuel which has
39 been blended to produce biodiesel or biodiesel blend so long as such
40 terms are consistent with the provisions of the federal petroleum mar-
41 keting practices act, 15 U.S.C. 2801 et seq., and the Kansas petroleum
42 education and marketing act, K.S.A. 2009 Supp. 55-1625 through 55-
43 1635, and amendments thereto.

1 (e) All distributors, importers or manufacturers shall utilize the re-
2 newable identification number system, as required by the Renewable
3 Fuel Standard Program, 40 C.F.R. 80.1125. Nothing in this section shall
4 be construed to imply a market value for the renewable identification
5 number.

6 Sec. 3. (a) Upon complaint by any person that any distributor, im-
7 porter or manufacturer is in noncompliance with this act, or by the se-
8 cretary's own motion, the secretary, or the secretary's designated agent,
9 may conduct an investigation, or cause an investigation to be conducted,
10 to determine whether such distributor, importer or manufacturer is in
11 compliance with this act.

12 (b) For such purpose, the secretary or the secretary's designated
13 agents may enter any place of business of a distributor, importer, man-
14 ufacturer or terminal operator during normal business hours, to examine
15 and make copies of any records that may be necessary to determine com-
16 pliance with this act. Such distributor, importer, manufacturer or terminal
17 operator shall make available such records to the secretary or the secre-
18 tary's designated agent. Distributors, importers, manufacturers and ter-
19 minal operators shall retain for not less than one year records of their
20 sales and deliveries in this state of motor-vehicle fuels and special fuels,
21 including motor-vehicle fuels preblended with ethanol or biodiesel fuel
22 or biodiesel blend.

23 (c) If the secretary determines that a distributor, importer, manufac-
24 turer or terminal operator will not voluntarily assist with the secretary's
25 investigation, as required by this section, the secretary may obtain a court
26 order that enables the secretary or the secretary's agents to conduct an
27 investigation free from obstruction by such distributor, importer, manu-
28 facturer or terminal operator.

29 (d) If such investigation determines that a distributor, importer or
30 manufacturer is in noncompliance with this act, the secretary shall issue
31 a cease and desist order to such distributor, importer or manufacturer,
32 which order shall assess to the distributor, importer or manufacturer the
33 costs of the secretary's investigation pursuant to subsection (a) and impose
34 on the distributor, importer or manufacturer a civil penalty not to exceed
35 \$5,000 per day for each day of noncompliance with this act. Any such
36 order shall be subject to the provisions of the Kansas administrative pro-
37 cedure act.

38 (e) Any moneys collected by the secretary pursuant to this section
39 shall be remitted by the secretary to the state treasurer in accordance
40 with the provisions of K.S.A. 75-4215, and amendments thereto. Upon
41 receipt of each such remittance, the state treasurer shall deposit the entire
42 amount in the state treasury and credit the petroleum inspection fee fund
43 created pursuant to K.S.A. 55-427, and amendments thereto.

1 Sec. 4. The secretary may promulgate rules and regulations as nec-
2 essary to carry out the purposes of this act.

3 Sec. 5. If any provision of this act or the application thereof to any
4 person or circumstance is held invalid, such invalidity shall not affect
5 other provisions or applications of the act which can be given effect with-
6 out the invalid provision or application and to that end the provisions of
7 this act are declared to be severable.

8 Sec. 6. This act shall take effect and be in force from and after its
9 publication in the statute book.