

MINUTES OF THE House COMMITTEE ON Transportation

The meeting was called to order by Rex Crowell at _____
Chairperson

2:00 ~~am~~/p.m. on March 14, 1990 in room 519-S of the Capitol.

All members were present ~~except~~

Committee staff present:

Bruce Kinzie, Revisor of Statutes
Hank Avila, Legislative Research
Donna Mulligan, Committee Secretary

Conferees appearing before the committee:

Mr. Mark Wettig, Kansas Department of Revenue
Mr. DeVern Phillips, Kansas Board of Agriculture
Mr. Jere White, Kansas Corn Growers Association
Ms. Nancy Kantola, Committee of Kansas Farm Organizations
Mr. John Bottenberg, Kansas Ethanol Association
Ms. Rebecca Rice, Amoco Production Company
Mr. Charles Nicolay, Kansas Oil Marketers Association
Mr. Steve Kearney, Coastal Corporation

The meeting was called to order by Chairman Crowell and the first order of business was a hearing on SB-483 concerning the payment of taxes on motor fuels.

Mr. Mark Wettig, Kansas Department of Revenue, testified in support of SB-483. (See Attachment 1)

Mr. DeVern Phillips, Kansas Board of Agriculture, testified in support of SB-483. (See Attachment 2)

Ms. Nancy Kantola, Committee of Kansas Farm Organizations, testified in favor of SB-483. (See Attachment 3)

Mr. Jere White, Kansas Corn Growers Association, testified in support of SB-483. (See Attachment 4)

Mr. John Bottenberg, Kansas Ethanol Association, testified in support of SB-483. (See Attachment 5)

Ms. Rebecca Rice, Amoco Production Company, testified in opposition to SB-483. (See Attachment 6)

Mr. Charles O. Nicolay, Kansas Oil Marketers Association testified in opposition to SB-483.

Mr. Steve Kearney, Coastal Corporation, gave neutral testimony on SB-483.

The hearing on SB-483 ended.

The meeting was adjourned at 3:15 p.m.



Rex Crowell, Chairman

GUEST LIST

COMMITTEE: Transportation

DATE: 3-1-90

PLEASE PRINT

NAME	ADDRESS	COMPANY/ORGANIZATION
Pam Somerville	TOPEKA	KDOT
Reed DAVIS	TOPEKA	KDOT
Theresa Hodges	Topeka	KDHE
Nedra Poling	Topeka	Dept. Revenue
Lee Eisenbauer	Topeka	KLPBA
Nancy Kantola	Topeka	CKFC
GREG KRISSEK	Topeka	KSBA
LARRY D. Woodson	Topeka	KSBAg.
Debra H. Phillip's	Topeka	KSBAg
Joe White	Larnett	Ks. Corn Growers
Cindy Sypin	Topeka	Budget
Rebecca Piri	Amoco Production	Topeka
Mary E. Turkington	Topeka	Ks Motor Carriers Assn
Tom Whitaker	Topeka	Ks Motor Carriers Assn
Mary Davenport	TOPEKA	Ks Motor Carrier Assn
E. R. Moses	Topeka	Kansas Agg. Producers
Phil Jim	Topeka	Kansas Motor Carriers Assn.
STEVE KEARNEY	"	CIATK CD
Jacque Oakes	Topeka	Ks. Ind auto. Dealers Assn.
Mike Hogan	Topeka	Ks. Automobile Dealers Association Collector
PAT BARNES	TOPEKA	Ks MOTOR CAR DEALERS ASSN.
Kevin Allen	Topeka	Ks MOTOR CAR DEALERS
Mark Wally	"	KDOT

Wettig 1

MEMORANDUM

TO: The Honorable Rex Crowell, Chairman
House Transportation Committee

FROM: Mark E. Wettig
Special Assistant to the Secretary of Revenue

DATE: March 14, 1990

SUBJECT: Senate Bill 483

I appreciate the opportunity to appear before you today in support of legislation requested by the Department of Revenue. Senate Bill 483 is the result of Department recommendations in the fuel tax area.

BACKGROUND

Senate Bill 483 has several effects:

1. It reinstates the exemption from the motor vehicle fuel tax on the first sale from a refinery, pipeline terminal or tank farm to a duly licensed distributor. In 1985, the Department deleted subsection (e) of K.S.A. 79-3408 in order to eliminate the "daisy chain" effect of tax free transfers of motor fuel from one licensed distributor to another because of the potential for tax evasion and the difficulty in tracing these tax free sales from one distributor to another. By eliminating this section, the Department inadvertently eliminated the exemption that allowed the major oil companies at the refineries, pipeline and terminals to sell "tax-free" to the first licensed distributor. Because of the 1985 change, 79-3408 technically requires all major oil companies at the refineries, pipeline and terminals to collect the tax from the first licensed distributor who purchases or actually takes delivery of the fuel. This has become an issue because the Department assured lawmakers that by eliminating 79-3408(e)(1) in 1985, the Department did not intend to eliminate the ex-tax sale of motor fuel to distributors on the first sale from terminals and refineries.

Att. 1

Because of continued concern over this matter, the Department sent out a letter to all licensed distributors, refineries and terminals stating that our intention was not to eliminate this provision, and that until we could implement legislation to correct this, the Department's policy is that the licensed distributor or importer that is shown on the manifest (bill of lading) as purchasing or actually taking delivery of the fuel as it leaves the refinery, pipeline or terminal, are the ones responsible for paying the motor vehicle fuel tax. So far, this policy opinion has worked. However, the law technically does not allow our position, so the Department must request legislative action if we want to continue to allow the "tax free" transfer.

2. It adds a provision in the special fuel, L.P. motor fuel and interstate motor fuel tax acts for the Director of Taxation, when mutually agreed by the Department and the taxpayer, to extend the statute of limitations for assessing additional tax or filing a refund claim.

This provision is currently in place for both income tax and sales and use tax.

3. In addition to the Department's requests, Senate Bill 483 was amended by the Committee of the Whole to require all motor fuel kept, offered or exposed for sale or sold at retail, which contains at least 1% by volume of oxygenates, to be labeled by the maximum percentage and the common name of the oxygenate.

RECOMMENDATION

The Department asks for the committee's support of Senate Bill 483.

Thank you.

TESTIMONY ON SENATE BILL 483
March 14, 1990

Thank you Mr. Chairman, members of the House Committee on Transportation. My name is DeVern H. Phillips. I am the State Sealer. Part of my responsibilities as State Sealer for the Kansas State Board of Agriculture, while enforcing Weights and Measures Laws, includes refined fuel dispensing devices (gas pumps). Not only does my staff help assure that proper delivery of the stated quantities occurs, but also monitors labeling of the refined fuel retail devices to assure that the octane rating is posted and that, when necessary, the products also are labeled if they contain the oxygenate additive alcohol.

Currently, state law only requires the added oxygenate alcohol to be posted at the gas pump. Senate Bill 483, as amended, addresses this problem. I am here today to testify in behalf of the Kansas State Board of Agriculture in favor of this bill.

Oxygenates are added to refined fuels as a replacement for lead to increase their octane levels. With the mandated requirements for the replacement of lead as an oxygenate, a scramble ensued for replacement materials that would permit combustion engines to run in an acceptable manner. Alcohol was the first oxygenate utilized by the refined fuel industry because it is a clean-burning renewable resource fuel. Its' blending with gasoline required relatively little modification of handling by pipelines and terminals, and it was a product readily available.

Older vehicles, when subjected to alcohol-blended fuels experienced problems due in part to the chemical make up of "O" rings, gaskets, and other materials that were not impervious to alcohol. It was therefore necessary to provide to consumers information that the products contained alcohol as an added oxygenator.

Automobile manufacturers have recognized the importance of oxygenate additives to refined fuels, both for the improved performance of the vehicles as well as to the positive impact oxygenates have upon the atmosphere. I have enclosed a copy of testimony by Ed Gaffney, Public Affairs Manager, Great Lakes Region, Motor Vehicle Manufacturers Association (MVNA). This testimony given before the Illinois Department of Agriculture, supports the necessity of labeling motor fuel containing at least one percent by volume of any oxygenate at the fuel dispensing pump. I have also included a summary of the automobile manufacturer warranty coverage of oxygenate fuels for 1989 model year vehicles. On this sheet you will note that all of the major manufacturers approved the use of up to 10% ethanol-blended products but also many of the manufacturers establish upper level limits of the other most commonly used oxygenate additive, methyl tertiary butyl ether (MTBE).

Some fuel suppliers sell gasoline containing oxygenates such as ethanol, and MTBE, with or without advertising their presence. Automobile manufacturers do not recommend the use of fuels of which the oxygenate content and the fuel compatibility for automobiles cannot be readily determined. They further advise that if any undesirable driveability problems such as engine stalling and hard hot starting are experienced after using oxygenate-blend fuels, immediately change to a non-oxygenate fuel or a fuel with a low blend of oxygenate.

The primary problem with this in Kansas is that other than alcohol, no other oxygenate additives are required to be labeled at the pump. It would be very difficult for a consumer to be assured that the higher octane products do not contain MTBE or other oxygenates if they are not labeled at the pump.

Several automobile manufacturers note that fuel system damage or driveability problems which result from the use of improper fuels are not covered under their warranties.

At the same time that manufacturers note the potential for problems with use of oxygenated fuels, they also agree with General Motors in their statement: "The use of oxygenated materials in gasoline can also contribute to cleaner air, especially in those parts of the country where carbon monoxide and ozone levels are high. Where available, General Motors recommends use of oxygenated compounds such as MTBE and ethanol in gasoline."

Colorado currently has in place a requirement not only of labeling but a requirement for mandated use of oxygenated fuel from November until the following February 15th of each year. Air pollution in cities such as Phoenix, Arizona has also brought about similar requirements for mandated use of oxygenated fuels.

I feel research will prove that negativism surrounding ethanol is more myth than fact and that all oxygenated fuels are quite acceptable as a component of the gasoline pool. In time, it is hoped that pump labeling of "oxygenated fuels" will not be necessary as was recommended to the Kansas State Board of Agriculture in January 1989 in the Task Force on Non-Food Use Report. In the interim, singling out ethanol for pump labeling detracts from the positive environmental and energy security role "ethanol" can play in this country.

Labeling only ethanol-blended products is counter-productive to all the work that people in the Kansas agricultural community, such as the Kansas State Board of Agriculture, the Legislature, and the National Association of State Departments of Agriculture are doing to develop expanded "non-food" uses of American agricultural production.

Kansas State Board of Agriculture, through the National Conference on Weights and Measures, is also initiating changes in national gas pump labeling similar to that which is proposed in Senate Bill 483. If adopted, these changes would require nationwide labeling at the gas pump of all added oxygenates above one percent by volume.

- 5 -

We would ask that you pass favorably on the proposed changes in labeling requirements requested in Senate Bill 483.

I stand for questions.

Remarks

By

EDWARD GAFFNEY
Public Affairs Manager
Great Lakes Region

MOTOR VEHICLE MANUFACTURERS ASSOCIATION
OF THE UNITED STATES, INC.

Public Hearing on Proposed Rule on Oxygenate Labelling
Illinois Department of Agriculture
October 6, 1989

TESTIMONY BEFORE ILLINOIS DEPARTMENT OF AGRICULTURE

I am Ed Gaffney, Public Affairs Manager, Great Lakes Region, Motor Vehicle Manufacturers Association (MVMA).*

MVMA supports that portion of the proposed rule which requires a motor fuel containing at least one percent by volume of any oxygenate to be labelled on the fuel dispensing pump. This is the only way to provide the motoring public important information about the composition of a fuel to be purchased.

Because the effects of gasoline/oxygenate blends vary according to different fuel system components and materials, most manufacturers make recommendations in their owner's manuals concerning the type and quantity of oxygenate acceptable for use in their vehicles. Moreover, some manufacturers indicate that their new vehicle warranty may not cover fuel system damage repairs for use of a particular gasoline/oxygenate blend. Thus, it is very important that consumers are able to identify the type of gasoline/oxygenate blends available for purchase so they can comply with the recommendations in their owners manual.

MVMA opposes that portion of the proposed rule which would permit a label on the side of the fuel dispensing pump. This is especially pertinent because most of the newer self-service fuel

dispensing pumps have the fuel nozzles located in the front. There is no reason for the motorist to look on the side of the pump. Therefore, if fuel pump labelling is to be informative to the consumer, it must be conspicuously displayed on the front of the dispensing pump.

* MVMA is the trade association for domestic motor vehicle manufacturers. Its seven member companies build 97 percent of U.S. made motor vehicles. Members are: Chrysler Corporation; Ford Motor Company; General Motors Corporation; Honda of America MFG., Inc.; Navistar International Transportation Corp.; PACCAR Inc; and Volvo North America Corporation.

* * *

**SUMMARY OF AUTOMOBILE MANUFACTURER WARRANTY COVERAGE OF OXYGENATED FUELS
1989 MODEL YEAR VEHICLES**

MANUFACTURER	UP TO 10% ETHANOL	METHANOL	MTBE
<u>Domestic</u>			
Chrysler ¹	Approved	Do not use, may void warranty	N/A
Ford	Approved	Up to 5% with cosolvents & inhibitors	N/A
General Motors ²	Approved	Up to 5% with cosolvents & inhibitors	Up to 11%
<u>Imported</u>			
Acura	Approved	Up to 5% with cosolvents	N/A
Alfa Romeo	Approved	Up to 5% with cosolvents & inhibitors	N/A
Audi ³	Approved	Up to 3% with minimum 2% suitable cosolvent	N/A
BMW	Approved	Up to 3% with equal cosolvent	Up to 10%
Honda	Approved	Up to 5% with cosolvents & inhibitors	N/A
Hyundai	Approved	Do not use	N/A
Isuzu	Approved	Up to 5% with cosolvents & inhibitors	N/A
Jaguar	Approved	Up to 3% with cosolvents & inhibitors	Up to 15%
Mazda	Approved	Do Not use	N/A
Mercedes-Benz	Approved	Up to 3% with cosolvents	Up to 15%
Mitsubishi	Approved	Do not use	N/A
Nissan	Approved	Up to 5% with cosolvents & inhibitors	Up to 11%
Peugeot	Approved	Up to 3% with equal cosolvent	Up to 10%
Saab	Approved	Up to 5% with equal cosolvents	N/A
Sterling	Approved	Up to 5% with cosolvents & inhibitors	N/A
Subaru	Approved	Up to 5% with cosolvents & inhibitors	Up to 15%
Suzuki	Approved	Up to 5% with cosolvents & inhibitors	N/A
Toyota	Approved	Up to 5% with cosolvents & inhibitors	N/A
Volkswagen ³	Approved	Up to 3% with minimum 2% suitable cosolvent	N/A
Volvo	Approved	Do not use	N/A
Yugo	Approved	Do not use	N/A

1 Jeep Model -- 10% Ethanol approved but exclusive use not recommended.

2 Has approved the use of up to 15% MTBE.

3 Use of alcohol not recommended.

N/A -- Not addressed in owners manual.

1989 General Motors (Buick)

- Both ethanol and MTBE have blending limits of 10% and 11% respectively. Both are acceptable additives at these levels, yet only ethanol has pump labeling requirements.

1989 General Motors (Cadillac)

- The requirements that 10% ethanol blends and 11% MTBE blends are acceptable and 5% methanol are addressed. Again, only alcohol must label at the pumps.

1990 General Motors (Pontiac)

- Again specific levels of blending are addressed (11% methanol, 15% MTBE, 5% methanol).
- Warranties note that fuel suppliers sell fuels with levels of oxygenators without disclosing the information to consumers except as required by pump label (in Kansas as in most states, this would mean alcohol).

Kantola 3

COMMITTEE OF ... KANSAS FARM ORGANIZATIONS

Nancy E. Kantola
Legislative Agent
3604 Skyline Parkway
Topeka, KS 66614
(913) 273-5340

STATEMENT OF POSITION OF THE
COMMITTEE OF KANSAS FARM ORGANIZATIONS

RE: S.B. 483

House Transportation Committee

March 14, 1990

Mister Chairman, Members of the Committee: I am Nancy Kantola, Legislative Agent for the Committee of Kansas Farm Organizations.

The attached list of our members confirms that our Committee is composed of the majority of the agricultural organizations and associations of agribusinesses in our State. We require a unanimous vote before we take a position on pending legislation.

Our members discussed Senate Bill 483 at our meeting yesterday. It was the consensus of the group that we should support the amendments to this bill which will require labeling showing the type of oxygenate and percentage contained.

As you know, commodity groups support the promotion of these additives, and encourage their use. We ask your support of this bill.

Respectfully submitted,

Nancy E. Kantola
Nancy E. Kantola

MEMBERSHIP LIST
COMMITTEE OF KANSAS FARM ORGANIZATIONS
1990

KANSAS AGRI-WOMEN
KANSAS ASSOCIATION OF SOIL CONSERVATION DISTRICTS
KANSAS ASSOCIATION OF WHEAT GROWERS
KANSAS COOPERATIVE COUNCIL
KANSAS CORN GROWERS ASSOCIATION
KANSAS ELECTRIC COOPERATIVES
KANSAS ETHANOL ASSOCIATION
KANSAS FARM BUREAU
KANSAS FERTILIZER AND CHEMICAL ASSOCIATION
KANSAS GRAIN AND FEED DEALERS ASSOCIATION
KANSAS LIVESTOCK ASSOCIATION
KANSAS MEAT PROCESSORS ASSOCIATION
KANSAS MILK PRODUCERS ASSOCIATION
KANSAS PORK PRODUCERS COUNCIL
KANSAS RURAL WATER DISTRICTS ASSOCIATION
KANSAS SEED DEALERS ASSOCIATION
KANSAS SOYBEAN ASSOCIATION
KANSAS STATE GRANGE
KANSAS VETERINARY MEDICAL ASSOCIATION
KANSAS WATER WELL ASSOCIATION
MID AMERICA DAIRYMEN, INC.
WESTERN RETAIL IMPLEMENT AND HARDWARE ASSOCIATION

TESTIMONY

14 March, 1990
Senate Bill No. 483

Jere White
Executive Director
Kansas Corn Growers Association
PO Box 446
Garnett, KS 66032
913-448-6922

I would like to thank this committee for the opportunity to address the issue of Senate Bill 483. This bill as amended by the Senate Committee of the Whole, provides among other things that all motor fuels that contain an oxygenate at a level of one percent or more, shall be labeled at the pump as to what oxygenate is being used and at what maximum percentage.

The Kansas Corn Growers Association has a two level policy on pump labeling in Kansas. A few years ago, a group of agriculture, government, and business leaders came together and dealt with the issue of non-food uses for agricultural products. One of the recommendations of that task force was the elimination of ethanol labeling at the pump. Kansas has four ethanol plants which provide a needed market for corn and grain sorghum, and also provide jobs and an influx in money. In Kansas, ethanol is a value added agricultural product. We estimate that current national ethanol production adds at least fifteen cents per bushel on

corn sold in this state. That translates into about 21.75 million dollars annually. It is no small issue to our states grain producers, although it is not generally appreciated at it's full value. By current law, ethanol is the only oxygenate that is required to be labeled. In fact, other than lead, it is the only fuel component required to be labeled. Because of this, labeling is viewed by many consumers as a warning against it's use. And yet gasoline components such as benzene, which have been demonstrated to cause chromosomal damage in animals and blood diseases in humans (aplastic anemia and leukemia) , are not required to be labeled. In view of this obvious discrepancy, our association supports either the elimination of ethanol labeling at the pump or the increased labeling to include all oxygenates.

With the 1990 model year, General Motors began recommending the use of oxygenated fuels in it's automobiles. Not all oxygenates are to be used at the same levels. It could perhaps be assumed that these levels will automatically fall within accepted guidelines, and yet ethanol blended fuels have done that for years and continue to be labeled. To give the consumer valuable information that he or she can use in making a purchase, is not the question. We ask that you give the "rest of the story". To

do less is a disservice to the consumer as well as to the farmer and Kansans in general. We support Senate Bill 483, not as a first preference, but certainly as a great improvement over current law. We also point out, that all cities that now are in an oxy-fuels program, require the labeling of all oxygenates, regardless of whether that oxygenate is ethanol, methanol, or MTBE. I thank this committee for it's interest in this issue and will gladly try and answer any questions you might have.

BOTTENBERG & ASSOCIATES

JOHN C. BOTTENBERG
President

702 Jayhawk Tower — 700 SW Jackson
Topeka, Kansas 66603
(913) 235-2324
FAX (913) 234-9660

TO: House Committee on Transportation

FROM: John C. Bottenberg,
Kansas Ethanol Association

DATE: March 14, 1990

RE: Senate Bill 483

The Kansas Ethanol Association supports SB 483 as amended. Specifically we support the amendment to K.S.A. 79-3408, Section 1(b). The new language was added by the Senate Committee of the Whole.

The Association's preference would be to remove any requirement that blended fuels containing alcohol be labeled.

Attached is a copy of a page from the Task Force Report on Non-Food Uses of Kansas Agricultural Products submitted to the Kansas State Board of Agriculture, January 1989.

RECOMMENDATIONS OF THE NON-FOOD USE TASK FORCE

The following list is not necessarily in the order of priority and contains short, mid-term and long-term objectives.

- Urge the federal government to allow non-traditional crops (ie. crambe/rapeseed) grown for industrial uses to be planted on set-aside acreage. Changes are needed in the federal farm program to allow greater flexibility of planting so producers can test crops which are used to create non-food and fiber end products. Producers should be allowed to plant non-traditional crops on program base acres without losing base or other program benefits.
- The state of Kansas, by order of the Executive Branch, should utilize industrial products available from agricultural sources, such as soybean oil ink, corn or wheat starch polymer products, ethanol in state vehicles, and other industrial products from agricultural resources. a) Recommend the Kansas Department of Transportation investigate the production, testing, economic analysis, and market development of calcium magnesium acetate (CMA) as a road deicer.
- KSA 79-3408(b) be amended to remove the requirement that blended fuels containing alcohol be labeled. Alcohol is an octane enhancer and proven through billions of highway road miles. Such statement of alcohol content is unnecessary and a burden on the ethanol alcohol industry.
- Funding should be made available through loans, grants or other ways to assist private businesses to commercialize non-food uses of farm commodities. These funds might come from private business, federal government, Kansas Economic Development Initiative Fund, oil overcharge funds, state treasury or other sources.
- The Governor and state legislature are urged to provide substantial funds for research and development of

TESTIMONY TO THE HOUSE TRANSPORTATION

by: Rebecca S. Rice

ON

Senate Bill 483
Wednesday, March 14, 1990

Chairman Crowell and members of the committee, my name is Rebecca Rice and I appear before you today on behalf of Amoco Production Company regarding SB 483.

We rise in opposition to this legislation as Amoco believes the present language will cause unnecessary hardship in requiring labels to be changed each time a fuel delivery is made. In addition, such constant label changing will lead to confusion for the average consumer.

We would offer the following amendment to page one, line 27:

2% oxygen content by weight

The rationale for this amendment is that 2% oxygen content by weight works out to be approximately 11% MTBE by volume. Ethanol is typically sold and labelled at 10% by volume. Our amendment would result in equalization of the labels allowing the consumer some continuity.

Thank you for allowing me to testify on this bill. I can stand for any questions.