

SESSION OF 2010

**SUPPLEMENTAL NOTE ON
SENATE SUBSTITUTE FOR HOUSE BILL NO. 2508**

As Recommended by Senate Committee on
Agriculture

Brief*

Senate Sub. for HB 2508 would:

- Require each distributor, importer, or manufacturer which offers motor-vehicle fuel for sale at any terminal or bulk-storage plant or through delivery by motor vehicle to offer each grade of motor-vehicle fuel which is not preblended with ethanol and is suitable for subsequent blending with ethanol;
- Require those distributors, bulk-storage plants, or those delivering by motor vehicle to offer diesel fuel which has not been preblended to produce biodiesel or a biodiesel blend;
- Require any motor-vehicle fuel which is offered for sale by any manufacturer, importer, or distributor which has not been preblended with ethanol to contain detergent additives in sufficient concentrations such that after the addition of ethanol at the maximum volume permitted by law, the final product would meet or exceed the lowest additive concentrations required by the U.S. Environmental Protection Agency;
- Provide that no person or entity could take an action that restricts or prevents a retailer or distributor from blending motor-vehicle fuel with ethanol or from qualifying for any

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

federal or state tax credit; any provision of any contract that would make these kinds of restrictions is void;

- Not prohibit a franchiser or licensor from selecting its own customers in bona fide transactions from including in its contracts or agreements reasonable terms which allow the maintenance of the quality and integrity of motor-vehicle fuels blended with ethanol or biodiesel so long as the terms are consistent with the provisions of the federal Petroleum Marketing Practices Act; and
- Provide that all distributors, importers, or manufacturers utilize the renewable identification number system as required by the Renewable Fuel Standard Program with the caveat that nothing in a specific section of the bill could be construed to imply a market value for the renewable identification number.

In addition, the bill would grant authority to the Secretary of Agriculture or designated agents to enter any place of business of a distributor, importer, manufacturer, or terminal operator during normal business hours to examine and make copies of any records. In cases where those involved do not voluntarily assist in the Secretary's investigation, the Secretary would be allowed to obtain a court order and then would be allowed to issue a cease and desist order and to assess costs for investigations. A civil penalty could be imposed with a limit of \$5,000 per day for each day of noncompliance. Moneys collected would be credited to the Petroleum Inspection Fee Fund. The bill would allow the Secretary of Agriculture to promulgate rules and regulations as necessary. Finally, the bill would enact a severability clause.

Background

The Joint Committee on Parole Board Oversight, created with the passage of 2009 HB 2060, recommended the original HB 2508, HB 2508 as amended by the House Committee on Corrections and Juvenile Justice would have required the Kansas Parole Board (KPB) to review inmates whose parole

board hearings were deferred for more than five years under the law existing prior to July 1, 2010. The review by the KPB would be required to be conducted on or before July 1, 2012. The bill also would maintain current law at ten years as the maximum deferral period between parole hearings for non-parole suitable candidates.

The Senate Committee on Agriculture removed the contents of HB 2508 and inserted the Senate version of SB 425 dealing with the sale of unblended motor-vehicle fuels by terminals and bulk-storage plants.

SB 425 was introduced at the request of a representative of the Petroleum Marketers and Convenience Store Association of Kansas (Petroleum Marketers). At the hearing on the bill, representatives of the Petroleum Marketers; Triplett, Inc.; Zarco 66, Inc.; Kansas Association of Ethanol Processors; Kansas Soybean Association; the Kansas Grain Sorghum Producers Association; the Kansas Corn Growers Association; and Western Plains Energy, LLC, appeared as proponents. The spokesperson from Petroleum Marketers indicated that fuel distributors had no recourse other than to seek legislation to protect an informal mandate by oil companies that want control of the gas and ethanol distribution process.

Opponents of SB 425 were representatives of the Kansas Petroleum Council, CVR Energy/Coffeyville Resources, and Magellan Midstream Partners. The representative of the Petroleum Council stated that the bill imposes obligations that conflict with federal law and which violate interstate commerce. In addition, the spokesperson stated that the bill raises questions about trademarks and fuel quality.

The fiscal note on SB 425 as originally introduced states the Department of Agriculture believes the bill would be implemented through the Petroleum Fuel Inspection Program with existing staff. The Program is entirely fee-funded. No increase of fees would be required, and the amounts collected from civil penalties would be infrequent, having a negligible effect on revenue.