

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1858

100TH GENERAL ASSEMBLY

4487H.03P

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 414.152, RSMo, and to enact in lieu thereof two new sections relating to biodiesel fuel.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 414.152, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 414.152 and 414.600, to read as follows:

414.152. 1. Any person found in violation of any provision of sections 414.012 to 414.152 or section **414.600** shall be deemed guilty of a class A misdemeanor. The prosecutor of each county in which a violation occurs shall be empowered to bring an action hereunder. But if a prosecutor declines to bring such action, then the attorney general may bring an action instead, and in so doing shall have all the powers and jurisdiction of such prosecutor.

2. The prosecuting attorney of any county in which a violation of any provision of this chapter occurs or the attorney general is hereby authorized to apply to any court of competent jurisdiction for, and such court shall have jurisdiction upon hearing and for cause shown to grant, a temporary or permanent injunction to restrain any person from violating any provision of this chapter.

3. Any person who is found, upon investigation by the department of agriculture or by the department of revenue, to be in possible violation of any provision of this chapter shall be notified by certified mail of the facts constituting such violation, and shall be afforded an opportunity by the appropriate director to explain such facts at an informal hearing to be conducted within fourteen days of such notification. In the event that such person fails to timely respond to such notification or upon unsuccessful resolution of any issues relating to an alleged violation, such person may be summoned to a formal administrative hearing before a hearing

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 officer conducted in conformance with chapter 536 and if found to have committed one or more
19 violations, may be ordered to cease and desist from such violation, such order to be enforceable
20 in circuit court, and, in addition, may be required to pay a penalty of not more than five hundred
21 dollars per violation and five hundred dollars for each day such violation continues. Any party
22 to such hearing aggrieved by a determination of a hearing officer may appeal to the circuit court
23 of the county in which such party resides, or if the party is the state, in Cole County, in
24 accordance with chapter 536.

**414.600. 1. This section shall be known and may be cited as the "Missouri-Made
2 Fuels Act".**

3 2. For purposes of this section, the following terms mean:

**4 (1) "Biodiesel blend", a blend of diesel fuel and biodiesel fuel between six percent
5 and twenty percent for on-road and off-road diesel-fueled vehicle use. Biodiesel blend shall
6 comply with the ASTM International specification D7467-19, or the most recent
7 specification;**

**8 (2) "Biodiesel fuel", a renewable, biodegradable, mono alkyl ester combustible
9 liquid fuel that is derived from agricultural and other plant oils or animal fats and that
10 meets the ASTM International specification D6751-19, or the most recent specification, for
11 Biodiesel Fuel (B100) Blend Stock for Middle Distillate Fuels. Biodiesel produced from
12 palm oil is not biodiesel fuel for the purposes of this section, unless the palm oil is contained
13 within waste oil and grease collected within the United States.**

**14 3. (1) Except as otherwise provided in this section, all diesel fuel sold or offered for
15 sale in Missouri for use in internal combustion engines shall contain at least the following
16 stated percentage of biodiesel fuel oil by volume on and after the following dates:**

17 (a) April 1, 2022, and until March 31, 2023, five percent;

18 (b) April 1, 2023, and until March 31, 2025, ten percent; and

19 (c) Beginning April 1, 2025, twenty percent.

**20 (2) Except as provided in this subsection, the minimum content levels in paragraphs
21 (b) and (c) of subdivision (1) of this subsection shall be effective during the months of
22 April, May, June, July, August, September, and October only and the minimum content
23 for the remainder of the year is five percent. However, if the Missouri department of
24 agriculture's division of weights and measures determines that an ASTM International
25 specification or equivalent federal standard exists for the specified biodiesel blend level in
26 paragraphs (b) and (c) of subdivision (1) of this subsection that adequately addresses
27 technical issues associated with Missouri's typical weather patterns and publishes a notice
28 in the Missouri register to that effect, the department of agriculture may allow the specified
29 biodiesel blend level in paragraphs (b) and (c) of subdivision (1) of this subsection to be**

30 effective year-round. In each year that the seasonal reduction to five percent is in effect,
31 the minimum content level of diesel fuel sold or offered for sale in Missouri from April first
32 to April fourteenth may be less than the level required under paragraph (b) or (c) of
33 subdivision (1) of this subsection in order to allow for the transition of blends.

34 4. The minimum content levels in paragraphs (b) and (c) of subdivision (1) of
35 subsection 3 of this section shall become effective on the date specified only if the director
36 of the department of agriculture submits notice in the Missouri register that the following
37 conditions have been met and the state is prepared to move to the next scheduled minimum
38 content level:

39 (1) An ASTM International specification or equivalent federal standard exists for
40 the next minimum diesel-biodiesel blend; and

41 (2) A sufficient supply of biodiesel is available and at least fifty percent of the
42 biodiesel is produced in the state of Missouri.

43 5. By January 15, 2023, and biennially thereafter, the director of the division of
44 energy shall determine the preceding twelve-month rolling average of wholesale diesel
45 price at various pipeline and refinery terminals in Missouri, and the preceding twelve-
46 month rolling average of biodiesel price determined after credits and incentives are
47 subtracted at biodiesel plants in Missouri. The director shall consult with the directors of
48 the department of natural resources and the department of agriculture, and may by
49 emergency rule adjust the biodiesel mandate if a price disparity reported by the directors
50 will cause economic hardship to the state. Any adjustment shall be for a specified period
51 of time, after which the percentage of biodiesel fuel to be blended into diesel fuel shall
52 return to the amount required in subsection 3 of this section. The biodiesel mandate shall
53 not be adjusted to less than five percent.

54 6. (1) The director of the department of agriculture may waive specific
55 requirements in this section and in regulations promulgated according to this section, or
56 may establish temporary alternative requirements for fuels as determined to be necessary
57 in the event of an extreme and unusual fuel supply circumstance as a result of a feedstock
58 shortage, emergency, or a natural disaster as determined by the director for a specified
59 period of time. If any action is taken by the director under this section, the director shall:

60 (a) Review the action after thirty days; and

61 (b) Notify industry stakeholders of such action.

62 (2) Any waiver issued or action taken under this subsection shall be as limited in
63 scope and applicability as necessary, and shall apply equally and uniformly to all persons
64 and companies in the impacted biodiesel fuel supply and distribution system, including but
65 not limited to producers, terminals, distributors, and retailers.

66 **7. The minimum content requirements of subsection 3 of this section do not apply**
67 **to fuel used in the following equipment:**

68 **(1) Motors located at an electric generating plant;**

69 **(2) Railroad locomotives;**

70 **(3) Off-road mining equipment and machinery;**

71 **(4) Off-road logging equipment and machinery; and**

72 **(5) Vessels of the United States Coast Guard and vessels subject to inspection under**
73 **paragraph (1), (9), (10), (13), or (15) of 46 U.S.C. Section 3301, as amended.**

74 **8. (1) A refinery or terminal shall provide, at the time diesel fuel is sold or**
75 **transferred from the refinery or terminal, a bill of lading or shipping manifest to the**
76 **person who receives the fuel. For biodiesel-blended products, the bill of lading or shipping**
77 **manifest shall disclose biodiesel content, stating volume percentage, gallons of biodiesel per**
78 **gallons of petroleum diesel base-stock, or an ASTM "Bxx" designation where "xx" denotes**
79 **the volume percent biodiesel included in the blended product. This subsection shall not**
80 **apply to sales or transfers of biodiesel blend stock between refineries, between terminals,**
81 **or between a refinery and a terminal.**

82 **(2) A delivery ticket required under section 413.125 for a biodiesel blend shall state**
83 **the volume percentage of biodiesel blended into the diesel fuel delivered through a meter**
84 **into a storage tank used for dispensing into motor vehicles powered by an internal**
85 **combustion engine and not exempt under subsection 3 of this section.**

86 **9. Refiners shall offer clear diesel (B0) and the biodiesel blends set forth in**
87 **subsection 3 of this section and biodiesel producers in Missouri shall offer blends of one**
88 **hundred percent biodiesel fuel (B100).**

89 **10. Notwithstanding any other law to the contrary, all fuel retailers, wholesalers,**
90 **distributors, and marketers shall be allowed to purchase biodiesel from any terminal,**
91 **position holder, biodiesel producer, biodiesel wholesaler, or supplier. In the event a court**
92 **of competent jurisdiction finds that this subsection does not apply to or improperly impairs**
93 **existing contractual relationships, then this subsection shall only apply to and impact**
94 **future contractual relationships.**

95 **11. No refiner, supplier, terminal, wholesaler, distributor, retailer, or other vendor**
96 **of motor fuel that contains or is blended with any amount of ethanol, biodiesel, or other**
97 **renewable fuel or biofuel and that complies with labeling and motor fuel quality laws shall**
98 **be liable for any property damages related to a customer's purchase of such motor fuel**
99 **from the vendor so long as the selection of the motor fuel was made by the customer and**
100 **not the vendor. No motor fuel that contains or is blended with any amount of ethanol,**
101 **biodiesel, or other renewable fuel or biofuel shall be considered a defective product for the**

102 purposes of a claim for property damage if such motor fuel complies with motor fuel
103 quality laws.

104 **12. Beginning in 2023, the director of the division of energy, in cooperation with the**
105 **director of the division of weights and measures within the department of agriculture, shall**
106 **report by January fifteenth of each year to the speaker of the house of representatives and**
107 **the president pro tempore of the senate regarding the implementation of the minimum**
108 **content requirements in subsection 3 of this section, including information about the price**
109 **and supply of biodiesel fuel. The report shall include information about the impacts of the**
110 **biodiesel mandate on the development of biodiesel production capacity in the state, and on**
111 **the use of feedstock grown or raised in the state for biodiesel production. Because biodiesel**
112 **fuel is recognized by the division of energy as a big contributor to Missouri's energy**
113 **solutions industry, the division shall include recommendations on how to create continued**
114 **growth and expansion for the benefit of Missouri's environment, economy, and**
115 **agricultural industry.**

116 **13. The provisions of section 414.152 shall apply for purposes of enforcement of this**
117 **section.**

118 **14. The department of agriculture and the department of natural resources shall**
119 **establish rules and regulations to implement the provisions of this section. Any rule or**
120 **portion of a rule, as that term is defined in section 536.010, that is created under the**
121 **authority delegated in this section shall become effective only if it complies with and is**
122 **subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This**
123 **section and chapter 536 are nonseverable, and if any of the powers vested with the general**
124 **assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove**
125 **and annul a rule are subsequently held unconstitutional, then the grant of rulemaking**
126 **authority and any rule proposed or adopted after August 28, 2020, shall be invalid and**
127 **void.**

128 **15. Under section 23.253 of the Missouri sunset act:**

129 **(1) The provisions of the program authorized under this section shall automatically**
130 **sunset ten years after August 28, 2020, unless reauthorized by an act of the general**
131 **assembly; and**

132 **(2) If such program is reauthorized, the program authorized under this section**
133 **shall automatically sunset ten years after the effective date of the reauthorization of this**
134 **section; and**

135 **(3) This section shall terminate on September first of the calendar year immediately**
136 **following the calendar year in which the program authorized under this section is sunset.**

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