

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

SENATE BILL NO. 2228
(Senators Stenehjem, O'Connell)
(Representatives Boucher, Carlson)
(At the request of the Governor)

AN ACT to create and enact a new chapter to title 17 of the North Dakota Century Code, relating to the creation of a biofuel blender pump incentive fund; to amend and reenact sections 19-10-19, 19-10-20, and 19-10-21 of the North Dakota Century Code, relating to petroleum products; to provide an effective date; to provide an expiration date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new chapter to title 17 of the North Dakota Century Code is created and enacted as follows:

Definitions. For purposes of this chapter, unless the context otherwise requires:

1. "Biodiesel" means any non-petroleum-based diesel fuel made from a renewable resource such as vegetable oil or animal fat.
2. "E85 fuel" means a petroleum product that:
 - a. Is a blend of agriculturally derived denatured ethanol and gasoline or natural gasoline;
 - b. Typically contains eighty-five percent ethanol by volume but must at a minimum contain sixty percent ethanol by volume; and
 - c. Complies with the American society for testing materials specification D 5798-96.
3. "Motor fuel retailer" means a person that acquires motor vehicle fuel from a supplier or distributor for resale to a consumer at a retail location.
4. "Retail location" means a site at which motor vehicle fuel is dispensed through a pump from an underground or aboveground storage tank into the supply tank of a motor vehicle.

Biofuel blender pump incentive fund - Administration.

1. The department of commerce shall administer the biofuel blender pump incentive fund and use moneys in the fund to provide cost-share grants of up to five thousand dollars per pump to motor fuel retailers for the installation of biofuel blender pumps and associated equipment at retail locations.
2. In determining eligibility for grant funds, the department shall establish by rule criteria governing:
 - a. The verification of costs for biofuel blender pumps and associated equipment;
 - b. The eligibility of grant recipients;
 - c. The application and grant award procedure; and
 - d. Reporting and accountability procedures for grant recipients.

3. The amount of incentives payable to any retail location under this chapter may not exceed two percent of the total amount appropriated or transferred to the biofuel blender pump incentive fund.

Blender pumps - Requirements.

1. To qualify for a grant under this chapter, a retailer must install an ethanol blender pump and an associated storage and piping system. The pump must be the type that:
 - a. Dispenses at retail a blend of gasoline and ethanol in the ratio selected by the purchaser;
 - b. Is manufactured to an industry standard and carries a warranty for compatibility with dispenser components and storage and piping systems;
 - c. Has at least four hoses and dispenses the following:
 - (1) Either a blend of ten percent ethanol or the minimum blend percentage approved for all vehicles by the United States environmental protection agency;
 - (2) A blend of at least twenty percent ethanol; and
 - (3) E85 fuel; and
 - d. Complies with all alternative fuel, biofuel, and flexible fuel requirements established by law.
2. In order to qualify for a grant under this chapter, a retailer must install a biodiesel blender pump that:
 - a. Dispenses at retail varying blends of biodiesel and mineral diesel in the ratio selected by the purchaser; and
 - b. Complies with all alternative fuel, biofuel, and flexible fuel requirements established by law.

Biofuel blender pump incentive fund - Administrative costs. The department may use up to five percent of any amount appropriated to the biofuel blender pump incentive fund for administration, the dissemination of information regarding the biofuel blender pump incentive program, and the dissemination of information regarding the benefits of biofuels.

SECTION 2. AMENDMENT. Section 19-10-19 of the North Dakota Century Code is amended and reenacted as follows:

19-10-19. Inspection fees. Every person licensed by the tax commissioner as a motor vehicle fuel or special fuels dealer shall pay to the tax commissioner an inspection fee of one-fortieth of one cent per gallon [3.79 liters] for every gallon [3.79 liters] of gasoline, kerosene, tractor fuel, heating oil, ~~or~~ diesel fuel, or alternative fuel sold or used during a calendar month except those gallons sold out of state or those gallons sold as original package sales as defined in chapters 57-43.1 and 57-43.2. The fee must accompany the monthly report required in the following section and is due no later than the twenty-fifth day of each calendar month for the preceding month. The tax commissioner shall forward all money collected under this section to the state treasurer monthly, and the state treasurer shall place the money in the general fund of the state. The tax commissioner shall make available annually a report by licensed dealer listing the number of gallons [liters] of motor vehicle fuel and special fuels upon which the inspection fee has been paid. The provisions of chapters 57-43.1 and 57-43.2 pertaining to the administration of motor vehicle fuel and special fuels taxes not in conflict with the provisions of this chapter govern the administration of the inspection fee levied by this chapter.

SECTION 3. AMENDMENT. Section 19-10-20 of the North Dakota Century Code is amended and reenacted as follows:

19-10-20. Report to tax commissioner of petroleum products — Contents - Fuels. No later than the twenty-fifth day of each calendar month, every person licensed by the tax commissioner as a motor vehicle fuel, special fuels, or liquefied petroleum wholesale dealer shall send to the tax commissioner a correct report of all purchases and sales of gasoline, kerosene, tractor fuel, heating oil, ~~or diesel fuel, or alternative fuel~~ during the preceding month. The report must include the same information as required in chapters 57-43.1 and 57-43.2 for motor vehicle fuel and special fuels tax collection purposes. Failure to send the report and inspection fee required by the preceding section to the tax commissioner constitutes a violation of the provisions of this chapter.

SECTION 4. AMENDMENT. Section 19-10-21 of the North Dakota Century Code is amended and reenacted as follows:

19-10-21. ~~Bond may be required of Fuel dealer in petroleum products - Bond.~~ The tax commissioner may require any person licensed by the tax commissioner as a motor vehicle fuel, special fuels, or liquefied petroleum wholesale dealer to furnish a surety bond payable to the state of North Dakota in the sum of five hundred dollars, or twice the amount of inspection fees due for any calendar month, whichever amount is the greater, guaranteeing to the state true reports of purchases and sales of gasoline, kerosene, tractor fuel, heating oil, ~~and diesel fuel, and alternative fuel~~ and the payment of all inspection fees provided for in this chapter. The tax commissioner shall determine the sufficiency of the bond. A single bond may cover dealing in one or all of the petroleum products mentioned in this chapter. When any inspection fee is not paid within twenty days after it has become delinquent, the person bonding the delinquent may be called upon to make good upon the bond for such delinquent fees.

SECTION 5. BIOFUEL BLENDER PUMP INCENTIVE FUND - TRANSFER. The state treasurer shall transfer any moneys in the biofuel blender pump incentive fund on November 30, 2010, to the general fund.

SECTION 6. EFFECTIVE DATE. This Act becomes effective on July 1, 2009.

SECTION 7. EXPIRATION DATE. This Act is effective through November 30, 2010, and after that date is ineffective.

SECTION 8. EMERGENCY. This Act is declared to be an emergency measure.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2228 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 42 Nays 3 Absent 2

President of the Senate

Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 84 Nays 9 Absent 1

Speaker of the House

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,
at ____ o'clock _____ M.

Secretary of State