

ORIGINAL



House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

*Craig Palmer*

Offered By 4

1 AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for  
2 Senate Bill No. 278, Page 33, Section 301.645, Line 17, by inserting after all of said line the  
3 following:  
4

5 "319.114. 1. The department shall establish rules requiring the owner or operator to  
6 maintain evidence of financial responsibility in an amount and form sufficient for taking corrective  
7 action and compensating third parties for bodily injury and property damage caused by sudden and  
8 nonsudden accidental releases arising from the operation of an underground storage tank.

9 2. The form of the evidence of financial responsibility required by this section may be by  
10 any one, or any combination, of the following methods: cash trust fund, guarantee, insurance, surety  
11 or performance bond, letter of credit, qualification as a self-insurer, or any other method satisfactory  
12 to the department. In adopting requirements under this section, the department may specify policy or  
13 other contractual terms, conditions, or defenses which are necessary or are unacceptable in  
14 establishing the evidence of financial responsibility.

15 3. The amount of financial responsibility required shall not exceed the amount required for  
16 compliance with section 9003 of subtitle I of the federal Resource Conservation and Recovery Act of  
17 1976 (P.L. 94-580), as amended.

18 4. The total liability of a guarantor shall be limited to the aggregate amount which the  
19 guarantor has provided as evidence of financial responsibility to the owner or operator under this  
20 section. Nothing in this subsection shall be construed to limit any other state or federal statutory,  
21 contractual, or common law liability of a guarantor to its owner or operator, including, but not  
22 limited to, the liability of such guarantor for bad faith either in negotiating or in failing to negotiate  
23 the settlement of any claim.

24 Nothing in this subsection shall be construed to diminish the liability of any person under section  
25 107 or 111 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980  
26 (P.L. 96-510), as amended, or other applicable law.

27 5. Except in cases of fraud or misrepresentation on the application for coverage, no owner or  
28 operator shall be denied benefits by the petroleum storage tank insurance fund or other provider of  
29 financial responsibility required by this section solely because the owner or operator's claim arises  
30 from a release of a regulated petroleum substance deemed incompatible with the motor fuel storage  
31 tank system.

32 414.036. 1. After December 31, 2010, the owner or operator of an aboveground storage tank  
33 defined in subsection 2 of this section shall maintain evidence of financial responsibility in an  
34 amount equal to or greater than one million dollars per occurrence and two million dollars annual  
35 aggregate for the costs of taking corrective action and compensating third parties for bodily injury  
36 and property damage caused by sudden and nonsudden accidental releases arising from the operation

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1 of the tank.

2 2. For the purposes of this section, "aboveground storage tank" is defined as any one or a  
3 combination of tanks, including pipes connected thereto, used to contain an accumulation of  
4 petroleum and the volume of which, including the volume of the aboveground pipes connected  
5 thereto, is ninety percent or more above the surface of the ground, which is utilized for the sale of  
6 products regulated by this chapter. The term does not include those tanks described in paragraphs (a)  
7 to (k) of subdivision (16) of section 319.100, nor does it include aboveground storage tanks at  
8 refineries, petroleum pipeline terminals, or marine terminals.

9 3. Owners and operators may meet the requirements of this section by participating in the  
10 petroleum storage tank insurance fund created in section 319.129 or by any other method approved  
11 by the department.

12 4. The department shall promulgate rules to implement the provisions of this section. Any  
13 rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority  
14 delegated in this section shall become effective only if it complies with and is subject to all of the  
15 provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are  
16 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to  
17 review, to delay the effective date, or to disapprove and annul a rule are subsequently held  
18 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after  
19 August 28, 2008, shall be invalid and void.

20 5. Except in cases of fraud or misrepresentation on the application for coverage, no owner or  
21 operator shall be denied benefits by the petroleum storage tank insurance fund or other provider of  
22 financial responsibility required by this section solely because the owner or operator's claim arises  
23 from a release of a regulated motor fuel deemed incompatible with the motor fuel storage tank  
24 system.

25 414.255. 1. This section shall be known and may be cited as the "Missouri Renewable Fuel  
26 Standard Act".

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

28 (1) "Aviation fuel", any motor fuel specifically compounded for use in reciprocating aircraft  
29 engines;

30 (2) "Distributor", a person who either produces, refines, blends, compounds or manufactures  
31 motor fuel, imports motor fuel into a state or exports motor fuel out of a state, or who is engaged in  
32 distribution of motor fuel;

33 (3) "Fuel ethanol-blended gasoline", a mixture of ninety percent gasoline and ten percent  
34 fuel ethanol in which the fuel ethanol meets ASTM International Specification D4806, as amended.  
35 The ten percent fuel ethanol portion may be derived from any agricultural source;

36 (4) "Position holder", the person who holds the inventory position in motor fuel in a  
37 terminal, as reflected on the records of the terminal operator. A person holds the inventory position  
38 in motor fuel when that person has a contract with the terminal operator for the use of storage  
39 facilities and terminating services for motor fuel at the terminal. The term includes a terminal  
40 operator who owns motor fuel in the terminal;

41 (5) "Premium gasoline", gasoline with an antiknock index number of ninety-one or greater;

42 (6) "Price", the cost of the fuel ethanol plus fuel taxes and transportation expenses less tax  
43 credits, if any; or the cost of the fuel ethanol-blended gasoline plus fuel taxes and transportation  
44 expenses less tax credits, if any; or the cost of the unblended gasoline plus fuel taxes and  
45 transportation expenses less tax credits, if any;

46 (7) "Qualified terminal", a terminal that has been assigned a terminal control number (tcn)  
47 by the Internal Revenue Service;

48 (8) "Supplier", a person that is:



1 (a) Registered or required to be registered pursuant to 26 U.S.C., Section 4101, for  
2 transactions in motor fuels in the bulk transfer/terminal distribution system; and

3 (b) One or more of the following:

4 a. The position holder in a terminal or refinery in this state;

5 b. Imports motor fuel into this state from a foreign country;

6 c. Acquires motor fuel from a terminal or refinery in this state from a position holder  
7 pursuant to either a two-party exchange or a qualified buy-sell arrangement which is treated as an  
8 exchange and appears on the records of the terminal operator; or

9 d. The position holder in a terminal or refinery outside this state with respect to motor fuel  
10 which that person imports into this state. A terminal operator shall not be considered a supplier  
11 based solely on the fact that the terminal operator handles motor fuel consigned to it within a  
12 terminal. "Supplier" also means a person that produces fuel grade alcohol or alcohol-derivative  
13 substances in this state, produces fuel grade alcohol or alcohol-derivative substances for import to  
14 this state into a terminal, or acquires upon import by truck, rail car or barge into a terminal, fuel  
15 grade alcohol or alcohol-derivative substances. "Supplier" includes a permissive supplier unless  
16 specifically provided otherwise;

17 (9) "Terminal", a bulk storage and distribution facility which includes:

18 (a) For the purposes of motor fuel, is a qualified terminal;

19 (b) For the purposes of fuel grade alcohol, is supplied by truck, rail car, boat, barge or  
20 pipeline and the products are removed at a rack; and

21 (10) "Unblended gasoline", gasoline that has not been blended with fuel ethanol.

22 3. Except as otherwise provided under subsections 4 and 5 of this section, on and after  
23 January 1, 2008, all gasoline sold or offered for sale in Missouri at retail shall be fuel  
24 ethanol-blended gasoline.

25 4. If a distributor is unable to obtain fuel ethanol or fuel ethanol-blended gasoline from a  
26 position holder or supplier at the terminal at the same or lower price as unblended gasoline, then the  
27 purchase of unblended gasoline by the distributor and the sale of the unblended gasoline at retail  
28 shall not be deemed a violation of this section. The position holder, supplier, distributor, and  
29 ultimate vendor shall, upon request, provide the required documentation regarding the sales  
30 transaction and price of fuel ethanol, fuel ethanol-blended gasoline, and unblended gasoline to the  
31 department of agriculture and the department of revenue. All information obtained by the  
32 departments from such sources shall be confidential and not disclosed except by court order or as  
33 otherwise provided by law.

34 5. The following shall be exempt from the provisions of this section:

35 (1) Aviation fuel and automotive gasoline used in aircraft;

36 (2) Premium gasoline;

37 (3) E75-E85 fuel ethanol;

38 (4) Any specific exemptions declared by the United States Environmental Protection  
39 Agency; and

40 (5) Bulk transfers between terminals. The director of the department of agriculture may by  
41 rule exempt or rescind additional gasoline uses from the requirements of this section. The governor  
42 may by executive order waive the requirements of this section or any part thereof in part or in whole  
43 for all or any portion of this state for reasons related to air quality. Any regional waiver shall be  
44 issued and implemented in such a way as to minimize putting any region of the state at a competitive  
45 advantage or disadvantage with any other region of the state.

46 6. The provisions of section 414.152 shall apply for purposes of enforcement of this section.

47 7. The department of agriculture is hereby authorized to promulgate rules to ensure  
48 implementation of, and compliance and consistency with, this section. Any rule or portion of a rule,



1 as that term is defined in section 536.010, that is created under the authority delegated in this section  
2 shall become effective only if it complies with and is subject to all of the provisions of chapter 536  
3 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the  
4 powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective  
5 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of  
6 rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and  
7 void.

8 8. All terminals in Missouri that sell gasoline shall offer for sale, in cooperation with  
9 position holders and suppliers, fuel ethanol-blended gasoline, fuel ethanol, and unblended gasoline.  
10 Terminals that only offer for sale federal reformulated gasolines, in cooperation with position  
11 holders and suppliers, shall not be required to offer for sale unblended gasoline.

12 9. Notwithstanding any other law to the contrary, all fuel retailers, wholesalers, distributors,  
13 and marketers shall be allowed to purchase fuel ethanol from any terminal, position holder, fuel  
14 ethanol producer, fuel ethanol wholesaler, or supplier. In the event a court of competent jurisdiction  
15 finds that this subsection does not apply to or improperly impairs existing contractual relationships,  
16 then this subsection shall only apply to and impact future contractual relationships.

17 10. No motor vehicle manufacturer, distributor, or dealer or refiner, supplier, wholesaler,  
18 distributor, retailer, or other vendor of motor fuel that contains or is blended with any amount of  
19 ethanol, biodiesel, or other renewable fuel or biofuel and that complies with labeling and motor fuel  
20 quality laws shall be liable for any property damages related to a customer's purchase or use of such  
21 motor fuel from the vendor so long as the selection of motor fuel was made by the customer and not  
22 the vendor. No motor fuel that contains or is blended with any amount of ethanol, biodiesel, or other  
23 renewable fuel or biofuel shall be considered a defective product for the purposes of a claim for  
24 property damage if such motor fuel complies with motor fuel quality laws.

25 620.3150. Notwithstanding any other provision of law, any comprehensive state energy plan  
26 developed by the division of energy shall be adopted and implemented only upon the approval of  
27 such plan by the general assembly by concurrent resolution."; and

28  
29 Further amend said bill by amending the title, enacting clause, and intersectional references  
30 accordingly.

