

AN ACT

ENTITLED, An Act to provide for a tax incentive for fuel blended with biodiesel.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That subdivision (1B) of § 10-47B-3 be amended to read as follows:

(1B) "Biodiesel," a fuel that is comprised of:

- (a) Mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated B100, and meeting the requirements of the American Society of Testing and Materials D 6751 as of January 1, 2008;
- (b) A derivative of any organic material, without regard to the process used, that meets the registration requirements for fuels and chemicals established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545) as of January 1, 2008, and the American Society of Testing and Materials (ASTM) D975 or D396 as of January 1, 2008, but does not include oil, natural gas, or coal (including lignite), or any products thereof; or
- (c) Both;

Section 2. That subdivision (1C) of § 10-47B-3 be amended to read as follows:

(1C) "Biodiesel blend," a blended special fuel containing a minimum of five percent by volume of biodiesel;

Section 3. That § 10-47B-4 be amended to read as follows:

10-47B-4. The fuel excise tax rates for the tax imposed by this chapter are as follows:

- (1) Motor fuel (except ethanol blends, biodiesel, biodiesel blends, E85 and M85 blends, and aviation gasoline)--\$.22 per gallon;
- (2) Special fuel (except jet fuel)--\$.22 per gallon;
- (3) Ethanol blends--\$.20 per gallon;

- (4) Aviation gasoline--\$.06 per gallon;
- (5) Jet fuel--\$.04 per gallon;
- (6) E85 and M85--\$.10 per gallon;
- (7) E85 and M85 used in aircraft--\$.04 per gallon;
- (8) Liquid petroleum gas--\$.20 per gallon;
- (9) Compressed natural gas--\$.10 per gallon;
- (10) Biodiesel and biodiesel blends--\$.20 per gallon.

Section 4. That chapter 10-47B be amended by adding thereto a NEW SECTION to read as follows:

Any producer of biodiesel shall maintain records of plant capacity and production and report to the secretary of revenue and regulation at least quarterly.

Section 5. That chapter 10-47B be amended by adding thereto a NEW SECTION to read as follows:

The provisions of section 3 of this Act shall become effective in the quarter after biodiesel production facilities in South Dakota reach a name plate capacity of at least twenty million gallons per year and fully produce at least ten million gallons of biodiesel within one year as determined by the secretary of revenue and regulation. The secretary shall file a certification of the determination with the secretary of state and the Legislative Research Council as the means of determining the effective date of section 3 of this Act.

Section 6. That chapter 10-47B be amended by adding thereto a NEW SECTION to read as follows:

The provisions of section 3 of this Act are repealed in the quarter after thirty-five million gallons of taxed biodiesel and biodiesel blended fuel are sold after the effective date of section 3 of this Act as determined by the secretary of revenue and regulation. The secretary shall file a certification of

the determination with the secretary of state and the Legislative Research Council as the means of determining the effective date of the repeal of section 3 of this Act.

Section 7. That § 10-47B-9 be amended to read as follows:

10-47B-9. A fuel excise tax is imposed on unblended ethyl alcohol or biodiesel sold by a licensed producer, supplier, importer, or blender unless the sale is made to a licensed supplier for resale, to a licensed blender, or to a licensed exporter for export to another state who is specifically licensed to export to that state. The tax imposed shall be at the rate set for motor fuel in § 10-47B-4.

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I certify that the attached Act
originated in the

SENATE as Bill No. 148

Secretary of the Senate

President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 148

File No. _____

Chapter No. _____

Received at this Executive Office
this ____ day of _____ ,

20 ____ at _____ M.

By _____
for the Governor

The attached Act is hereby
approved this _____ day of
_____, A.D., 20 ____

Governor

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20 ____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State