

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

400P0651

SENATE BILL NO. 148

Introduced by: The Committee on State Affairs at the request of the Office of the Governor

1 FOR AN ACT ENTITLED, An Act to provide for a tax incentive for fuel blended with
2 biodiesel.

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

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

5 (1B) "Biodiesel," a fuel that is comprised of ~~mono-alkyl~~:

6 (a) Mono-alkyl esters of long chain fatty acids derived from vegetable oils or
7 animal fats, designated B100, and meeting the requirements of the American
8 Society of Testing and Materials D 6751 as of January 1, ~~2004~~ 2008;

9 (b) A derivative of any organic material, without regard to the process used, that
10 meets the registration requirements for fuels and chemicals established by the
11 Environmental Protection Agency under section 211 of the Clean Air Act (42
12 U.S.C. 7545) as of January 1, 2008, and the American Society of Testing and
13 Materials (ASTM) D975 or D396 as of January 1, 2008, but does not include
14 oil, natural gas, or coal (including lignite), or any products thereof; or

15 (c) Both;



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

2 (1C) "Biodiesel blend," a blended special fuel containing a minimum of ~~two~~ five percent
3 by volume of biodiesel;

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

5 10-47B-4. The fuel excise tax rates for the tax imposed by this chapter are as follows:

- 6 (1) Motor fuel (except ethanol blends, biodiesel, biodiesel blends, E85 and M85 blends,
7 and aviation gasoline)--\$.22 per gallon;
- 8 (2) Special fuel (except jet fuel)--\$.22 per gallon;
- 9 (3) Ethanol blends--\$.20 per gallon;
- 10 (4) Aviation gasoline--\$.06 per gallon;
- 11 (5) Jet fuel--\$.04 per gallon;
- 12 (6) E85 and M85--\$.10 per gallon;
- 13 (7) E85 and M85 used in aircraft--\$.04 per gallon;
- 14 (8) Liquid petroleum gas--\$.20 per gallon;
- 15 (9) Compressed natural gas--\$.10 per gallon;
- 16 (10) Biodiesel and biodiesel blends--\$.20 per gallon.

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

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

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

23 The provisions of section 3 of this Act shall become effective in the quarter after biodiesel
24 production facilities in South Dakota reach a name plate capacity of at least twenty million

1 gallons per year and fully produce at least ten million gallons of biodiesel within one year as
2 determined by the secretary of revenue and regulation. The secretary shall file a certification of
3 the determination with the secretary of state and the Legislative Research Council as the means
4 of determining the effective date of section 3 of this Act.

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

7 The provisions of section 3 of this Act are repealed in the quarter after thirty-five million
8 gallons of taxed biodiesel and biodiesel blended fuel are sold after the effective date of section
9 3 of this Act as determined by the secretary of revenue and regulation. The secretary shall file
10 a certification of the determination with the secretary of state and the Legislative Research
11 Council as the means of determining the effective date of the repeal of section 3 of this Act.

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

13 10-47B-9. A fuel excise tax is imposed on unblended ethyl alcohol or biodiesel sold by ~~an~~
14 ~~ethanol~~ a licensed producer, supplier, importer, or blender unless the sale is made to a licensed
15 supplier for resale, to a licensed blender, or to a licensed exporter for export to another state who
16 is specifically licensed to export to that state. The tax imposed shall be at the rate set for motor
17 fuel in § 10-47B-4.