

2007 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB682)

Received: **02/15/2008**

Received By: **btradewe**

Wanted: **Soon**

Identical to LRB:

For: **Sheryl Albers (608) 266-8531**

By/Representing: **Larry Konopacki**

This file may be shown to any legislator: **NO**

Drafter: **btradewe**

May Contact:

Addl. Drafters:

Subject: **Agriculture - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Albers@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Renewable fuels with no biodiesel requirement

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/1	btradewe 02/15/2008	bkraft 02/18/2008	rschluet 02/19/2008	_____	sbasford 02/19/2008	sbasford 02/19/2008	
/2	btradewe 02/21/2008	kfollett 02/21/2008	jfrantze 02/21/2008	_____	lparisi 02/21/2008	lparisi 02/21/2008	

FE Sent For:

<END>

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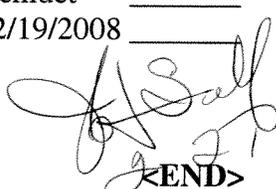
Instructions:

See attached

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/1	btradewe 02/15/2008	bkraft 02/18/2008	rschluet 02/19/2008		sbasford 02/19/2008	sbasford 02/19/2008	

FE Sent For:

12/5f
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<END>

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/?	btradewe	1 bjk 2/18	auto eng. nmw 2/15				
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FE Sent For:

<END>

Tradewell, Becky

From: Konopacki, Larry
Sent: Friday, February 15, 2008 11:53 AM
To: Tradewell, Becky
Subject: Amendments to AB 682

Hello Becky,

Below are the amendment requests that Rep. Albers asked me to forward to you:

1. A simple amendment to Assembly Amendment 2 to AB 682 as follows: page 2, line 17, change "biodiesel fuel" to "biofuel" and page 2, line 18, change "biodiesel fuel" to "biofuel."
2. A substitute amendment to AB 682 that removes the biodiesel standard from the bill (she agreed with your suggestion) and incorporates AA 1 to AB 682, AA 2 to AB 682 (as amended in #1 above), to the extent they would be applicable to the remaining provisions of the bill. (Note that I specifically asked Rep. Albers whether she wanted to specify a certain % biodiesel requirement within the "umbrella" of the standard for renewable fuel under the bill, and she said no, that she would prefer to allow some flexibility in how refiners get to their required renewable fuel requirements.)

Thanks,

Larry

Larry Konopacki
Wisconsin Legislative Council
608-267-0683
larry.konopacki@legis.wisconsin.gov

2007 ASSEMBLY BILL 682

January 11, 2008 – Introduced by Representatives SUDER, SHERIDAN, DAVIS, GRONEMUS, ZEPNICK, HAHN, JORGENSEN, ALBERS, GARTHWAITE, MUSSER, SMITH, HILGENBERG, HRAYCHUCK and SINICKI, cosponsored by Senators KREITLOW, SCHULTZ, JAUCH, HARS DORF, OLSEN and VINEHOUT. Referred to Committee on Biofuels and Sustainable Energy.

- 1 **AN ACT to create** 100.60 of the statutes; **relating to:** the sale of renewable motor
2 vehicle fuels, granting rule-making authority, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill relates to renewable motor vehicle fuels. Under the bill, renewable fuels consist of ethanol, biodiesel, and hydrogen produced using wind power. In addition, the bill authorizes the Department of Agriculture, Trade and Consumer Protection (DATCP) to promulgate rules designating additional fuels, other than petroleum-based fuels, as renewable fuels.

This bill generally subjects a refiner to a penalty if the percentage of renewable fuel sold by the refiner, beginning in 2009, is less than a percentage set in the bill. The percentage of renewable fuel sold is determined by dividing the total volume of wholesale sales of renewable fuel in a year by the refiner's five year rolling average volume of wholesale sales of all motor vehicle fuel, other than diesel fuel, and multiplying by 100. The percentage begins at 10 percent and increases to 25 percent in 2025 and thereafter. The bill authorizes DATCP to implement a system of credit trading for refiners, under which a refiner who sells more than the required percentage of renewable fuels in a year could sell credits to refiners who fail to meet the renewable fuel requirements, enabling the purchasing refiners to avoid a penalty. The bill authorizes DATCP to temporarily suspend the requirements imposed on wholesalers if a sufficient supply of renewable fuel is not available.

This bill also provides that if the total amount of biodiesel fuel sold at retail in this state in 2007 is less than 40,000,000 gallons, a person who sells diesel fuel at retail is generally subject to a penalty if the volume of biodiesel fuel sold by the person

ASSEMBLY BILL 682

in a year, beginning in 2009, is less than five percent of the total volume of diesel fuel sold by the person at retail in that year. The bill authorizes DATCP to temporarily suspend the requirements imposed on retailers if a sufficient supply of biodiesel is not available.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 100.60 of the statutes is created to read:

2 **100.60 Renewable fuel standards. (1) DEFINITIONS.** In this section:

3 (a) “Biodiesel fuel” means any of the following:

4 1. A fuel that is comprised of monoalkyl esters of long chain fatty acids derived
5 from vegetable oils or animal fats and that meets all of the applicable requirements
6 of the American Society for Testing and Materials.

7 2. Any fuel not described in subd. 1. that can substitute for petroleum-based
8 diesel fuel and that the department designates as biodiesel fuel under sub. (5) (am).

9 (b) “Diesel fuel” includes biodiesel fuel and petroleum-based diesel fuel.

10 (c) “Motor vehicle fuel” means gasoline, diesel fuel, ethanol, or any other
11 substance used to fuel vehicles that are primarily used for transportation on public
12 roadways.

13 (d) “Percentage of renewable fuel sold” means the percentage that results from
14 dividing the total volume of wholesale sales of renewable fuel sold in this state in a
15 year by the average total volume of wholesale sales of motor vehicle fuel, other than
16 diesel fuel, in this state in that year and the previous 4 years and multiplying by 100.

17 (e) “Refiner” means a person who makes wholesale sales of at least 40,000,000
18 gallons of motor vehicle fuel in a year at terminals located in this state.

19 (f) “Renewable fuel” means any of the following:

ASSEMBLY BILL 682

- 1 1. Ethanol.
- 2 2. Biodiesel fuel.
- 3 3. Hydrogen produced using wind power.
- 4 4. Any other fuel that the department designates as a renewable fuel in rules
- 5 promulgated under sub. (5) (b).

6 (g) "Terminal" means a facility for storing and distributing motor vehicle fuel
7 that is supplied by a pipeline or marine vessel and from which motor vehicle fuel may
8 be removed at a rack and loaded onto trucks for further distribution.

9 (h) "Wholesale sale" means the transfer of motor vehicle fuel to a jobber,
10 wholesaler, retailer, or other person at a terminal in this state.

11 **(2) STANDARD FOR RENEWABLE FUEL.** Except as provided under sub. (5) (c) or (d),
12 a refiner is subject to the penalties in sub. (6) (a) if the percentage of renewable fuel
13 sold by the refiner in this state in a year is less than the following:

14 (a) In 2009 to 2014, 10 percent.

15 (b) In 2015 to 2019, 15 percent.

16 (c) In 2020 to 2024, 20 percent.

17 (d) In 2025 and thereafter, 25 percent.

18 **(4) BIODIESEL.** (a) No later than June 30, 2008, the department shall determine
19 the total volume of biodiesel fuel sold at retail in this state in 2007.

20 (b) If the volume determined under par. (a) is less than 40,000,000 gallons, the
21 department shall notify the legislative reference bureau and the legislative reference
22 bureau shall publish in the next issue of the Wisconsin Administrative Register a
23 notice that the requirement in par. (c) applies beginning in 2009.

24 (c) If the legislative reference bureau publishes the notice under par. (b), except
25 as provided under sub. (5) (c), beginning in 2009, a person who sells diesel fuel at

ASSEMBLY BILL 682**SECTION 1**

1 retail in this state is subject to the penalties in sub. (6) (b) if the volume of biodiesel
2 fuel sold by the person in this state in a year is less than 5 percent of the total volume
3 of diesel fuel sold by the person at retail in this state in that year.

4 (5) RULES. (a) The department shall promulgate rules for the administration
5 of this section, including rules for any reporting necessary to determine compliance
6 with subs. (2) and (4) (c).

7 (am) The department may promulgate rules designating a fuel that is derived
8 from a renewable source and that can substitute for petroleum-based diesel fuel as
9 biodiesel fuel. In rules under this paragraph, the department shall include
10 standards to ensure the reliable operation of motor vehicles using the fuel.

11 (b) The department may promulgate rules designating a motor vehicle fuel,
12 other than a petroleum-based fuel and other than hydrogen that is produced using
13 a petroleum-based fuel, as a renewable fuel.

14 (c) If the department determines that a sufficient supply of renewable fuel is
15 not available to refiners, the department may temporarily suspend the requirements
16 under sub. (2) by promulgating a rule using the procedure under s. 227.24. If the
17 department determines that a sufficient supply of biodiesel fuel is not available to
18 persons selling diesel fuel, the department may temporarily suspend the
19 requirement under sub. (4) (c) by promulgating a rule using the procedure under s.
20 227.24. Notwithstanding s. 227.24 (1) (a), (2) (b), and (3), the department is not
21 required to provide evidence that promulgating a rule under this paragraph as an
22 emergency rule is necessary for the preservation of the public peace, health, safety,
23 or welfare and is not required to provide a finding of emergency for a rule
24 promulgated under this paragraph.

**ASSEMBLY AMENDMENT 1,
TO 2007 ASSEMBLY BILL 682**

February 11, 2008 – Offered by Representative SUDER.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 2, line 2: after that line insert:

3 “(a) “Advanced biofuel” has the meaning given in 42 USC 7545 (o) (1) (b).”.

4 **2.** Page 2, line 3: substitute “(ag)” for “(a)”.

5 **3.** Page 2, line 8: after that line insert:

6 “(ar) “Cellulosic biofuel” has the meaning given in 42 USC 7547 (o) (1) (e).”.

7 **4.** Page 4, line 6: after that line insert:

8 “(ae) The department shall promulgate rules specifying requirements for the
9 sale by refiners of advanced biofuel and cellulosic biofuel beginning in 2014. The
10 department shall design the rules to make the amounts of advanced biofuel and
11 cellulosic biofuel that are required to be sold similar to the amounts that are required
12 to be sold under 42 USC 7545 (o) (2) and regulations promulgated under that
13 paragraph. The department shall include in the rules provisions for granting



State of Wisconsin
2007-2008 LEGISLATURE

CORRECTIONS IN:

**ASSEMBLY AMENDMENT 1,
TO 2007 ASSEMBLY BILL 682**

Prepared by the Legislative Reference Bureau
(February 13, 2008)

1. Page 1, line 3: delete "(b)" and substitute "(B), as affected by P.L. 110-140".
2. Page 1, line 6: delete "7547 (o) (1) (e)" and substitute "7545 (o) (1) (E), as affected by P.L. 110-140".
3. Page 1, line 12: after "7545 (o) (2)" insert ", as affected by P.L. 110-140,".

(END)

**ASSEMBLY AMENDMENT 2,
TO 2007 ASSEMBLY BILL 682**

February 11, 2008 – Offered by Representative SUDER.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 3, line 18: delete “2008” and substitute “2009”.

3 **2.** Page 3, line 19: delete “2007” and substitute “2008”.

4 **3.** Page 3, line 23: delete “2009” and substitute “2010”.

5 **4.** Page 3, line 25: delete “2009” and substitute “2010”.

6 **5.** Page 5, line 6: after “(a).” insert “The department shall ensure that any
7 system of credit trading under this paragraph is coordinated with any system of
8 credit trading under 42 USC 7545 (o) (5), including using comparable standards for
9 denominating, measuring, verifying, using, and retiring credits.”.

10 **6.** Page 5, line 6: after that line insert:

11 **“(5m) WARNING.** The first time that the department determines that a person
12 has violated sub. (2) or (4) (c), the department shall issue a written warning notice

1 to the person. A person who has not been issued a warning under this subsection is
2 not subject to the penalties under sub. (6).”.

3 **7.** Page 5, line 8: delete “\$10,000 for a first offense” and substitute “\$5,000 for
4 a first conviction”.

5 **8.** Page 5, line 10: delete “\$50,000 for a 2nd offense” and substitute “\$10,000
6 for a 2nd conviction”.

7 **9.** Page 5, line 12: delete “\$100,000 for a 3rd or subsequent offense” and
8 substitute “\$25,000 for a 3rd or subsequent conviction”.

9 **10.** Page 5, line 14: delete “\$10,000 for a first offense” and substitute “\$5,000
10 for a first conviction”.

11 **11.** Page 5, line 16: delete “\$50,000 for a 2nd offense” and substitute “\$10,000
12 for a 2nd conviction”.

13 **12.** Page 5, line 18: delete “\$100,000 for a 3rd or subsequent offense” and
14 substitute “\$25,000 for a 3rd or subsequent conviction”.

15 **13.** Page 5, line 18: after that line insert:

16 **“SECTION 2m. Nonstatutory provisions.**

17 (1) BIODIESEL FUEL STUDY. The department of agriculture, trade and consumer
18 protection shall conduct a study of the sale and distribution of biodiesel fuel in this
19 state. No later than January 1, 2010, the department shall report the results of its
20 study to the legislature in the manner provided under section 13.172 (2) of the
21 statutes.”.

22 (END)



State of Wisconsin
2007 - 2008 LEGISLATURE

LRBs0280/01

RCT...:twd

Wanted soon (in 2/15)

kjf : bjk RMY

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

ASSEMBLY SUBSTITUTE AMENDMENT,

TO 2007 ASSEMBLY BILL 682 ✓

bh ✓
SA ✓
X-ref ✓

regen. cat.

1 AN ACT to create 100.60 of the statutes; relating to: the sale of renewable motor
2 vehicle fuels, granting rule-making authority, and providing a penalty.

Analysis by the Legislative Reference Bureau

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 100.60 of the statutes is created to read:

4 ✓ 100.60 Renewable fuel standards. (1) DEFINITIONS. In this section:

5 (a) "Advanced biofuel" has the meaning given in 42 USC 7545 (o) (1) (B).

6 (ag) "Biodiesel fuel" means any of the following:

- 7 1. A fuel that is comprised of monoalkyl esters of long chain fatty acids derived
- 8 from vegetable oils or animal fats and that meets all of the applicable requirements
- 9 of the American Society for Testing and Materials.

(B) as affected by BLO 110-140

1 ✓ (2) STANDARD FOR RENEWABLE FUEL. Except as provided under sub. (5) (c) or (d),
2 a refiner is subject to the penalties in sub. (6) (a) if the percentage of renewable fuel
3 sold by the refiner in this state in a year is less than the following:

4 ✓ (a) In 2009 to 2014, 10 percent.

5 ✓ (b) In 2015 to 2019, 15 percent.

6 ✓ (c) In 2020 to 2024, 20 percent.

7 ✓ (d) In 2025 and thereafter, 25 percent.

8 (4) BIODIESEL. (a) No later than June 30, 2009, the department shall determine
9 the total volume of biodiesel fuel sold at retail in this state in 2008.

10 (b) If the volume determined under par. (a) is less than 40,000,000 gallons, the
11 department shall notify the legislative reference bureau and the legislative reference
12 bureau shall publish in the next issue of the Wisconsin Administrative Register a
13 notice that the requirement in par. (c) applies beginning in 2010.

14 (c) If the legislative reference bureau publishes the notice under par. (b), except
15 as provided under sub. (5) (c), beginning in 2010, a person who sells diesel fuel at
16 retail in this state is subject to the penalties in sub. (6) (b) if the volume of biodiesel
17 fuel sold by the person in this state in a year is less than 5 percent of the total volume
18 of diesel fuel sold by the person at retail in this state in that year.

19 (5) RULES. (a)✓ The department shall promulgate rules for the administration
20 of this section, including rules for any reporting necessary to determine compliance
21 with subs. (2) and (4) (c).

22 ✓ (ae) The department shall promulgate rules specifying requirements for the
23 sale by refiners of advanced biofuel and cellulosic biofuel beginning in 2014. The
24 department shall design the rules to make the amounts of advanced biofuel and
25 cellulosic biofuel that are required to be sold similar to the amounts that are required

↑ as corrected by PL 110-140 ↑

1 to be sold under 42 USC 7545 (o) (2) and regulations promulgated under that
2 paragraph. The department shall include in the rules provisions for granting
3 waivers of the requirements if available supplies are not sufficient to enable refiners
4 to comply.

5 (am) The department may promulgate rules designating a fuel that is derived
6 from a renewable source and that can substitute for petroleum-based diesel fuel as
7 biodiesel fuel. In rules under this paragraph, the department shall include
8 standards to ensure the reliable operation of motor vehicles using the fuel.

9 (b) The department may promulgate rules designating a motor vehicle fuel,
10 other than a petroleum-based fuel and other than hydrogen that is produced using
11 a petroleum-based fuel, as a renewable fuel.

12 (c) If the department determines that a sufficient supply of renewable fuel is
13 not available to refiners, the department may temporarily suspend the requirements
14 under sub. (2) by promulgating a rule using the procedure under s. 227.24. If the
15 department determines that a sufficient supply of biodiesel fuel is not available to
16 persons selling diesel fuel, the department may temporarily suspend the
17 requirement under sub. (4) (c) by promulgating a rule using the procedure under s.
18 227.24. Notwithstanding s. 227.24 (1) (a), (2) (b), and (3), the department is not
19 required to provide evidence that promulgating a rule under this paragraph as an
20 emergency rule is necessary for the preservation of the public peace, health, safety,
21 or welfare and is not required to provide a finding of emergency for a rule
22 promulgated under this paragraph.

23 (d) The department may promulgate rules to implement and administer a
24 system of credit trading for refiners. In any rule promulgated under this paragraph,
25 the department shall allow a refiner who sells more renewable fuel than is required

1 under sub. (2) to sell credits to other refiners who fail to meet the renewable fuel
2 requirements under sub. (2) to enable the other refiners to avoid being subject to the
3 penalties under sub. (6) (a). The department shall ensure that any system of credit
4 trading under this paragraph is coordinated with any system of credit trading under
5 42 USC 7545 (o) (5), including using comparable standards for denominating,
6 measuring, verifying, using, and retiring credits.

7 (5m) WARNING. The first time that the department determines that a person
8 has violated sub. (2) or (4) (c), the department shall issue a written warning notice
9 to the person. A person who has not been issued a warning under this subsection is
10 not subject to the penalties under sub. (6).

11 (6) PENALTIES. (a) 1. A refiner who violates sub. (2) may be required to forfeit
12 not more than \$5,000 for a first conviction.

13 (b) 2. A refiner who violates sub. (2) may be required to forfeit not less than \$500
14 nor more than \$10,000 for a 2nd conviction.

15 (c) 3. A refiner who violates sub. (2) may be required to forfeit not less than \$1,000
16 nor more than \$25,000 for a 3rd or subsequent conviction.

17 (b) 1. A person who violates sub. (4) (c) may be required to forfeit not more than
18 \$5,000 for a first conviction.

19 2. A person who violates sub. (4) (c) may be required to forfeit not less than \$500
20 nor more than \$10,000 for a 2nd conviction.

21 3. A person who violates sub. (4) (c) may be required to forfeit not less than
22 \$1,000 nor more than \$25,000 for a 3rd or subsequent conviction.

23 SECTION 2m. Nonstatutory provisions.

24 (1) ~~BIODIESEL FUEL~~ ^{biofuel} STUDY. The department of agriculture, trade and consumer
25 protection shall conduct a study of the sale and distribution of ~~biodiesel fuel~~ ^{biofuel} in this

not
frz -
auto -
number

1 state. No later than January 1, 2010, the department shall report the results of its
2 study to the legislature in the manner provided under section 13.172 (2) of the
3 statutes.

4 (END)

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

0750280

2/21 Per Curt from Alber's office -
Page 5, lines - make the study also about manufacture



State of Wisconsin
2007 - 2008 LEGISLATURE

LRBs0280/2
RCT:kjf&bjk:rs rnr
Stacy/S

2/22

ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2007 ASSEMBLY BILL 682

See p.5

Regen

1 AN ACT *to create* 100.60 of the statutes; **relating to:** the sale of renewable motor
2 vehicle fuels, granting rule-making authority, and providing a penalty.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 100.60 of the statutes is created to read:

4 **100.60 Renewable fuel standards.** (1) DEFINITIONS. In this section:

5 (a) "Advanced biofuel" has the meaning given in 42 USC 7545 (o) (1) (B), as
6 affected by P.L. 110-140.

7 (ag) "Biodiesel fuel" means any of the following:

8 1. A fuel that is comprised of monoalkyl esters of long chain fatty acids derived
9 from vegetable oils or animal fats and that meets all of the applicable requirements
10 of the American Society for Testing and Materials.

11 2. Any fuel not described in subd. 1. that can substitute for petroleum-based
12 diesel fuel and that the department designates as biodiesel fuel under sub. (5) (am).

1 (ar) "Cellulosic biofuel" has the meaning given in 42 USC 7547 (o) (1) (E), as
2 affected by P.L. 110-140.

3 (b) "Diesel fuel" includes biodiesel fuel and petroleum-based diesel fuel.

4 (c) "Motor vehicle fuel" means gasoline, diesel fuel, ethanol, or any other
5 substance used to fuel vehicles that are primarily used for transportation on public
6 roadways.

7 (d) "Percentage of renewable fuel sold" means the percentage that results from
8 dividing the total volume of wholesale sales of renewable fuel sold in this state in a
9 year by the average total volume of wholesale sales of motor vehicle fuel, other than
10 diesel fuel, in this state in that year and the previous 4 years and multiplying by 100.

11 (e) "Refiner" means a person who makes wholesale sales of at least 40,000,000
12 gallons of motor vehicle fuel in a year at terminals located in this state.

13 (f) "Renewable fuel" means any of the following:

14 1. Ethanol.

15 2. Biodiesel fuel.

16 3. Hydrogen produced using wind power.

17 4. Any other fuel that the department designates as a renewable fuel in rules
18 promulgated under sub. (5) (b).

19 (g) "Terminal" means a facility for storing and distributing motor vehicle fuel
20 that is supplied by a pipeline or marine vessel and from which motor vehicle fuel may
21 be removed at a rack and loaded onto trucks for further distribution.

22 (h) "Wholesale sale" means the transfer of motor vehicle fuel to a jobber,
23 wholesaler, retailer, or other person at a terminal in this state.

1 **(2) STANDARD FOR RENEWABLE FUEL.** Except as provided under sub. (5) (c) or (d),
2 a refiner is subject to the penalties in sub. (6) (a) if the percentage of renewable fuel
3 sold by the refiner in this state in a year is less than the following:

4 (a) In 2009 to 2014, 10 percent.

5 (b) In 2015 to 2019, 15 percent.

6 (c) In 2020 to 2024, 20 percent.

7 (d) In 2025 and thereafter, 25 percent.

8 **(5) RULES.** (a) The department shall promulgate rules for the administration
9 of this section, including rules for any reporting necessary to determine compliance
10 with sub. (2).

11 (ae) The department shall promulgate rules specifying requirements for the
12 sale by refiners of advanced biofuel and cellulosic biofuel beginning in 2014. The
13 department shall design the rules to make the amounts of advanced biofuel and
14 cellulosic biofuel that are required to be sold similar to the amounts that are required
15 to be sold under 42 USC 7545 (o) (2), as affected by P.L. 110-140, and regulations
16 promulgated under that paragraph. The department shall include in the rules
17 provisions for granting waivers of the requirements if available supplies are not
18 sufficient to enable refiners to comply.

19 (am) The department may promulgate rules designating a fuel that is derived
20 from a renewable source and that can substitute for petroleum-based diesel fuel as
21 biodiesel fuel. In rules under this paragraph, the department shall include
22 standards to ensure the reliable operation of motor vehicles using the fuel.

23 (b) The department may promulgate rules designating a motor vehicle fuel,
24 other than a petroleum-based fuel and other than hydrogen that is produced using
25 a petroleum-based fuel, as a renewable fuel.

1 (c) If the department determines that a sufficient supply of renewable fuel is
2 not available to refiners, the department may temporarily suspend the requirements
3 under sub. (2) by promulgating a rule using the procedure under s. 227.24.
4 Notwithstanding s. 227.24 (1) (a), (2) (b), and (3), the department is not required to
5 provide evidence that promulgating a rule under this paragraph as an emergency
6 rule is necessary for the preservation of the public peace, health, safety, or welfare
7 and is not required to provide a finding of emergency for a rule promulgated under
8 this paragraph.

9 (d) The department may promulgate rules to implement and administer a
10 system of credit trading for refiners. In any rule promulgated under this paragraph,
11 the department shall allow a refiner who sells more renewable fuel than is required
12 under sub. (2) to sell credits to other refiners who fail to meet the renewable fuel
13 requirements under sub. (2) to enable the other refiners to avoid being subject to the
14 penalties under sub. (6) (a). The department shall ensure that any system of credit
15 trading under this paragraph is coordinated with any system of credit trading under
16 42 USC 7545 (o) (5), including using comparable standards for denominating,
17 measuring, verifying, using, and retiring credits.

18 **(5m) WARNING.** The first time that the department determines that a person
19 has violated sub. (2), the department shall issue a written warning notice to the
20 person. A person who has not been issued a warning under this subsection is not
21 subject to the penalties under sub. (6).

22 **(6) PENALTIES.** (a) A refiner who violates sub. (2) may be required to forfeit not
23 more than \$5,000 for a first conviction.

24 (b) A refiner who violates sub. (2) may be required to forfeit not less than \$500
25 nor more than \$10,000 for a 2nd conviction.

1 (c) A refiner who violates sub. (2) may be required to forfeit not less than \$1,000
2 nor more than \$25,000 for a 3rd or subsequent conviction.

3 **SECTION 2. Nonstatutory provisions.**

4 (1) BIOFUEL STUDY. The department of agriculture, trade and consumer
5 protection shall conduct a study of the sale and ^{manufacture,} distribution of biofuel in this state.
6 No later than January 1, 2010, the department shall report the results of its study
7 to the legislature in the manner provided under section 13.172 (2) of the statutes.

8 (END)