

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

February 25, 2008 – Offered by Representative ALBERS.

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.

