

2007 DRAFTING REQUEST

Bill

Received: **01/22/2007**

Received By: **btradewe**

Wanted: **As time permits**

Identical to LRB:

For: **Pat Kreitlow (608) 266-7511**

By/Representing: **Matt Pagel**

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

Drafter: **btradewe**

May Contact:

Adl. Drafters:

Subject: **Agriculture - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Kreitlow@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Renewable fuel 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>
/?							
/P1	btradewe 02/13/2007	kfollett 02/15/2007	rschluet 02/15/2007	_____	sbasford 02/15/2007		
/P2	btradewe 07/03/2007	kfollett 07/10/2007	nmatzke 07/10/2007	_____	cduerst 07/10/2007		State
/1	btradewe 11/27/2007	kfollett 11/27/2007	pgreensl 11/28/2007	_____	cduerst 11/28/2007	sbasford 01/10/2008	

FE Sent For: "1" @ intro. 1-10-08

<END>

2007 DRAFTING REQUEST

Bill

Received: 01/22/2007

Received By: btradewe

Wanted: As time permits

Identical to LRB:

For: Pat Kreitlow (608) 266-7511

By/Representing: Matt Pagel

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: Sen.Kreitlow@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Renewable fuel 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>
/?							
/P1	btradewe 02/13/2007	kfollett 02/15/2007	rschluet 02/15/2007	_____	sbasford 02/15/2007		
/P2	btradewe 07/03/2007	kfollett 07/10/2007	nmatzke 07/10/2007	_____	cduerst 07/10/2007		State
/1	btradewe 11/27/2007	kfollett 11/27/2007	pgreensl 11/28/2007	_____	cduerst 11/28/2007		

FE Sent For:

<END>

2007 DRAFTING REQUEST

Bill

Received: 01/22/2007

Received By: btradewe

Wanted: As time permits

Identical to LRB:

For: Pat Kreitlow (608) 266-7511

By/Representing: Matt Pagel

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: Sen.Kreitlow@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Renewable fuel 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>
/P1	btradewe 02/13/2007	kfollett 02/15/2007	rschluet 02/15/2007	<i>W</i>	sbasford 02/15/2007		
/P2	btradewe 07/03/2007	kfollett 07/10/2007	nmatzke 07/10/2007	<i>W</i> <i>pr</i>	cduerst 07/10/2007		

FE Sent For:

11/19/07
11/27
W
pr

<END>

2007 DRAFTING REQUEST

Bill

Received: 01/22/2007

Received By: btradewe

Wanted: As time permits

Identical to LRB:

For: Pat Kreitlow (608) 266-7511

By/Representing: Matt Pagel

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: Sen.Kreitlow@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Renewable fuel 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>
/?							
/P1	btradewe 02/13/2007	kfollett 02/15/2007	rschluet 02/15/2007 dwn 7/10	_____	sbasford 02/15/2007		

FE Sent For:

<END>

2007 DRAFTING REQUEST

Bill

Received: 01/22/2007

Received By: **btradewe**

Wanted: **As time permits**

Identical to LRB:

For: **Pat Kreitlow (608) 266-7511**

By/Representing: **Matt Pagel**

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

Drafter: **btradewe**

May Contact: *Rep. Davis' office*

Addl. Drafters:

Subject: **Agriculture - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Kreitlow@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Renewable fuel 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>
--------------	----------------	-----------------	--------------	----------------	------------------	-----------------	-----------------

/?	btradewe	<i>1/11/07 2/15/07</i>	<i>[Signature]</i>	<i>[Signature]</i>			
----	----------	----------------------------	--------------------	--------------------	--	--	--

FE Sent For:

<END>

Kite, Robin

From: Pagel, Matt
Sent: Tuesday, January 16, 2007 2:16 PM
To: Kite, Robin
Subject: Ethanol Bill

Attachments: DRAFT PROPOSAL FOR RENEWABLE FUELS STANDARD.DOC

Robin, can you draft an ethanol draft with the following language. Our office was working with Senator Jauch on the new bill, let us know if you need to discuss further before doing the draft.

Matthew Pagel
266-7512



DRAFT PROPOSAL
FOR RENEWABLE F..

Kreitlow

DRAFT PROPOSAL FOR RENEWABLE FUELS STANDARD

1 – The Renewable Fuels Standard (RFS) would apply on the retail level, but be aggregated by retail entity (in other words Kwik Trip would have to meet one standard for its entire Wisconsin operation, not necessarily at each store). Another option would be to enforce at the distributor/blender level.

2 – The RFS would set a minimum percentage of renewable fuel to be sold as follows:

2008 -10% by 1/1/09

2014 -15% by 1/1/15

2019 -20% by 1/1/20

2024 -25% by 1/1/25

3 – In determining the percentage gasoline, or gasoline substitutes, would constitute the denominator (diesel would be excluded), but ALL renewable fuels would be included in the numerator (biodiesel would be included), providing additional flexibility to meet the RFS.

4 – DATCP would promulgate rules for determining a reporting and enforcement regime.

5 – Small retailers – (one station only) would receive an automatic 1 year delay in enforcement and could apply for a hardship waiver for a further delay.

6 – DATCP could temporarily suspend program if it determines that supply is not available at a “reasonable” cost to retailers. This would be done through emergency rule.

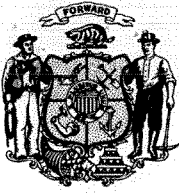
7 – There would be no E10 mandate. Retailers could meet the standard through selling no E10, but selling a sufficient amount of biodiesel or E85. Other renewable products that come on line in the future would also qualify for the RFS - hydrogen, for example, if the hydrogen is produced from wind power sources.

8 – DATCP would be directed to conduct a study – due in January of 2009 – as to whether creating a RFS credit trading scheme would be a viable option. This would allow some retailers with “surplus” renewable use above the RFS to sell credits to retailers who fail to meet the RFS.

9 – Because the use of E85 and biodiesel is likely to increase dramatically to meet the RFS, the possible adverse NOX effects of increased E10 usage would not only be mitigated, but the net effect on air emissions would be overwhelmingly positive.

2/9/07 Meeting with Matt, Bob Welch, and an aid from Rep. Davis' office and Sen. Jarch's office

1. Require % to be met starting in 2008
2. The % is all renewables (including biodiesel)
all motor vehicle fuel other than diesel
3. Penalties based on # of stations. Start low and increase for subsequent offenses.
4. Allow DATCP to specify additional renewables by rule.
5. For biodiesel - if in 2010 sales of biodiesel are less than 40,000,000 gallons - implement requirement that 5% of diesel sales be biodiesel.



State of Wisconsin
2007 - 2008 LEGISLATURE

Wanted Mon (2/19)

LRB-1619/P1

RCT: *Kyf*

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Note

Regen

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

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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) "Biodiesel fuel" means a fuel that is comprised of monoalkyl esters of long
6 chain fatty acids derived from vegetable oils or animal fats.

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

8 (c) "Owner" means a person who owns one or more stations in this state.

9 (d) "Percentage of renewable fuel sold" means the percentage that results from
10 dividing the total volume of renewable fuel sold at retail in this state in a year by the

1 total volume of motor vehicle fuel, other than diesel fuel, sold at retail in this state
2 in that year and multiplying by 100.

3 (e) "Renewable fuel" means any of the following:

4 1. Ethanol.

5 2. Biodiesel fuel.

6 3. Hydrogen produced using wind power.

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

9 (f) "Station" means a place where gasoline is sold at retail.

10 (2) STANDARD FOR RENEWABLE FUEL. Except as provided under subs. (3) and (5)
11 (c), an owner is subject to the penalties in sub. (6) (a) if the percentage of renewable
12 fuel sold by the owner in this state in a year is less than the following:

13 (a) In 2008 to 2013, 10 percent.

14 (b) In 2014 to 2018, 15 percent.

15 (c) In 2019 to 2023, 20 percent.

16 (d) In 2024 and thereafter, 25 percent.

17 (3) EXCEPTIONS TO STANDARD. (a) An owner who owns only one station in this
18 state is not subject to a penalty if the percentage of renewable fuel sold by the owner
19 in 2008 is less than 10 percent.

20 (b) An owner who owns only one station in this state may apply to the
21 department for a waiver of the requirement in sub. (2) for a year other than 2008 on
22 the basis of hardship. The department may grant a waiver if the department
23 determines that it would be a hardship for the owner to comply with the requirement.

24 (4) BIODIESEL. (a) No later than June 30, 2011, the department shall determine
25 the total amount of biodiesel fuel sold at retail in this state in 2010.

1 (b) If the amount determined under par. (a) is less than 40,000,000 gallons, the
2 department shall notify the revisor of statutes and the revisor of statutes shall
3 publish in the next issue of the Wisconsin Administrative Register a notice that the
4 requirement in par. (c) applies beginning in 2012.

5 (c) If the revisor of statutes publishes the notice under par. (b), except as
6 provided under sub. (5) (c), beginning in 2012, a person who sells diesel fuel at retail
7 in this state is subject to the penalties in sub. (6) (b) if the volume of biodiesel fuel
8 sold by the person in this state in a year is less than 5 percent of the total volume of
9 diesel fuel sold by the person at retail in this state in that year.

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

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

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

1 or welfare and is not required to provide a finding of emergency for a rule
2 promulgated under this paragraph.

3 (6) PENALTIES. (a) 1. An owner who violates sub. (2) may be required to forfeit
4 not more than \$1,000 per station that the owner owns in this state, for a first offense.

5 2. An owner who violates sub. (2) may be required to forfeit not less than \$500
6 nor more than \$2,000 per station that the owner owns in this state, for a second *e 2nd*
7 offense.

8 3. An owner who violates sub. (2) may be required to forfeit not less than \$1,000 *e 3rd*
9 nor more than \$10,000 per station that the owner owns in this state, for a third or
10 subsequent offense.

11 (b) 1. A person who violates sub. (4) (c) may be required to forfeit not more than
12 \$1,000 per place at which the person sells diesel fuel in this state, for a first offense.

13 2. A person who violates sub. (4) (c) may be required to forfeit not less than
14 \$500 nor more than \$2,000 per place at which the person sells diesel fuel in this state,
15 for a second *e 2nd* offense.

16 3. A person who violates sub. (4) (c) may be required to forfeit not less than
17 \$1,000 nor more than \$10,000 per place at which the person sells biodeisel in this
18 state, for a third *e 3rd* or subsequent offense.

19 **SECTION 2. Nonstatutory provisions.**

20 (1) STUDY OF CREDIT TRADING. The department shall study the practicality of a
21 system under which a person who sells gasoline at retail may comply with the
22 requirements in section 100.60 (2) of the statutes, as created by this act, by
23 purchasing credits granted to another person based on the other person selling more
24 renewable fuel than is required under that provision. The department shall submit

1 the results of its study to the legislature, in the manner provided in s. 13.172 (2), no
2 later than January 1, 2009.

3 (END)

Note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1619/P1dn
RCT...kjf

Date

Matt Pagel:

X This is a preliminary draft of the proposal for renewable fuel standards. Please review it carefully. In particular, please consider carefully the proposed penalties because the I did not have much guidance about them.

The definition of biodiesel is from s. 168.14 (2m) (a) of the statutes.

The draft authorizes DATCP to suspend the program temporarily. Because the standards are applied on a calendar year basis, a suspension would probably have to be for a year. Perhaps the draft should specify that. Another possibility would be to allow DATCP to lower the required percentage for a year if supplies are short.

Do you want to provide DATCP with any staffing or funding for this proposal?

Please let me know if you have any questions and please contact me with redraft instructions.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1619/P1dn
RCT:kjf:rs

February 15, 2007

Matt Pagel:

This is a preliminary draft of the proposal for renewable fuel standards. Please review it carefully. In particular, please consider carefully the proposed penalties because I did not have much guidance about them.

The definition of biodiesel is from s. 168.14 (2m) (a) of the statutes.

The draft authorizes DATCP to suspend the program temporarily. Because the standards are applied on a calendar year basis, a suspension would probably have to be for a year. Perhaps the draft should specify that. Another possibility would be to allow DATCP to lower the required percentage for a year if supplies are short.

Do you want to provide DATCP with any staffing or funding for this proposal?

Please let me know if you have any questions and please contact me with redraft instructions.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

Tradewell, Becky

From: Radloff, Gary L - DATCP
Sent: Thursday, June 07, 2007 12:47 PM
To: Tradewell, Becky
Cc: Pagel, Matt; Patton, Christopher - GOV
Subject: Renewable Fuel Standard bill draft language suggestions
Attachments: Renewable Fuel Standard Preliminary Working Draft Bill.doc

Good Afternoon Becky: Matt Pagel from Senator Kreitlow's office contacted you a while back about the Department of Agriculture, Trade and Consumer Protection working with you and the bill author on LRB 1619/p1. Attached are DATCP staff suggested modifications. Feel free to contact me as needed. Thank you, Gary Radloff 224-5020.

<<Renewable Fuel Standard Preliminary Working Draft Bill.doc>>

Preliminary Working Draft Bill Renewable Fuel Standard

Drafting Note: The following bill language was copied from LRB1619/P1, and then modified by DATCP. Modifications from LRB 1619/P1 are:

- *Previous draft placed regulatory burden on retail station owners. This version places regulatory burden further upstream in the supply chain, on refiners.*
- *Several new definitions are added to accommodate change to regulating refiners rather than retailers*
- *Previous draft contained nonstatutory provision that DATCP study a credit trading system for compliance. This draft replaces the "study" with granting rulemaking authority to DATCP to create and manage a credit trading system.*
- *This draft begins regulating biodiesel sooner (2009), rather than the previous draft's 2012 date.*
- *A handful of minor technical "tweaks".*
- *Removed exceptions for small retailers (previous draft allowed exception to any small retailer in 2008 and allowed them to ask the department for exception in later years).*
- *The maximum penalty dollar amounts are considerably higher (although I didn't put much thought into what the appropriate number ought to be). This reflects the larger scale (refiner v. retailer) that this draft regulates.*

1

2

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

3

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

4

(a) "Biodiesel fuel" means a fuel that is comprised of monoalkyl esters of long

5

chain fatty acids derived from vegetable oils or animal fats.

6

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

7

(c) "Motor vehicle fuel" means gasoline, diesel fuel, ethanol, or any other

8

substance used to fuel vehicles whose primary use is transportation on public road-ways.

9

(d) "Percentage of renewable fuel sold" means the percentage that results from

10

dividing the total volume, in gallons, of renewable fuel sold at wholesale by the five year

11

rolling average of total annual volume, in gallons, of motor vehicle fuel, other than diesel

12

fuel, sold in this state, multiplied by 100.

1 (e) "Refiner" means a person who makes wholesale sales of at least 50 million
2 gallons of motor vehicle fuel per year at terminals located in this state. [DRAFTING
3 NOTE: In most cases, the sellers of motor vehicle fuel at terminals are refining
4 companies. However, in a few cases, localized jobbers – who do not own refineries –
5 also make wholesale sales at the terminal. The 50 million number is an attempt to
6 exclude the local jobbers. However, I do not have very high confidence that this is an
7 appropriate amount. I looked at the total sales of gasoline in Wisconsin (2.5 billion
8 gallons in 2005, per DOA "Wisconsin Energy Statistics 2006"), and assumed that the
9 smallest refiner probably has at least a 2% market share. (2.5 billion X 2% ≈ 70
10 million.)]

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

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

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

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

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

4 (a) In 2008 to 2013, 10 percent.

5 (b) In 2014 to 2018, 15 percent.

6 (c) In 2019 to 2023, 20 percent.

7 (d) In 2024 and thereafter, 25 percent.

8 **(3) EXCEPTIONS.** Penalties under Sub (6) shall not apply in if the department
9 implements rules under sub (5) (c) or (d), and the refiner complies with provision of the
10 rule.

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

13 (b) If the amount determined under par. (a) is less than 40,000,000 gallons, the
14 department shall notify the revisor of statutes and the revisor of statutes shall publish in
15 the next issue of the Wisconsin Administrative Register a notice that the requirement in
16 par. (c) applies beginning in 2009.

17 (c) If the revisor of statute publishes the notice under par. (b), except as provided
18 under sub. (5) (c), beginning in 2009, a person who sells diesel fuel at retail in this state is
19 subject to the penalties in sub. (6) (b) if the volume of biodisel fuel sold by the person in
20 this state in a year is less than 5 percent of the total volume of diesel fuel sold by the
21 person at retail in this state in that year.

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

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

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

17 (d) The department may promulgate rules implementing and administering a
18 system of credit trading. If the department promulgates this rule, it must allow for a
19 refiner who exceeds the renewable fuel requirements contained in this section to sell
20 credits to other refiners who have failed to meet the renewable fuel requirements
21 contained in this section.

22 **(6) PENALTIES.** (a) 1. A refiner who violates sub. (2) may be required to forfeit
23 not more than \$10,000 for a first offense.

1 2. A refiner who violates sub. (2) may be required to forfeit not less than \$500
2 nor more than \$50,000 for a 2nd offense.

3 3. An owner who violates sub. (2) may be required to forfeit not less than \$1,000
4 nor more than \$100,000 for a 3rd or subsequent offense.

5 (b) 1. A person who violates sub. (4) (c) may be required to forfeit not more than
6 \$10,000 for a first offense.

7 2. A person who violates sub. (4) (c) may be required to forfeit not less than \$500
8 nor more than \$50,000 for a 2nd offense.

9 3. A person who violates sub. (4) (c) may be required to forfeit not less than
10 \$1,000 nor more than \$100,000 for a 3rd or subsequent offense.

11



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1619/P~~1~~ 2

RCT:kj:rs
YMY

SOON (in 7/3)

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Note

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.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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) "Biodiesel fuel" means a fuel that is comprised of monoalkyl esters of long
6 chain fatty acids derived from vegetable oils or animal fats.

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

8 (c) "Owner" means a person who owns one or more stations in this state.

9 (d) "Percentage of renewable fuel sold" means the percentage that results from
10 dividing the total volume of renewable fuel sold ^{of wholesale sales} at retail in this state in a year by the ^{average}

Insert
1-7

10

① total volume ^{of wholesale sales} of motor vehicle fuel, other than diesel fuel, ^{wholesale} sold at retail in this state
 2 in that year ^{and the previous 4 years} and multiplying by 100.

Insert
2-2

③ (e) "Renewable fuel" means any of the following:

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

Insert
2-8

9 (f) "Station" means a place where gasoline is sold at retail.

10 (2) STANDARD FOR RENEWABLE FUEL. Except as provided under subs. (3) and (5)

11 (c) ^{or (d)} an owner ^{of refiner} is subject to the penalties in sub. (6) (a) if the percentage of renewable
 12 fuel sold by the ^{of refiner} owner in this state in a year is less than the following:

- 13 (a) In 2008 to 2013, 10 percent.
- 14 (b) In 2014 to 2018, 15 percent.
- 15 (c) In 2019 to 2023, 20 percent.
- 16 (d) In 2024 and thereafter, 25 percent.

17 (3) EXCEPTIONS TO STANDARD (a) An owner who owns only one station in this
 18 state is not subject to a penalty if the percentage of renewable fuel sold by the owner
 19 in 2008 is less than 10 percent.

20 (b) An owner who owns only one station in this state may apply to the
 21 department for a waiver of the requirement in sub. (2) for a year other than 2008 on
 22 the basis of hardship. The department may grant a waiver if the department
 23 determines that it would be a hardship for the owner to comply with the requirement.

24 (4) BIODIESEL. (a) No later than June 30, ²⁰⁰⁸ 2011, the department shall determine
 25 the total amount of biodiesel fuel sold at retail in this state in ²⁰⁰⁷ 2010.

1 (b) If the amount determined under par. (a) is less than 40,000,000 gallons, the
2 department shall notify the revisor of statutes and the revisor of statutes shall
3 publish in the next issue of the Wisconsin Administrative Register a notice that the
4 requirement in par. (c) applies beginning in ~~2012~~²⁰⁰⁹

5 (c) If the revisor of statutes publishes the notice under par. (b), except as
6 provided under sub. (5) (c), beginning in ~~2012~~²⁰⁰⁹ a person who sells diesel fuel at retail
7 in this state is subject to the penalties in sub. (6) (b) if the volume of biodiesel fuel
8 sold by the person in this state in a year is less than 5 percent of the total volume of
9 diesel fuel sold by the person at retail in this state in that year.

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

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

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

1 or welfare and is not required to provide a finding of emergency for a rule
2 promulgated under this paragraph.

Inset
4-2

3 (6) PENALTIES. (a) 1. An owner who violates sub. (2) may be required to forfeit
4 not more than \$1,000 per station that the owner owns in this state, for a first offense.

5 2. An owner who violates sub. (2) may be required to forfeit not less than \$500
6 nor more than \$2,000 per station that the owner owns in this state, for a 2nd offense.

7 3. An owner who violates sub. (2) may be required to forfeit not less than \$1,000
8 nor more than \$10,000 per station that the owner owns in this state, for a 3rd or
9 subsequent offense.

10 (b) 1. A person who violates sub. (4) (c) may be required to forfeit not more than
11 \$1,000 per place at which the person sells diesel fuel in this state, for a first offense.

12 2. A person who violates sub. (4) (c) may be required to forfeit not less than \$500
13 nor more than \$2,000 per place at which the person sells diesel fuel in this state, for
14 a 2nd offense.

15 3. A person who violates sub. (4) (c) may be required to forfeit not less than
16 \$1,000 nor more than \$10,000 per place at which the person sells biodeisel in this
17 state, for a 3rd or subsequent offense.

18 **SECTION 2. Nonstatutory provisions.**

19 (1) STUDY OF CREDIT TRADING. The department shall study the practicality of a
20 system under which a person who sells gasoline at retail may comply with the
21 requirements in section 100.60 (2) of the statutes, as created by this act, by
22 purchasing credits granted to another person based on the other person selling more
23 renewable fuel than is required under that provision. The department shall submit

1 the results of its study to the legislature, in the manner provided in s. 13.172 (2), no
2 later than January 1, 2009.

3 (END)

DNte

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1619/P2ins
RCT:.....

Insert 1-7

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

Insert 2-2

(e) "Refiner" means a person who makes wholesale sales of at least 50,000,000 gallons of motor vehicle fuel in a year at terminals located in this state.

Insert 2-8

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

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

Insert 4-2

(d) The department may promulgate rules to implement and administer a system of credit trading for refiners. In any rule promulgated under this paragraph, the department shall allow a refiner who ~~exceeds the~~ ^{sells more} renewable fuel requirements ^{than is required} under sub. (2) to sell credits to other refiners who fail to meet the renewable fuel requirements under sub. (2) to enable the other refiners to avoid being subject to the penalties under sub. (6) (a).

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1619/P2dn

RCT. *ef*

Date

Matt Pagel:

This is a redraft of the renewable fuel proposal. Please review it carefully.

Please note that, as in the draft language provided by DATCP, the biodiesel requirement in this draft still applies to persons who sell diesel fuel at retail. The draft increases the maximum penalty on the requirements that apply to retailers as well as on the requirements that apply to refiners.

X
10
please let me know if you have any questions about the draft.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1619/P2dn
RCT:kjf:nwn

July 10, 2007

Matt Pagel:

This is a redraft of the renewable fuel proposal. Please review it carefully.

Please note that, as in the draft language provided by DATCP, the biodiesel requirement in this draft still applies to persons who sell diesel fuel at retail. The draft increases the maximum penalty on the requirements that apply to retailers as well as on the requirements that apply to refiners.

Please let me know if you have any questions about the draft.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

11/26 Per Matt:

1. Require biodiesel (as currently defined) to meet ASTM requirements (see 168.14(2m)(f) 3.)

2. Allow DATCP to add other kinds of biodiesel with technical requirements

✓ 3. Change number on p. 2, line 5 to 49,000,000

✓ 4. Change years on p. 2, lines 21 to 24 by one year

RT



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1619/P2 1
RCT:kjf:rw

SOON (in 11/27)

YMY

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

Analysis
insert

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) "Biodiesel fuel" means ^{any of the following: § 1. A} a fuel that is comprised of monoalkyl esters of long
6 chain fatty acids derived from vegetable oils or animal fats. ^{Insert 1-6-A}

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

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

Insert
1-6-B

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

5 (e) "Refiner" means a person who makes wholesale sales of at least 50,000,000
6 gallons of motor vehicle fuel in a year at terminals located in this state.

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

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

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

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

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

- 21 (a) In 2008 to 2013, 10 percent.
- 22 (b) In 2014 to 2018, 15 percent.
- 23 (c) In 2019 to 2023, 20 percent.
- 24 (d) In 2024 and thereafter, 25 percent.

legislative reference bureau

1 (4) BIODIESEL. (a) No later than June 30, 2008, the department shall determine
2 the total ^{volume} ~~amount~~ of biodiesel fuel sold at retail in this state in 2007.

3 (b) If the ^{volume} ~~amount~~ determined under par. (a) is less than 40,000,000 gallons, the
4 department shall notify the revisor of statutes and the revisor of statutes shall
5 publish in the next issue of the Wisconsin Administrative Register a notice that the
6 requirement in par. (c) applies beginning in 2009.

7 (c) If the revisor of statutes ^{of legislative reference bureau} publishes the notice under par. (b), except as
8 provided under sub. (5) (c), beginning in 2009, a person who sells diesel fuel at retail
9 in this state is subject to the penalties in sub. (6) (b) if the volume of biodiesel fuel
10 sold by the person in this state in a year is less than 5 percent of the total volume of
11 diesel fuel sold by the person at retail in this state in that year.

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

*Insert
3-14*

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

18 (c) If the department determines that a sufficient supply of renewable fuel is
19 not available to refiners, the department may temporarily suspend the requirements
20 under sub. (2) by promulgating a rule using the procedure under s. 227.24. If the
21 department determines that a sufficient supply of biodiesel fuel is not available to
22 persons selling diesel fuel, the department may temporarily suspend the
23 requirement under sub. (4) (c) by promulgating a rule using the procedure under s.
24 227.24. Notwithstanding s. 227.24 (1) (a), (2) (b), and (3), the department is not
25 required to provide evidence that promulgating a rule under this paragraph as an

1 emergency rule is necessary for the preservation of the public peace, health, safety,
2 or welfare and is not required to provide a finding of emergency for a rule
3 promulgated under this paragraph.

4 (d) The department may promulgate rules to implement and administer a
5 system of credit trading for refiners. In any rule promulgated under this paragraph,
6 the department shall allow a refiner who sells more renewable fuel than is required
7 under sub. (2) to sell credits to other refiners who fail to meet the renewable fuel
8 requirements under sub. (2) to enable the other refiners to avoid being subject to the
9 penalties under sub. (6) (a).

10 (6) PENALTIES. (a) 1. A refiner who violates sub. (2) may be required to forfeit
11 not more than \$10,000 for a first offense.

12 2. A refiner who violates sub. (2) may be required to forfeit not less than \$500
13 nor more than \$50,000 for a 2nd offense.

14 3. A refiner who violates sub. (2) may be required to forfeit not less than \$1,000
15 nor more than \$100,000 for a 3rd or subsequent offense.

16 (b) 1. A person who violates sub. (4) (c) may be required to forfeit not more than
17 \$10,000 for a first offense.

18 2. A person who violates sub. (4) (c) may be required to forfeit not less than \$500
19 nor more than \$50,000 for a 2nd offense.

20 3. A person who violates sub. (4) (c) may be required to forfeit not less than
21 \$1,000 nor more than \$100,000 for a 3rd or subsequent offense.

22 (END)

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1619/lins
RCT:.....

Analysis insert

X 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 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.

Insert 1-6-A

not and that meets all of the applicable requirements of the American Society for Testing and Materials

Insert 1-6-B

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

Insert 3-14

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

Basford, Sarah

From: Saxler, Charles
Sent: Thursday, January 10, 2008 8:39 AM
To: LRB.Legal
Subject: Draft Review: LRB 07-1619/1 Topic: Renewable fuel requirement

RUSH PLEASE

Please Jacket LRB 07-1619/1 for the SENATE.