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# JESSE KREMER

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STATE REPRESENTATIVE • 59<sup>TH</sup> ASSEMBLY DISTRICT

*Testimony before the Assembly Committee on Environment & Forestry  
State Representative Jesse Kremer  
November 28, 2017*

Good morning Chairman Mursau and "Environment and Forestry" committee members.

I would like to express my appreciation for hearing AB558, a bill that is a decade overdue. This bill addresses the mandate that certain counties, on a "No Growth Zone" island unto themselves, be mandated to sell different reformulated blends (RFG) of fuel than surrounding counties and the remainder of the state as a whole.

First of all, I want to be abundantly clear that this bill does not address the sale of ethanol in particular; rather, it deals with the additional additives that are blended in fuels sold at the pump.

Secondly, this bill does not eliminate the ability to sell the blends that are currently mandated in this six county region of the state. It simply makes it optional.

## **The Issue at Hand**

1. RFG fuels as a mandate are harming small business owners and those on fixed incomes due an uneven playing field in the petroleum marketplace.
  - Since 1995, regular reformulated gasoline has cost an average of 10 cents more a gallon than conventional regular gasoline. The biggest price gap - about 25 cents a gallon or more - is often seen in spring and summer.
  - One small business owner near a "No Growth Zone's" county line recently told me that he lost nearly 50% of his business since the 1990's Congressional solution: "The Clean Air Act".
  - Joseph Hoch, former DNR air pollution administrator said that the reformulated gas mandate for SE Wisconsin "is hard-wired into the Clean Air Act. It would take an act of Congress to change it."
2. The advantages of reformulated gas are disappearing. As conventional gasoline and emissions-control equipment on cars and trucks have been upgraded over time.
  - As part of the 2004 Tier 2 emission regulations, automobile companies agreed to design cleaner vehicles. The result? Starting with 2004 models, vehicles were 77% to 95% cleaner than vehicles built in 2003 or earlier, according to the EPA.
  - In a 2012 Milwaukee Journal Sentinel article by Lee Bergquist titled, "Reformulated Gasoline is Adding to Pump Price Woes; Special Fuel Can Add up to 25 Cents a Gallon", Michael Leister, a senior fuels policy advisor for Marathon Petroleum Corporation of Findlay, Ohio, stated that vehicles are polluting less. "The benefit is not as great - relative to conventional gasoline - because conventional gasoline has gotten a whole lot better."
  - In that same 2012 article, Bob Lopez, a DNR air policy analyst stated that, "there was nothing that could touch it in terms of the benefits, *but the gap has narrowed.*"



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## **The Solution**

We are requiring the DNR to request an EPA waiver of the mandate to sell RFG fuels. Additionally, the DNR may not prohibit the sale of current RFG blends in the state.

In closing, if RFG is such a great idea, then why doesn't everyone in the country and every gas station have to provide these blends. Manipulations by government to artificially and arbitrarily stifle the economy affect everyone - from seniors fueling their vehicles on a fixed income to the businesses owners that have to deal with cumbersome red tape. It is time for us to wake up and act, eliminate the status quo, and prod Congress and federal agencies to end this strict ideological, non-scientific, stranglehold on our economy and society as a whole.

## BUSINESS

# Reformulated gasoline is adding to pump price woes

Special fuel can add up to 25 cents a gallon

*By Lee Bergquist and Joe Taschler of the Journal Sentinel*

March 31, 2012

The cost of producing special environmentally friendly gasoline is pushing Milwaukee-area pump prices higher than ever.

Yet many experts say reformulated gas doesn't make as much difference to air quality as it has in the past.

Motorists in southeastern Wisconsin have been required to burn the specially formulated gas since 1995. It's been a controversial but potent weapon to reduce ground-level ozone pollution - or smog.

But the advantages of reformulated gas are disappearing as conventional gasoline and emissions-control equipment on cars and trucks have been upgraded over time. The combined result is that vehicles pollute less.

"The benefit is not as great - relative to conventional gasoline - because conventional gasoline has gotten a whole lot better," said Michael Leister, senior fuels policy adviser for Marathon Petroleum Corp. of Findlay, Ohio.

Motorists in this part of the state are being hit twice - by higher gasoline prices in general, and by the extra cost for the reformulated fuel.

Nationwide, the cost of a gallon of reformulated regular was \$4.076, compared with \$3.843 for conventional gasoline. That's a difference of 23.3 cents a gallon, according to the latest U.S. Energy Information Administration figures.

Milwaukee-area consumers are paying even more at the pump, with the price of gasoline hovering near all-time highs and far outpacing the rest of Wisconsin, where reformulated gas isn't required.

On Saturday, regular gas sold for an average of \$4.173 a gallon in metro Milwaukee. That's 22.6 cents higher than Green Bay and 35.3 cents higher than La Crosse, according to the AAA Daily Fuel Gauge, produced by the American Automobile Association, the Oil Price Information Service and Wright Express.

A driver filling up a Toyota Camry in Milwaukee is paying \$6.53 more than a motorist doing the same in La Crosse. The owner of a Chevrolet Silverado 2500 pickup, with a 36-gallon gas tank, is paying \$12.71 more than someone on the other side of state.

Since 1995, regular reformulated gasoline has cost an average of 10 cents more a gallon than conventional regular gasoline, according to a Journal Sentinel analysis of Energy Information Administration data.

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The biggest price gap - about 25 cents a gallon or more - is often seen in spring and summer, the government data show.

The reason for the bigger difference this spring is largely due to refiners switching to a cleaner-burning summer blend of reformulated gas.

The switch requires refineries to blend in more costly pollution-fighting additives, and make other improvements to the fuel.

"The main thing in summer is you're trying to get it to burn cleaner and at the same time you're trying to get less of it to evaporate," said James Williams, an energy economist and Wausau native who owns

Arkansas-based WTRG Economics, an energy forecasting and data firm. "Evaporation is a big deal."

Summer-blended reformulated gas starts getting shipped to Milwaukee as early as February while refiners are still trying to satisfy winter demand. Spikes in the price of reformulated gas occur when refiners try to balance the demand for both fuels. By June 1, all gasoline sold in metro Milwaukee and other affected areas must be reformulated summer blends.

### **Smog Is Harmful**

Smog can cause respiratory problems for healthy people as well as at-risk groups such as children, the elderly and people with heart and lung problems. It is formed when heat and sunlight mix with nitrogen oxides and volatile organic compounds in the air from automobiles, factories and other sources.

It isn't clear how much reformulated gas is helping improve air quality. The U.S. Environmental Protection Agency has been looking into the issue for years, but has not yet released its findings.

What is clear is that - reformulated gas or not - air quality in this part of the state has improved steadily, and Department of Natural Resources data show that from 2008 to 2010, southeastern Wisconsin met federal ozone standards. The EPA has made a preliminary determination that the region is in compliance.

But that doesn't mean motorists in the region will be allowed to stop using higher-price reformulated gasoline.

That's because another, tougher ozone standard is looming.

Beyond that, the reformulated gas mandate for southeastern Wisconsin "is hard-wired into the Clean Air Act," said Joseph Hoch, a DNR air pollution administrator. "It would take an act of Congress to change it."

### **6 Counties Affected**

When reformulated gas was mandated by the Clean Air Act in 1990, the six counties of southeastern Wisconsin - Milwaukee, Waukesha, Ozaukee, Washington, Racine and Kenosha - were required to use it to reduce ozone levels. Today, reformulated gas is used in 17 states and the District of Columbia and represents about 30% of all gas sold nationwide, according to the EPA.

Public opposition pushed back the debut of reformulated gas for five years.

In late 1995, the Congressional Research Service reported that citizens in the Milwaukee area lodged several thousand complaints that ranged from worries over potential health threats to higher fuel prices, reduced fuel efficiency and potential damage to engines, especially small engines.

It also prompted calls in Congress and the Wisconsin Legislature to ban reformulated gas.

When the fuel arrived at the pump, "there was nothing that could touch it in terms of the benefits," said Bob Lopez, a DNR air policy analyst. "But the gap has narrowed."

In a statement, EPA spokeswoman Catherine C. Milbourn said:

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"Millions of people live in communities that don't meet federal air quality standards, breathing unacceptably dirty air. Our clean cars standards can cost-effectively help address the problem, making the air we breathe cleaner and saving consumers money at the pump."

DNR computer modeling shows that reformulated gasoline emits less pollution on a hot summer weekday compared to conventional gas. But the difference gets smaller over time.

One example is the reduction of volatile organic compounds. The DNR model shows that savings from reformulated gas was 10.8% in 2008 and will be 10.1% in 2012 and dip to 7.9% in 2022.

Aside from the fuel itself, other factors have played a significant role in attacking the ozone problem.

In 2004, federal regulations known as Tier 2 emission standards cut sulfur content in all gasoline. That virtually eliminated the difference between the two types of gasoline when it comes to emissions of smog-forming nitrogen oxides.

As part of the regulations, automobile companies agreed to design cleaner vehicles. The result: Starting with 2004 models, vehicles were 77% to 95% cleaner than vehicles built in 2003 or earlier, according to the EPA.

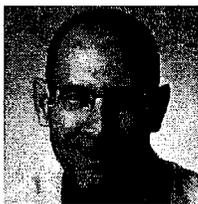
Another difference today is that most gasoline contains a 10% ethanol blend, which helps fuel burn more efficiently.

Separately, an array of state and federal regulations targeting industry has sharply curtailed pollution that contributes to smog. Former Gov. Jim Doyle told regulators in 2009 that the rules alone helped cut nitrogen oxide emissions by more than 70% since 1995.

The petroleum industry, while acknowledging that reformulated gas no longer offers the advantages that it once did, doesn't favor getting rid of the fuel.

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*Ben Poston of the Journal Sentinel staff contributed to this report.*



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#### **About Lee Bergquist**

Lee Bergquist covers environmental issues and is author of "Second Wind: The Rise of the Ageless Athlete."

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#### **About Joe Taschler**

Joe Taschler covers aviation, the grocery industry and food production. He is also an assistant business editor, and has won state and national awards for business reporting and editing.

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# DUEY STROEBEL

STATE SENATOR • 20<sup>TH</sup> DISTRICT

Testimony on AB 558

November 28, 2017

Good afternoon Chairman Mursau and members of the Assembly Committee on Environment and Forestry. The bill before you today, AB 558, is a consumer and business friendly reform that is possible because of recent environmental milestones achieved in the petroleum and automotive industries. Since 1995, fuel retailers in 6 Wisconsin counties have been required by the federal Environmental Protection Agency to sell reformulated gasoline. AB 558 directs the Wisconsin Department of Natural Resources to apply to the EPA for a waiver exempting Wisconsin from the reformulated gasoline mandate, also called the RFG mandate. The legislation additionally prohibits the state from imposing its own RFG mandate, but it allows retailers to continue to sell reformulated gasoline if they choose to do so.

The problems with reformulated gasoline, and particularly the federal mandate that it be the only type of gasoline sold in Milwaukee, Ozaukee, Washington, Waukesha, Racine and Kenosha counties, are numerous.

First, reformulated gasoline is no longer necessary to protect the environment. When the mandate was first imposed on Wisconsin a majority of air monitor sites within the 6-county region showed substantial non-compliance with federal ozone standards. According to the Wisconsin DNR's 2016 Air Quality Trends report, by 2012 those same 6 counties were in compliance with the relevant federal ozone standards. Even when the EPA tightened its ozone rules compliance was strong. Only one county in the original region, Kenosha, was found in non-attainment. Sheboygan County, the only other Wisconsin county in non-attainment, was never part of the RFG mandate.

Wisconsin has shown that despite moving goal posts it can meet stringent ozone standards. Unfortunately, unless we seek a waiver from the EPA, we can never get the credit we deserve for improvement.

Second, conventional gasoline blends have become substantially more environmentally friendly. This development completely negates the need for the RFG mandate. According to the EPA, gasoline today is 97% more clean burning than gasoline sold less than two decades ago. Additionally, the EPA estimates that the average new vehicle is 98% more environmentally friendly than automobiles manufactured a generation ago. The RFG mandate has outlived whatever usefulness it originally had. Wisconsin consumers and businesses should not be penalized because Washington bureaucrats can't keep up with technological innovation.

Finally, RFG costs significantly more than conventional gasoline. According to the Energy Information Administration, RFG costs on average between 20 cents and 25 cents more per gallon than conventional gasoline blends. For consumers in the six counties affected by this mandate, this price difference equals tens of millions of dollars a year. This is millions of dollars spent on fuel that provides no marked environmental benefit. It is a regulatory tax imposed on six Wisconsin counties. RFG is a solution seeking a problem, and it has now become a problem itself. The story of southeast Wisconsin's air quality is a success story. Regulations that may have been necessary in the past are no longer relevant today. Let us seek a waiver to free up significant amounts of capital for job creators and allow families to spend fewer of their hard-earned dollars on gasoline. Thank you.

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**Testimony to the Wisconsin Assembly Committee on Environment and Forestry**  
**Assembly Bill (AB) 558**  
**November 28, 2017**

**By David Bizot**  
**Chief, Regional Pollutant and Mobile Sources Section,**  
**Wisconsin Department of Natural Resources, Bureau of Air Management**

Thank you, Chairman Mursau and Committee members for the opportunity to provide testimony today. My name is David Bizot. I am the Chief of the Regional Pollutant and Mobile Source Section in the Air Management Program at the Department of Natural Resources (DNR). I am testifying for information only regarding AB 558. This bill would prohibit DNR from requiring that a person sell reformulated gasoline (RFG) if certain conditions are met. Specifically, the bill would require DNR to request of EPA a waiver from any federal requirement to use RFG, and not prohibit any person from selling conventional gasoline in any RFG area if such a waiver is granted.

RFG is gasoline blended to burn more cleanly than conventional gas and to reduce ozone-forming pollutants. The RFG program was mandated by Congress in the 1990 Clean Air Act amendments. In these amendments, Congress required gasoline-powered vehicles in areas of the country with elevated ozone levels to use RFG. Specifically, the 1990 amendments required RFG to be used in the nine ozone nonattainment areas in the country that had, at that time, a 1980 population exceeding 250,000 and the highest ozone design value during the period 1987-1989. The six-county Milwaukee metropolitan area (consisting of Kenosha, Milwaukee, Ozaukee, Racine, Washington, and Waukesha counties) met that criteria, and therefore was one of the nine areas nationally subject by statute to the RFG requirement. The DNR does not require RFG to be used in any area of the state other than the six counties mandated by Congress under the 1990 Clean Air Act amendments.

The Clean Air Act prohibits the sale or dispensing of conventional gasoline in any RFG area. We are unaware of any provision in the Clean Air Act for a state to request, or EPA to grant, a waiver from this Clean Air Act requirement.

Thank you for the opportunity to provide information on AB 558. I would be happy to answer any questions you have at this time.

## RESOLUTION NO. 16-55

## EXEMPTION OF REFORMULATED GASOLINE USE IN OZAUKEE COUNTY AND FIVE OTHER SOUTHEASTERN WISCONSIN COUNTIES

WHEREAS, Ozaukee County has a long and proud tradition of sound environmental policies and is committed to clean air, now and into the future; and

WHEREAS, Wisconsin's air quality is heavily impacted by ozone precursors originating from out of state; and

WHEREAS, there are no peer-reviewed scientific factual-based analyses that conclusively prove that the use of reformulated gasoline has substantially reduced the ozone formation in Ozaukee County; and

WHEREAS, there is no evidence that reformulated gasoline regulations result in significant ozone reductions as stated in the "American Economic Review 101" dated October 2011, a peer-reviewed scientific factual-based study; and

WHEREAS, reformulated gasoline is a contributing factor towards higher gas prices for Ozaukee County residents for the past 22 years, and based on data from 2 local gas stations the rules added approximately \$300,000 in costs over a 5 month period; and

WHEREAS, since the passage of the rule requiring use of reformulated gasoline, there have been significant improvements in technology including the development of hybrid and electric vehicles; better emission-control technology on vehicles; better fuel mileage; and overall quality improvements in conventional fuel blends; and

NOW, THEREFORE, BE IT RESOLVED THAT the Ozaukee County Board of Supervisors urge the Governor and Legislature to ask Congress to permanently exempt Ozaukee, Washington, Waukesha, Milwaukee, Racine, and Kenosha counties in southeastern Wisconsin requiring usage of reformulated gasoline as mandated in the Clean Air Act of 1990 and all subsequent amendments.

BE IT FURTHER RESOLVED THAT upon adoption the County Clerk shall submit copies of the resolution to the affected counties encouraging those County Boards to consider and adopt the same or similar resolution as well as passing along a certified copy of the resolution to the members of the Ozaukee County Congressional and Legislative Delegation and Governor Scott Walker.

Dated at Port Washington, Wisconsin, this 1st day of March 2017.

*SUMMARY: Request exemption from reformulated gasoline rules because it adds additional costs to the product and leads to Ozaukee County residents paying more, and there is no evidence that reformulated gasoline leads to improved air quality.*

*VOTE REQUIRED: Majority / Passed. Full County Board*

EXECUTIVE COMMITTEE

The decrease in summer gasoline's butane content is also observable in ambient air quality measurements. Ben H. Lee et al. (2006) measure air concentrations of a variety of anthropogenic VOCs in Massachusetts over 1992–1996. They find that, unlike other VOCs, concentrations of butane dip during the summer. Figure 11 is a reproduction from their paper and clearly indicates that, while the concentrations of pentane and hexane—VOCs similar to butane—peak during the summer, summer concentrations of butane are low relative to its concentrations during the winter. The authors attribute this result to the RVP and RFG standards in place in Massachusetts during the years these measurements were taken.

In contrast to RVP and RFG, CARB regulations include restrictions on specific VOCs that are highly reactive in forming ozone. CARB gasoline imposes content limits on classes of compounds called olefins and aromatic hydrocarbons that are three to ten times more reactive than butanes. CARB therefore denies refiners the flexibility to choose which VOCs to remove from gasoline and forces them to target components that can significantly impact ozone formation, even though these components are more expensive to remove. Thus, we observe substantial air quality improvements following the imposition of CARB gasoline.

## VI. Conclusions

This paper examines the effectiveness of three types of gasoline content regulations: federal Reid vapor pressure (RVP) standards, federal reformulated gasoline (RFG), and California reformulated gasoline (CARB). Using ground-level ozone concentration data from the EPA's monitoring network, we find that the imposition of CARB standards substantially reduces ozone pollution, particularly in areas with the most severe ex ante ozone problems. There is no evidence, however, that the RVP or RFG regulations result in significant ozone reductions, even at the same locations for which CARB was effective.<sup>36</sup> RVP and RFG nonetheless impart substantial costs on consumers, since the entire country is subject to one of them during the summer months. Given US non-California 2008 summer gasoline consumption of 47 billion gallons and a \$0.01–\$0.015 per gallon price effect estimated in Brown et al. (2008), the VOC standards imposed by these regulations increase US annual gasoline expenditures by \$524–\$784 million.<sup>37</sup>

The ineffectiveness of RVP and RFG in reducing ozone can be explained by the cost-minimizing response of refiners to the regulations. Because these standards grant refiners broad flexibility in deciding which specific VOCs to remove from their gasoline, they are able to reduce the content of a particular VOC, butane, which is relatively cheap to remove but is not prone to forming ozone. In contrast, CARB gasoline mandates reductions in concentrations of highly reactive VOCs and yields substantial reductions in ground-level ozone pollution. These outcomes highlight

<sup>36</sup>RFG also has elements directed at reducing carbon monoxide and carcinogenic toxics emissions. This paper does not evaluate these potential benefits. RVP is directed solely at reducing VOC emissions.

<sup>37</sup>The \$0.01–\$0.015 per gallon effect estimated in Brown et al. (2008) applies specifically to the price differential between RVP 7.8 psi gasoline and RVP 9.0 psi gasoline. The above calculation assumes that relaxing the summer VOC emission standards of RFG and relaxing the federal "baseline" 9.0 psi standard would have similar price effects. The 47 billion gallon consumption figure was sourced from the EIA ([http://tonto.eia.doe.gov/dnav/pet/pet\\_cons\\_psup\\_dc\\_nus\\_mdbl\\_a.htm](http://tonto.eia.doe.gov/dnav/pet/pet_cons_psup_dc_nus_mdbl_a.htm)), using data for May through August and half of September.

From the American Economic Review 101 (October 2011)  
Pages 2687 to 2722.

# The Cost of Reformulated Gasoline to the Wisconsin Citizens of the Six County Mandated Zone of Ozaukee, Washington, Milwaukee, Kenosha, Racine and Waukesha

1-22-17

In 1990 the federal Clean Air Act mandated the use of reformulated gasoline with oxygen additives in areas of the United States that have "substantial ozone Pollution." As of January 1, 1995 the six Wisconsin counties listed above were required to use **only reformulated fuel**. Since the inception of this mandate over twenty two years ago there has been no substantial improvement in the "air quality" in these counties. Over the years the argument has been that because of the no substantial air quality improvement in the six counties that Wisconsin should opt out of this federal requirement. In 1999 Wisconsin Assembly Joint Resolution 58 was introduced to try to opt out of this federal program and failed. The focus then on opt out was air quality. Today along with the no substantial change in air quality we should also focus on the extreme cost that the Wisconsin Citizens of these six counties have had to endure.

The chart below will show for the previous five year period the cost difference between reformulated gasoline required for use in the six counties and the conventional gasoline that can be sold anywhere else in Wisconsin except the six county zones. The cost comparison data is from the Milwaukee Granville terminal and compares the average cost of all reformulated gasoline and conventional gasoline sold. The monthly amount below is the average cents per gallon cost of reformulated gasoline over the conventional gasoline. In other words, how much the consumers in these six counties have been paying more for this reformulated gasoline. The period of May, June, July, August and September was chosen because this is the summer drive season and the period with the largest cost to the consumers in this six county area.

Year	May	June	July	August	September	Five month average
2012		4.33	8.43	10.89	5.27	7.46 *4 month
2013	14.82	8.74	11.54	1.68	2.95	7.97
2014	20.45	14.63	10.88	10.88	12.94	14.80
2015	20.58	15.34	16.83	22.44	16.14	18.27
2016	5.41	10.90	7.43	4.83	4.03	6.54

# WMC

WISCONSIN MANUFACTURERS & COMMERCE

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## TESTIMONY BEFORE THE ASSEMBLY COMMITTEE ON ENVIRONMENT AND FORESTRY IN SUPPORT OF ASSEMBLY BILL 558

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Chairman Mursau and Committee Members:

Thank you for the opportunity to testify today. My name is Lucas Vebber and I am the General Counsel and Director of Environmental and Energy Policy at Wisconsin Manufacturers & Commerce (WMC). WMC is Wisconsin's Chamber of Commerce and Manufacturers' Association. With members of all sizes and throughout all sectors of Wisconsin's economy, we are the largest business trade association in the state. Since our founding in 1911 we have been committed to making Wisconsin the most competitive state in the nation in which to do business. I am here today to testify in support of Assembly Bill 558.

This is a very straightforward bill that would give consumers more choices in Wisconsin. Wisconsin's air quality is the cleanest it's been in decades and continues to improve. According to the Department of Natural Resources' most recent Air Quality Trends report, "concentrations of most criteria pollutants have been decreasing over the past decade in all regions of the state." The report also notes that there are only three non-attainment zone in the state: eastern Kenosha County and Sheboygan County under the 2008 Ozone NAAQS and a small are around Rhinelander for the sulfur dioxide NAAQS. This is great news.

Despite this constantly improving air quality, consumers are still forced to purchase fuels in certain parts of Wisconsin that contain up to 10% ethanol. This is the result of requirements forced on to Wisconsin by the Federal Clean Air Act. This legislation simply directs the Department of Natural Resources to seek a waiver of those requirements from the Federal Environmental Protection Agency. If granted, the state could no longer mandate the sale of ethanol – although any retailer would still be free to do so if they so choose.

This legislation is neither pro-ethanol nor anti-ethanol, it simply gives consumers more options as to what type of fuel they wish to purchase in certain parts of Wisconsin.

Thank you for your time, I would be happy to answer any questions you may have today.