

HOUSE AGRICULTURE COMMITTEE AMENDMENT NO. 1

Amendment No. 1 to HB3868

Davidson
Signature of Sponsor

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Date _____
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AMEND Senate Bill No. 3014*

House Bill No. 3868

By deleting all of the language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 135, is amended by adding Sections 2 through 8 of this act as a new part thereto.

SECTION 2. This part may be cited as the "Tennessee Agricultural Ethanol Production Act of 2006".

SECTION 3. It is hereby the express intent and public purpose of the general assembly to encourage the use of alternative fuels in order to:

(1) Encourage the utilization of corn and other agricultural products for energy purposes and thereby encourage the establishment of a substantial market for agricultural products in this state;

(2) Revive economically depressed areas and create a significant number of new jobs;

(3) Encourage participation of the private sector in the development of a production system for alcohol fuels within the state;

(4) Promote the use of clean, efficient and renewable energy in the state and the United States;

(5) Attract new industry to the state and thereby encourage the investment of capital in the state; and

(6) Reduce the dependence of the state and the United States on imported petroleum through the use of alternate, renewable energy sources, a goal identified as crucial for both economic competitiveness and national security by the President of the United States in the State of the Union Address delivered on January 31, 2006.

SECTION 4. This part shall be initially implemented by the department as a three (3) year pilot program in those counties of the eastern grand division of the state that are designated non-attainment areas by the United States environmental protection agency. The department shall report annually to the general assembly concerning the progress made in reviving the economy, encouraging private sector participation in the development of a production system of alcohol fuels within the state, increasing the use of clean, efficient and renewable energy, and attracting new industry to the state.

SECTION 5. As used in this part, unless the context otherwise requires:

(1) "Applicant" means a person who applies for a permit as an ethanol dealer participant to receive production incentives under this part;

(2) "Biodiesel (mono-alkyl-esters)" means a cleaner-burning fuel made from renewable resources such as vegetable oils, animal fats, or recycled restaurant greases;

(3) "Commissioner" means the commissioner of revenue;

(4) "Dealer" means any person, other than a distributor, who engages in the business in this state of distributing or selling gasoline or distillate within this state, and also any person who uses or consumes gasoline (except use or consumption in interstate commerce) when the gasoline has not previously been the measure of the privilege tax imposed by this chapter;

(5) "Department" means the department of revenue;

(6) "Distributor" means any person who engages in the business in this state of refining, manufacturing, producing, or compounding gasoline or distillate, and selling or storing the same in this state; it also means any person who engages in the business in this state of transporting, importing or causing to be imported, gasoline or distillate into this state, and distributing, storing, or making original sales of the same in this state, for any purpose whatsoever;

(7) "Ethanol" means ethyl alcohol of a purity of at least ninety-nine percent (99%) denatured in conformity with one (1) of the approved methods set forth by the United States department of the treasury, bureau of alcohol, tobacco and firearms and derived

from agricultural products which have been shipped to the ethyl alcohol producer from a grain elevator or similar facility located within the state, and which have been fermented and finished to fuel grade in the state;

(8) "Gasohol" means a motor fuel containing a minimum of ten percent (10%) blend of ethanol and ninety percent (90%) unleaded gasoline or a biodiesel fuel;

(9) "Jobber" means any person purchasing gasoline from a distributor or dealer and reselling the greater part of it to retailers;

(10) "Permitee" means an applicant who has been approved by the commissioner of revenue to receive dealer incentives as an ethanol dealer participant under this act; and

(11) "Retailer" means any person purchasing gasoline from a distributor or dealer, or from a jobber, and reselling the greater part of it to users or consumers.

SECTION 6. The taxes imposed by title 67, chapter 4, part 21, shall be reduced by an ethanol blended gasoline tax credit for each tax year that the taxpayer is eligible to claim the tax credit as provided in this part. In order to be eligible, all of the following must apply:

(1) The taxpayer is a retail dealer;

(2) The taxpayer operates at least one (1) service station at which more than sixty percent (60%) of the total gallons of gasoline sold and dispensed through one (1) or more metered pumps by the taxpayer is ethanol blended gasoline; and

(3) The taxpayer complies with the requirements of the department of revenue in implementing the provisions of this part.

SECTION 7. The tax credit provided by this part shall be calculated separately for each service station site operated by the taxpayer. The amount of the tax credit for each eligible service station is two and one half cents ($2\frac{1}{2}\text{¢}$) multiplied by the total number of gallons of ethanol blended gasoline sold and dispensed through all metered pumps located at such service station during the tax year.

SECTION 8. Any credit that is greater than the taxpayer's tax liability shall be refunded to the taxpayer. In lieu of claiming a refund, the taxpayer may elect to have the overpayment

shown on the taxpayer's final, completed return credited to the tax liability for the following tax year.

SECTION 9. The department of revenue is directed to develop forms for the tax credit provided by this part. The department of revenue shall promulgate rules and regulations to implement the provisions of this act.

SECTION 10. For the purpose of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes this act shall take effect January 1, 2007, the public welfare requiring it.