

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

381D0480

## SENATE BILL NO. 121

Introduced by: Senators Kloucek, Hutmacher, and Lange and Representatives Nachtigal,  
Chicoine, Hanson, Kazmerzak, Lockner, Waltman, and Weber

1 FOR AN ACT ENTITLED, An Act to require the sale of oxygenated gasoline and to revise  
2 certain provisions related to ethanol.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 37-2 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Except as provided in section 2 of this Act, all gasoline sold or offered for sale in South  
7 Dakota after July 1, 2001, shall contain at least two and seven-tenths percent oxygen by weight.

8 Section 2. That chapter 37-2 be amended by adding thereto a NEW SECTION to read as  
9 follows:

10 The following exceptions to the provisions of section 1 of this Act apply:

11 (1) A person responsible for the product may offer for sale, sell, or dispense at an airport,  
12 marina, mooring facility, or resort, for use in airplanes or for purposes listed under  
13 this section, gasoline that is not oxygenated;

14 (2) A person responsible for the product may offer for sale, sell, or dispense at a public  
15 or private racecourse, gasoline that is not oxygenated if the gasoline is intended to be  
16 used exclusively as a fuel for off-highway motor sports racing events; and

- 1       (3)    Except during a carbon monoxide control period in a carbon monoxide control area,  
2            a person responsible for the product may offer for sale, sell, or dispense at a retail  
3            gasoline station for use in collector vehicles or vehicles eligible to be licensed as  
4            collector vehicles, off-road vehicles, motorcycles, boats, snowmobiles, or small  
5            engines, gasoline that is not oxygenated if the person meets the conditions in this  
6            section. If the nonoxygenated gasoline is for use in a small engine, it shall be  
7            dispensed into a can with a capacity of six or fewer gallons;
- 8       (4)    Any nonoxygenated gasoline shall be unleaded premium grade;
- 9       (5)    No more than one storage tank on the premises of the retail gasoline station may be  
10            used for storage of the nonoxygenated gasoline offered for sale, sold, or dispensed by  
11            the station; and
- 12       (6)    The pump stands shall be posted with a permanent notice stating:  
13            NONOXYGENATED GASOLINE. FOR USE IN AIRCRAFT, COLLECTOR  
14            VEHICLES OR VEHICLES ELIGIBLE TO BE LICENSED AS COLLECTOR  
15            VEHICLES, OFF-ROAD VEHICLES, MOTORCYCLES, BOATS,  
16            SNOWMOBILES, OR SMALL ENGINES ONLY.

17       Section 3. That chapter 37-2 be amended by adding thereto a NEW SECTION to read as  
18 follows:

19       If gasoline contains an oxygenate, any person responsible for the product may not blend the  
20 product with ethanol or with any other oxygenate after it is transferred or otherwise removed  
21 from a refinery or terminal.

22       Section 4. That chapter 37-2 be amended by adding thereto a NEW SECTION to read as  
23 follows:

24       Any refinery or terminal shall provide, at the time gasoline is sold or transferred from the  
25 refinery or terminal, a bill of lading or shipping manifest to the person who receives the gasoline.

1 For oxygenated gasoline, the bill of lading or shipping manifest shall include the identity and the  
2 volume percentage or gallons of oxygenate included in the gasoline, and it shall state: This fuel  
3 contains an oxygenate. Do not blend this fuel with ethanol or with any other oxygenate. For  
4 nonoxygenated gasoline sold or transferred after June 30, 2001, the bill or manifest shall state:  
5 This fuel is not oxygenated. It may not be sold at retail in South Dakota, except as provided by  
6 law. This section does not apply to sales or transfers of gasoline between refineries, between  
7 terminals, or between a refinery and a terminal.

8 Section 5. That chapter 37-2 be amended by adding thereto a NEW SECTION to read as  
9 follows:

10 The specifications in sections 6 to 9, inclusive, of this Act apply to petroleum products  
11 processed, held, stored, imported, transferred, distributed, offered for distribution, offered for  
12 sale or use, or sold in South Dakota.

13 Section 6. That chapter 37-2 be amended by adding thereto a NEW SECTION to read as  
14 follows:

15 No gasoline that is not blended with ethanol may be contaminated with water or other  
16 impurities and such gasoline shall comply with ASTM specification D 4814-96, as amended to  
17 January 1, 2000, and with the volatility requirements in 40 C.F.R. part 80, as amended to  
18 January 1, 2000. After such gasoline is sold, transferred, or otherwise removed from a refinery  
19 or terminal, a person responsible for the product:

- 20 (1) May blend the gasoline with agriculturally derived ethanol as provided in this Act;
- 21 (2) May not blend the gasoline with any oxygenate other than denatured, agriculturally  
22 derived ethanol;
- 23 (3) May not blend the gasoline with other petroleum products that are not gasoline or  
24 denatured, agriculturally derived ethanol;
- 25 (4) May not blend the gasoline with products commonly and commercially known as

1 casinghead gasoline, absorption gasoline, condensation gasoline, drip gasoline, or  
2 natural gasoline; and

- 3 (5) May blend the gasoline with a detergent additive, an antiknock additive, or an additive  
4 designed to replace tetra-ethyl lead, that is registered by the United States  
5 Environmental Protection Agency.

6 Section 7. That chapter 37-2 be amended by adding thereto a NEW SECTION to read as  
7 follows:

8 Gasoline may be blended with up to ten percent, by volume, agriculturally derived, denatured  
9 ethanol that complies with the requirements of section 8 of this Act. A gasoline-ethanol blend:

- 10 (1) Shall comply with the volatility requirements in 40 C.F.R. part 80, as amended to  
11 January 1, 2000;
- 12 (2) Shall comply with ASTM specification D 4814-96, as amended to January 1, 2000,  
13 or the gasoline base stock from which a gasoline-ethanol blend was produced shall  
14 comply with ASTM specification D 4814-96, as amended to January 1, 2000; and
- 15 (3) May not be blended with casinghead gasoline, absorption gasoline, condensation  
16 gasoline, drip gasoline, or natural gasoline after the gasoline-ethanol blend has been  
17 sold, transferred, or otherwise removed from a refinery or terminal.

18 Section 8. That chapter 37-2 be amended by adding thereto a NEW SECTION to read as  
19 follows:

20 Denatured ethanol that is to be blended with gasoline shall be agriculturally derived and shall  
21 comply with ASTM specification D 4806-95b, as amended to January 1, 2000. Ethanol may be  
22 denatured only as specified in 27 C.F.R. parts 20 and 21, as amended to January 1, 2000.

23 Section 9. That chapter 37-2 be amended by adding thereto a NEW SECTION to read as  
24 follows:

25 Gasoline that is blended with an oxygenate, other than denatured ethanol, shall comply with

1 ASTM specification D 4814-96, as amended to January 1, 2000. Oxygenates, other than  
2 denatured ethanol, may not be blended into gasoline after the gasoline has been sold, transferred,  
3 or otherwise removed from a refinery or terminal.

4 Section 10. That § 37-2-6 be amended to read as follows:

5 37-2-6. The secretary of the department of commerce and regulation may in accordance with  
6 chapter 1-26 make such rules and regulations as are necessary to carry out the provisions of §§  
7 37-2-5 to 37-2-24, inclusive.

8 The rules shall be in general conformity with ASTM standards. The secretary may adopt  
9 rules:

- 10 (1) Establishing standards for the maximum volume percentages of ethanol, methanol and  
11 cosolvents in alcohol blended fuels;
- 12 (2) Establishing a program for and prescribing the methods to be used for the inspection  
13 and testing of alcohol blended fuels and petroleum products;
- 14 (3) Requiring labeling of devices dispensing alcohol blended fuels to disclose the  
15 percentage by volume of the fuel which is alcohol;
- 16 (4) Establishing standards setting the specifications and tolerance requirements for  
17 petroleum products;
- 18 (5) Regulating the filtering system to be used on devices dispensing alcohol blended fuels;  
19 and
- 20 (6) Establishing procedures for auditing the records of oxygenate blenders to ensure that  
21 each blender has met all requirements in this Act. Specific information or data relating  
22 to sales figures or to processes or methods of production unique to the blender or that  
23 would tend to adversely affect the competitive position of the blender may be only for  
24 the confidential use of the department, unless otherwise specifically authorized by the  
25 registered blender.