

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2159

2007 SENATE TRANSPORTATION

SB 2159

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2159

Senate Transportation Committee

Check here for Conference Committee

Hearing Date: January 18, 2007

Recorder Job Number 1337

Committee Clerk Signature

Jody Nango

Minutes:

Senator Gary Lee opened the hearing on SB 2159 relating to ethanol dispensing unit labeling requirements.

All members were present.

Senator Heitkamp spoke in support of SB 2159. This bill calls for common labeling ethanol products. He stated that this bill came to him through the ethanol industry. Senator Heitkamp handed out information on (EPIC) Ethanol Promotion and Information Council. EPIC is an alliance of ethanol producers and industry leaders who have come together to spread the word about the benefits of ethanol through information and promotional programs. EPIC is a nonprofit organization and is overseen by a nine-member board of directors. They have developed their own ethanol industry logo. The goal of this industry organization is to have a common label so that when you pull up to the pump, that label will mean ethanol to you.

Senator Andrist asked who was responsible for getting the labels.

Senator Heitkamp answered that his understanding is that these would be made available and distributed out to all the dealers. And then it is as simple as sticking them on the pumps.

Senator Andrist asked if there was any violation penalty.

Senator Heitkamp said that there was no intent for that to happen.

Senator Lee asked about the E-85 brand and if they would have a sticker on the pumps.

Senator Heitkamp replied yes but it would have to signify E-85.

Senator Lee asked if there would be a fee.

Senator Heitkamp said he didn't believe so and added that EPIC is so onboard with getting the common labeling out there. It is a national logo.

Senator Potter stated that the existing law requires that they have some labeling on their pumps, has anyone been penalized for not doing this.

Senator Heitkamp replied that he didn't know but the consumer has the right to know if they are buying ethanol and what the blend of ethanol is. That's a separate labeling at the pump.

Kayla Pulvermacher, NDFU spoke in support of SB 2159.

Senator Nething told the committee that a violation of this provision appears to be a class B misdemeanor...so if that owner of that station doesn't post his pumps it would seem to me the penalty reads that any person violating or failing to comply with any of the provisions of this chapter with the rule or regulations issued unless another penalty is provided, is guilty of a class B misdemeanor.

Mike Rud representing the North Dakota Petroleum Marketers Association spoke in support of SB 2159. The association asked that EPIC produce a label that will stand up to gas being spilled on it.

Senator Potter asked if anyone had ever been charged with a misdemeanor for not complying with labeling.

Mr. Rud said he had never heard of anyone and stated that as marketers they were all very concerned about making sure the public knows what they are buying.

Senator Lee asked Mr. Rud if he was convinced that this label is the label that will represent the ethanol industry or are we going to have somebody else come in and say that they would like this logo.

Mr. Rud said he could not speak to that. He thought the marketers would be more interested in how the logo sticker would stand up at the pumps. They just want something on the pump that will last and tell the consumer what they are buying.

Senator Lee asked for opposing testimony. There being none, he asked for neutral testimony.

Senator Lee closed the hearing on SB 2159

Senator Nething moved for a do pass on SB 2159.

Senator Potter seconded.

Senator Bakke asked who would supply the labels and information when they deliver the product.

Senator Heitkamp said he thought that EPIC would work with the petroleum marketers and get them out to them.

Clerk called the roll. Do pass 6-0-0

Senator Nething will carry the bill.

Date: 1-18-07
 Roll Call Vote #: 6-0-1

**2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO.**

Senate Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number SB 2159

Action Taken Do Pass

Motion Made By Senator Nething Seconded By Senator Potter

Senators	Yes	No	Senators	Yes	No
Chairman Gary Lee	✓		Senator JoNell Bakke	✓	
V Ch John Andrist	✓		Senator Tom Fiebiger	✓	
Senator Dave Nething	✓		Senator Tracy Potter	✓	

Total (Yes) 6 No 0

Absent _____

Floor Assignment Senator Nething

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2159: Transportation Committee (Sen. G. Lee, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2159 was placed on the
Eleventh order on the calendar.

2007 HOUSE TRANSPORTATION

SB 2159

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2159

House Transportation Committee

Check here for Conference Committee

Hearing Date: 02-23-2007

Recorder Job Number: 3732/3733

Committee Clerk Signature

Lisa M Thomas

Minutes:

Chairman Weisz opened the hearing on SB 2159. SB 2159 relates to ethanol dispensing unit labeling requirements.

Senator Heitkamp introduced the bill. See written testimony.

Rep. Ruby: I kind of felt the same way about the label.

Sen. Heitkamp: I can understand the reasoning behind your marketing a product and if you try to get people to use it more state to state, it being uniform. That is kind of why I went along with it.

Rep. Weisz: Would it be your understanding for example, if ethanol producers wanted to do some promotion and they wanted additional stickers on the pump and the retailers didn't care, would that prohibit it?

Sen. Heitkamp: I don't think so; it's between them and the retailers. What this does is puts the retailers in a position where they got to go along with it. They have to go along with labeling now. So this basically takes them to a different place on that, which is why it was important to talk to the retailers and the majority of the ones I talked to were in the southeast corner. I didn't get all over the state to do it, but the testimony on the Senate side led to that.

Rep. Thorpe: Is this logo pretty much a nationwide type of ethanol logo?

Sen. Heitkamp: Yes. If you have seen, the EPIC brand is choosing where they are trying to make the big bang. If you noticed, they have an INDY car now they have Jeff Simmons driving for them. I went to their INDY race in Chicago and Gene Simmons was there. Former singer for KISS speaking on behalf of ethanol and it created quite a stir. Danika Patrick was there. It was interesting. That is EPIC right now.

Rep. Vigesaa: The E85 logos that we see on our pumps, this wouldn't effect those pumps?

Sen. Heitkamp: You would still need to make sure to label what you are buying in terms of content. We will get to a day when we are talking about blender pumps and computers telling you what the market is. I think we are going to go around a little slower. In South Dakota it is already taking off. In fact, I have been an advocate and lost many times on the fact that ND should have a ten percent blend and it was the SD guys that really pushed on it.

Rep. Owens: The EPIC group does this include everyone?

Sen. Heitkamp: You can choose to be a member.

Rep. Owens: So if I have ten stations, do I have to have a sticker?

Sen. Heitkamp: This group EPIC is for promoting ethanol and you don't have to pay into it, but you still receive the benefit. Some just can't afford to pay in, or for whatever reason, but you still receive the stickers and promotion.

Rep. Owens: Would this label be requiring people to buy ethanol from EPIC members?

Sen. Heitkamp: No, you can buy the ethanol from whomever you want. They can buy it from non members as well if they wish to.

Rep. Dosch: We are putting this into law, but nowhere does it say that the labeling will be free of charge.

Sen. Heitkamp: The retailers I have talked to are okay with this. If it isn't free to them, they shouldn't have to display it.

Rep. Thorpe: It says in line ten, the dispensing unit bares a label or logo, can you use either?

Sen. Heitkamp: That is the verbiage they needed to make sure it was covered.

Rep. Pollert stated his support for the bill, for the record.

Rep. Headland stated his support for the record as well.

Mike Rud, North Dakota Petroleum Marketers Assoc. stated that they support the bill as well, for the record.

Kayla Pulvermacher, ND Farmers Union stated her support for the bill as well.

There was no opposition to this bill.

The hearing was closed. No action was taken at this time. Later that day, Chairman

Weisz allowed for committee discussion at this time.

Rep. Dosch: I have some concerns about putting specific organizations into law. What if there was another ethanol organization that starts up? Also, it's free today, but once it's in law and you don't join my council I am going to charge you for these labels and what is the recourse to the retailer then?

Rep. Weisz: I really can't address cost except from the standpoint of the retailers, I suppose you could have a retailer join, but when we look at who is part of it, the retailers are not part of it. EPIC is the ethanol producers.

Rep. Kelsch: And you know it really depends. We put names of organizations and things like this into code all the time, so it's not you know a new precedent it's one that's been going on you know if you look into the education section you have got you know ND Education Assoc. in there. We used to have the Fargo School Board listed in there you know so I think if you look around there you will find sections like this all over. But my concern was also with the free part but you know we will be back in two and if they you know it's not free, well, I guess we change it then.

Rep. Weisz: (To Mike Rud): Who is providing the labels now, where are they coming from?

Rud: Most of those labels come from our suppliers, whoever supplies the product to us.

Rep. Thorpe moved a DO PASS. Rep. Delmore seconded.

Roll Call Vote: 12 yes. 0 no. 1 absent.

Vice Chairman Ruby was absent for the vote.

Carrier: Rep. Gruchalla

Date: 2-23-07
 Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 2159

House Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Thorpe Seconded By Delmore

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz	✓		Rep. Delmore	✓	
Vice Chairman Ruby	A		Rep. Gruchalla	✓	
Rep. Dosch	✓		Rep. Myxter	✓	
Rep. Kelsch	✓		Rep. Schmidt	✓	
Rep. Owens	✓		Rep. Thorpe	✓	
Rep. Price	✓				
Rep. Sukut	✓				
Rep. Vigesaa	✓				

Total Yes 12 No 0

Absent 1

Floor Assignment Gruchalla

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2159: Transportation Committee (Rep. Weisz, Chairman) recommends DO PASS
(12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2159 was placed on the
Fourteenth order on the calendar.

2007 TESTIMONY

SB 2159

CHAPTER 19-10 PETROLEUM PRODUCTS

19-10-01. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. "Adulterated", when used to describe any petroleum product, denotes a petroleum product which fails to meet the specifications prescribed by this chapter.
2. "Department" means the state department of health.
3. "Diesel fuel" is any petroleum product intended for use or offered for sale as a fuel for engines in which the fuel is injected into the combustion chamber and ignited by pressure without electric spark.
4. "Gasoline" is a refined petroleum naphtha which by its composition is suitable for use as a carburant in internal combustion engines.
5. "Heating oil" is any petroleum product intended for use or offered for sale as a furnace oil, range oil, or fuel oil for heating and cooking purposes to be used in burners other than wick burners regardless of whether the product is designated as furnace oil, range oil, fuel oil, gas oil, or is given any other name or designation.
6. "Kerosene" is a petroleum fraction which is free from water, additives, foreign or suspended matter, and is suitable for use as an illuminating oil.
7. "Lubricating oil" is any petroleum, or other product, used for the purpose of reducing friction, heat, or wear in automobiles, tractors, gasoline engines, diesel engines, and other machines.
8. "Misbranded", when used in connection with any petroleum product, denotes a petroleum product which is not labeled as required under the provisions of this chapter.
9. "Sell" and "sale" includes the keeping, offering, or exposing for sale, transportation, or exchange of the restricted or prohibited article.
10. "Tractor fuel" is any petroleum product, other than gasoline or kerosene, intended for use or offered for sale as a fuel for tractors, regardless of whether the product is designated as distillate, gas oil, fuel oil, or is given any other name or designation.

19-10-02. Department to enforce law - Regulation of petroleum products. The provisions of this chapter must be enforced by the department. The department may adopt rules and regulations pursuant to chapter 28-32 for the interpretation of the provisions and intent of this chapter.

19-10-03. Sale of adulterated and misbranded gasoline, kerosene, tractor fuel, heating oil, diesel fuel, or lubricating oil prohibited. No person may sell or offer or expose for sale any kerosene, gasoline, or other petroleum product intended to be used as kerosene or gasoline, or any tractor fuel, heating oil, diesel fuel, or lubricating oil which is adulterated or misbranded.

19-10-03.1. Retail sale of alcohol-blended gasoline - Notice required. No dealer may sell at retail alcohol-blended gasoline unless the dispensing unit and any price advertising bear the name of the alcohol blended with the gasoline if the alcohol-blended gasoline consists of one percent or more by volume of any alcohol. The disclosure must be in letters at least the same size as those used for the label of the basic grade of gasoline and must be next to the gasoline grade label. A producer of alcohol-blended gasoline may provide a retailer with a label promoting

the benefits of alcohol-blended gasoline, if the label at least meets the requirements of this section.

19-10-03.2. Retail sale of gasoline containing methyl tertiary butyl ether - Restriction. A person may not sell, offer for sale, supply, or offer for supply gasoline that contains methyl tertiary butyl ether in quantities greater than five-tenths of one percent by volume. However, a person may ship gasoline containing methyl tertiary butyl ether within the state for disposition outside the state, including storage coincident to shipment.

19-10-04. Labeling gasoline containers - Gasoline pipeline. Every package, barrel, filling station pump, and every tank wagon, truck, or car containing gasoline for sale or consignment or held with intent to sell or consign the same within this state or to transport it into this state must be clearly and distinctly stamped, labeled, or tagged with the word "gasoline". Every oil station pipeline for gasoline must be painted red. The fittings upon such lines, however, may be painted other colors to designate grades. Pipelines for gasoline must be entirely separate from lines for kerosene or for any other high flash product. Every can, bucket, barrel, or other container of less than sixty gallons [227.12 liters] capacity used for storage or delivery of gasoline, benzine, or benzine products, unless the same is made of glass, must be painted bright red, and such containers may not be used for the storage or delivery of kerosene. In the case of glass containers, the contents must be designated by a red label securely pasted on or attached to the containers bearing the name of the product.

19-10-05. Labeling kerosene - Containers - Pipeline. Every package, barrel, filling station pump, and every tank wagon, truck, or car containing kerosene for sale or consignment when held within this state or transported into this state must be clearly and distinctly stamped, labeled, or tagged with the word "kerosene". Every oil station pipeline for kerosene must be painted aluminum and must be entirely separate from lines for gasoline or other low flash products.

19-10-06. Labeling tractor fuel. Every package, barrel, pump, and every truck, tank wagon, or car containing tractor fuel oil, other than gasoline or kerosene, for sale or consignment, when held within this state or when being transported into this state must be clearly and distinctly tagged, marked, and labeled with the legend "Tractor fuel oil, not for illuminating purposes nor wick burners". Every oil station pipeline for tractor fuel must be painted yellow and must be entirely separate from lines for kerosene or other high flash product.

19-10-07. Labeling heating oil. Every package, barrel, pump, and every tank wagon, truck, or car containing heating oil for sale or consignment, when held within this state or when being transported into this state, must be clearly and distinctly tagged, marked, or labeled with the designation of grade established by the department. Every oil station pipeline for heating oil must be painted green.

19-10-08. Labeling diesel fuel. Every package, barrel, pump, and every tank wagon, truck, or car containing diesel fuel for sale or consignment, when held within this state or transported into this state, must be clearly and distinctly tagged, marked, or labeled with the designation "diesel fuel" together with its cetane number and the grade established by the department. Every oil station pipeline for diesel fuel must be painted green.

19-10-09. Specifications - Gasoline and kerosene. Repealed by S.L. 1951, ch. 154, § 2.

19-10-10. Specifications for petroleum products - Tests used. Specifications for gasoline, kerosene, tractor fuel, diesel oil, heating oil, lubricating oil, and liquefied petroleum gases, including propane, propylene, normal butane or isobutane, and butylene, must be determined by the department and must be based upon nationally recognized standards. When so determined by the department and adopted and promulgated as regulations and orders of the department in accordance with the provisions of chapter 28-32, such specifications must be the specifications for such petroleum products sold in this state and official tests of such petroleum products must be based upon test specifications so determined adopted and promulgated.

19-10-11. Specifications - Tractor fuel. Repealed by S.L. 1951, ch. 154, § 2.

19-10-12. Specifications - Diesel fuel. Repealed by S.L. 1951, ch. 154, § 2.

19-10-13. Specifications - Heating oil. Repealed by S.L. 1951, ch. 154, § 2.

19-10-14. How heating oil specifications modified. Repealed by S.L. 1951, ch. 154, § 2.

19-10-15. How volume of heating oil determined. In case of a dispute, heating oil must be sold on the basis of the United States gallon containing two hundred thirty-one cubic inches [3785.41 milliliters] at sixty degrees Fahrenheit [15.56 degrees Celsius]. The volume of the delivered oil, however, may be calculated from its weight and gravity degrees API in accordance with the national standard petroleum oil tables prepared by the national bureau of standards.

19-10-16. Department may prohibit sale of certain gasolines or motor fuels. The department may prohibit the sale of any so-called "gasoline improver" or motor fuel dope, oil additive, and of any gasoline mixed or compounded with any other chemical, substance, or solution which may be detrimental to the public health, injurious to internal combustion engines, or concerning which unsubstantiated claims are made. However, it may not prohibit the sale of any material, substance, or solution which has been favorably reported on by the United States bureau of standards or by the surgeon general or bureau of public health of the United States.

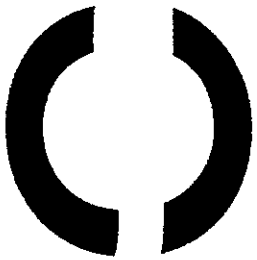
19-10-17. Coloring of gasoline. Repealed by S.L. 1957, ch. 168, § 1.

19-10-18. Sale of prohibited or miscolored gasolines - Penalty. Any person violating any of the provisions of section 19-10-16 is guilty of a class B misdemeanor.

19-10-19. Inspection fees. Every person licensed by the tax commissioner as a motor vehicle fuel or special fuels dealer shall pay to the tax commissioner an inspection fee of one-fortieth of one cent per gallon [3.79 liters] for every gallon [3.79 liters] of gasoline, kerosene, tractor fuel, heating oil, or diesel fuel sold or used during a calendar month except those gallons sold out of state or those gallons sold as original package sales as defined in chapters 57-43.1 and 57-43.2. The fee must accompany the monthly report required in the following section and is due no later than the twenty-fifth day of each calendar month for the preceding month. The tax commissioner shall forward all money collected under this section to the state treasurer monthly, and the state treasurer shall place the money in the general fund of the state. The tax commissioner shall make available annually a report by licensed dealer listing the number of gallons [liters] of motor vehicle fuel and special fuels upon which the inspection fee has been paid. The provisions of chapters 57-43.1 and 57-43.2 pertaining to the administration of motor vehicle fuel and special fuels taxes not in conflict with the provisions of this chapter govern the administration of the inspection fee levied by this chapter.

19-10-20. Report to tax commissioner of petroleum products - Contents. No later than the twenty-fifth day of each calendar month, every person licensed by the tax commissioner as a motor vehicle fuel, special fuels, or liquefied petroleum wholesale dealer shall send to the tax commissioner a correct report of all purchases and sales of gasoline, kerosene, tractor fuel, heating oil, or diesel fuel during the preceding month. The report must include the same information as required in chapters 57-43.1 and 57-43.2 for motor vehicle fuel and special fuels tax collection purposes. Failure to send the report and inspection fee required by the preceding section to the tax commissioner constitutes a violation of the provisions of this chapter.

19-10-21. Bond may be required of dealer in petroleum products. The tax commissioner may require any person licensed by the tax commissioner as a motor vehicle fuel, special fuels, or liquefied petroleum wholesale dealer to furnish a surety bond payable to the state of North Dakota in the sum of five hundred dollars, or twice the amount of inspection fees due for any calendar month, whichever amount is the greater, guaranteeing to the state true reports of purchases and sales of gasoline, kerosene, tractor fuel, heating oil, and diesel fuel and



ethanol

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2146

Submitted by Sen Hietkamp



ethanol promotion
and information council

EPIC

ethanol

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About EPIC

The Ethanol Promotion and Information Council (EPIC) is an alliance of ethanol producers and industry leaders who have come together to spread the word about the benefits of ethanol through information and promotional programs. EPIC is a nonprofit organization and is overseen by a nine-member board of directors. Visit www.drivingethanol.org for more information about EPIC.

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Media Resources Available on drivingethanol.org

Ethanol Logo

The ethanol logo was designed to create a visual identity for the ethanol brand. It represents both the performance and environmental attributes of the ethanol product. The foundation of building a brand is consistency, so it's important that the ethanol logo meet the guidelines outlined below. To request a PDF of this logo, email Joanna Schroeder at jschroeder@epicinfo.org.



This is our two-color stacked logo.

Story Ideas

Journalists can get new ideas for stories on the subject of ethanol by accessing a list in the media center on the drivingethanol.org. For more information, visit our Web site at http://www.drivingethanol.org/asp/newsroom/story_ideas.aspx

Fact Sheets

Fact sheets on a myriad of subjects related to ethanol are available in the newsroom at <http://www.drivingethanol.org/asp/newsroom/factsheets.aspx>

Photography

In the photo gallery, you can view images of the Team Ethanol Indy driver and more! To request a high-resolution image, e-mail media@drivingethanol.org. <http://www.drivingethanol.org/asp/newsroom/photolibrary.aspx> is the photo gallery address.

Audio and Video Clips

The media center contains audio and video clips that journalists can download for their use. These clips can be accessed by visiting <http://www.drivingethanol.org/asp/newsroom/audio.aspx> for audio clips and <http://www.drivingethanol.org/asp/newsroom/video.aspx> for video clips.



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EPIC FACT SHEET

Organization: Ethanol Promotion & Information Council (EPIC)

Formed: 2005

Mission: Ethanol Promotion and Information Council (EPIC) is a non-profit alliance of ethanol industry leaders that have come together to grow consumer demand for ethanol as a viable source of renewable energy through targeted marketing and other non-political means.

Headquarters: 17220 Wright Street
Suite 150
Omaha, NE 68130

Board of Directors: Tom Branhan, Glacial Lakes Energy, LLC
Mick Henderson, Commonwealth Agri-Energy, LLC
Bill Honnef, VeraSun Energy
Greg Krissek, United Bio Energy
Walter Kittrell, Fagen, Inc.
Dave Vander Griend, ICM, Inc.
Larry Ward, Broin Companies
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