

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Commerce and Tourism Committee

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BILL: SB 238

INTRODUCER: Senator Evers and Gaetz

SUBJECT: Florida Renewable Fuel Standard Act

DATE: December 6, 2011      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Willar	Carter	CU	<b>Favorable</b>
2.	Tell	Hrdlicka	CM	<b>Pre-meeting</b>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

SB 238 repeals the Florida Renewable Fuel Standard Act (FRFSA). The FRFSA requires, with certain exemptions, that all gasoline sold or offered for sale in Florida by a terminal supplier, importer, blender, and wholesaler must contain a minimum of 9 percent of agriculturally-derived, denatured ethanol fuel by volume.

This bill amends s. 206.43, F.S., and repeals the following sections of the Florida Statutes: 526.201, 526.202, 526.203, 526.204, 526.205, 526.206, and 526.207.

**II. Present Situation:**

The State Legislature in 2008, determined that it is vital to the public interest and to the state's economy to establish a market and the necessary infrastructure for renewable fuels in this state by requiring that all gasoline offered for sale in this state include a percentage of agriculturally-derived, denatured ethanol. The Legislature further found that the use of renewable fuel reduces greenhouse gas emissions and dependence on imports of foreign oil, improves the health and quality of life for Floridians, and stimulates economic development and the creation of a sustainable industry that combines agricultural production with state-of-the-art technology.<sup>1</sup>

The Florida Renewable Fuel Standard Act (act) was passed in 2008<sup>2</sup> requiring all gasoline sold or offered for sale in Florida by a terminal supplier, importer, blender, or wholesaler to contain 9

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<sup>1</sup> Section 526.202, F.S.

<sup>2</sup> See HB 7135 (2008).

to 10 percent of agriculturally-derived, denatured ethanol fuel by volume.<sup>3</sup> It also provided a list of fuel sold or used for specified purposes that is exempt from the requirements.<sup>4</sup> The Department of Agriculture and Consumer Services (DACS) is authorized to enforce the provisions of the act.

According to a 2008 St. Petersburg Times article, between 2006 and 2008 Florida had spent \$50 million on ethanol production and research. Of the \$50 million, at least \$13 million was allocated for projects that would use waste such as tree trimmings and citrus peels to produce ethanol. Another \$20 million was disbursed to a University of Florida project with Florida Crystals to make ethanol from sugar bagasse. The article found that the projects have yet to produce a drop.<sup>5</sup>

The first ethanol plant proposed in Florida, the U.S. EnviroFuels plant in Highlands County in 2008, drew opposition when the construction firm building the plant requested 400,000 gallons a day of city water. If approved, this would have made the facility one of the city's top ten water consumers overnight at a time when Florida was suffering from a prolonged drought and rivers and lakes were at record lows.<sup>6</sup> Today, the plant is seeking a permit to draw 200,000 gallons per day.<sup>7</sup>

Since then, plans for several Florida ethanol plants have been announced. In February 2011, the first ethanol plant broke ground in Indian River County. The plant is a joint venture between INEOS Bio and New Planet Energy. This plant is expected to be the first advanced waste-to-fuel bio-refinery in the U.S. The plant operators expect annual ethanol production up to 8 million gallons and more than 6 megawatts of power from local yard, vegetative and household waste. Federal and state grants are funding the project. The joint venture received a \$2.5 million Florida Farm-to-Fuel grant and a \$50 million federal grant in 2009. Additionally, the venture recently received a conditional commitment for a \$75 million loan guarantee from the U.S. Department of Agriculture.<sup>8</sup>

Other Florida ethanol projects currently underway are:

- BP-Verenium Partnership, plans to build in Highlands County;<sup>9</sup> and
- Southeast Renewable Fuels, LLC, plans to build three sweet-sorghum-to-ethanol plants. The first plant has been permitted and will break ground in late 2011 in Clewiston, Hendry County.<sup>10</sup>

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<sup>3</sup> Section 526.203(1)(b), F.S.

<sup>4</sup> Section 526.203(3)(a)-(j), F.S.

<sup>5</sup> Asjlyln Loder, *Are Florida Ethanol Plants Worth it?* (Mar. 2008).

[http://www.sptimes.com/2008/03/02/Business/Are\\_Florida\\_ethanol\\_p.shtml](http://www.sptimes.com/2008/03/02/Business/Are_Florida_ethanol_p.shtml) (last visited November 14, 2011).

<sup>6</sup> The Economist, *Ethanol and Water: Don't Mix*, (Feb. 2008). <http://www.economist.com/node/10766882> (last visited November 14, 2011).

<sup>7</sup> Highlands Today, <http://www2.highlandstoday.com/news/news/2011/oct/05/ethanol-plant-touts-60-new-jobs-ar-262978/> (last visited November 14, 2011).

<sup>8</sup> The Palm Beach Post, *The First Ethanol Production Plant comes to Florida*, <http://www.palmbeachpost.com/money/biofuel-plant-work-begins-near-vero-1244067.html> (last visited November 14, 2011).

<sup>9</sup> Highlands Today, <http://www2.highlandstoday.com/news/highlands-news/2009/feb/20/la-bp-joins-verenium-on-new-ethanol-plant-ar-305306/> (last visited November 14, 2011).

<sup>10</sup> E-mail correspondence with Southeast Renewable Fuels, LLC. On file with the Senate Commerce & Tourism Committee.

Since 2010, the U.S. annual ethanol production has accounted for 13.23 billion gallons, representing 36 million gallons a day.<sup>11</sup> Florida currently produces none of its ethanol used in the state's blended fuel. The Florida Department of Revenue (DOR) reported wholesaler sales of 505 million gallons of gasohol (fuel & ethanol blend) in July 2011.<sup>12</sup> In FY 2010-2011, 8.2 billion gallons of gasoline and 1.4 billion gallons of diesel fuel were sold in Florida.<sup>13</sup> DOR estimates that of the 8.2 billion gallons of gasoline sold nearly 100 percent was actually gasohol. DOR bases its conclusion on the fact that taxpayers typically report sales as gasoline sales, not gasohol sales.<sup>14</sup>

### III. Effect of Proposed Changes:

#### Section 1

This bill repeals the Florida Renewable Fuel Standard Act, including the following:

- s. 526.201, F.S., which is the act title;
- s. 526.202, F.S., which deals with the legislative findings regarding renewable fuel;
- s. 526.203, F.S., which deals with the renewable fuel standard exemptions, including definitions regarding "blended gasoline" requirements as a mixture of 90 to 91 percent gasoline and 9 to 10 percent ethanol by volume;
- s. 526.204, F.S., which discusses the waivers and suspensions;
- s. 526.205, F.S., which deals with the enforcement on terminal suppliers, importers, blenders, or wholesalers that sell or distribute, or offer for sale or distribution of gasoline which fails to meet the requirements of the act;
- s. 526.206, F.S., which are the provisions authorizing DOR and DACS to adopt rules in implementing provisions of this act; and
- s. 527.207, F.S., which is the requirement that DACS conduct a study to evaluate and recommend the life-cycle greenhouse gas emissions associated with all renewable fuels.

#### Section 2

This section amends s. 206.43(2), F.S., to make a conforming change, deleting from this section the language "Each terminal supplier, importer, blender, and wholesaler shall also include in the report to the department the number of gallons of blended and unblended gasoline, as defined in s. 526.203, sold."

#### Section 3

This section provides an effective date of July 1, 2012.

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<sup>11</sup>Renewable Fuels Association, *2010 Annual Ethanol Production=13.23 Billion Gallons* (Feb. 2011). <http://www.ethanolrfa.org/news/entry/2010-annual-ethanol-production-13.23-billion-gallons/> (last visited November 14, 2011).

<sup>12</sup>E-mail correspondence with Department of Revenue staff. On file with the Senate Commerce & Tourism Committee.

<sup>13</sup>Department of Revenue, *Fuel Tax*, <http://dor.myflorida.com/dor/taxes/fuel/> (last visited November 14, 2011).

<sup>14</sup>E-mail correspondence with Department of Revenue staff. On file with the Senate Commerce & Tourism Committee.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

Currently there are no working ethanol production plants in Florida, but there are plants under construction. The private sector could see a loss in market production if mandates are removed. This is, however, uncertain. According to DACS, the practical impact of the bill is uncertain because the 2007 Energy Independence and Security Act (EISA) requirements remain in place and effectively increase the use of ethanol.<sup>15</sup> The 2007 EISA Renewable Fuel Standards required 9 billion gallons in 2008 with a rise to 36 billion gallons by 2022, which in turn could constitute a bigger market for ethanol resulting in higher demand for the product in the long run.<sup>16</sup> Federal Environmental Protection Agency (EPA) emissions control requirements also may encourage expanded use of ethanol. The EPA requires reduced exhaust emissions of carbon monoxide, which can be accomplished by the addition of ethanol, which contains 35 percent oxygen by weight and promotes more complete combustion of the fuel.<sup>17</sup>

## C. Government Sector Impact:

DACS does not anticipate any appreciable effect to state revenues if the bill were to pass.<sup>18</sup>

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<sup>15</sup> E-mail correspondence with DACS Staff. On file with the Senate Committee on Communications, Energy, and Public Utilities.

<sup>16</sup> Congressional Research Service, *Energy Independence and Security Act of 2007: A Summary of Major Provisions* (Dec. 2007). [http://energy.senate.gov/public/\\_files/RL342941.pdf](http://energy.senate.gov/public/_files/RL342941.pdf) (last visited November 14, 2011).

<sup>17</sup> E-mail correspondence with DACS Staff. On file with the Senate Committee on Communications, Energy, and Public Utilities.

<sup>18</sup> E-mail correspondence with DACS Staff. On file with the Senate Commerce & Tourism Committee.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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