

**ASSEMBLY SUBSTITUTE AMENDMENT 3,
TO 2005 ASSEMBLY BILL 15**

December 15, 2005 – Offered by Representatives FREESE, DAVIS, TOWNS and
GOTTLIEB.

1 **AN ACT** *to create* 168.04 (2m) and (2r), 168.045 and 285.14 (3) of the statutes;
2 **relating to:** ethanol requirements in automotive gasoline, granting
3 rule-making authority, and providing a penalty.

***The people of the state of Wisconsin, represented in senate and assembly, do
enact as follows:***

4 **SECTION 1.** 168.04 (2m) and (2r) of the statutes are created to read:

5 168.04 **(2m)** (a) The rule promulgated by the department under sub. (1) to set
6 standards for automotive gasoline shall require that beginning on October 1, 2006,
7 automotive gasoline that has an octane rating of 87 contain not less than 9.2 percent
8 nor more than 10 percent ethanol.

9 (b) The standards established under par. (a) do not apply to automotive
10 gasoline that is sold at a racetrack if the gasoline is intended to be used exclusively
11 as a fuel for motor sports racing events at a racetrack.

(c) If the department of commerce receives a notification under s. 285.14 (3) (c), it shall inform the revisor of statutes. The revisor of statutes shall publish in the next issue of the Wisconsin Administrative Register a notice that, beginning on the first day of the first month beginning after the month in which the notice is published, the standards for automotive gasoline established under par. (a) do not apply. The standards for automotive gasoline established under par. (a) do not apply beginning on the first day of the first month beginning after the month on which the revisor of statutes publishes a notice under this paragraph.

(2r) (a) In this subsection, “regular supplier” means a supplier who supplies a retailer of automotive gasoline with 50 percent or more of the retailer’s automotive gasoline for sale at retail.

(b) If a retailer of automotive gasoline is unable to obtain a sufficient supply of automotive gasoline that satisfies the standards established under sub. (2m) (a) from the retailer’s regular supplier to meet the retailer’s demand for automotive gasoline, the retailer may apply to the secretary of administration for a waiver of the standards established under sub. (2m) (a). If the secretary of administration determines, after consultation with the secretary of commerce and the secretary of agriculture, trade and consumer protection that the retailer’s regular supplier cannot meet the retailer’s demand for automotive gasoline that satisfies the standards established under sub. (2m) (a), the secretary of administration shall waive those requirements for gasoline sold by that retailer and, without further application, for any other retailer for whom the supplier is the retailer’s regular supplier. The waiver shall be for a period of time not to exceed 7 days.

SECTION 2. 168.045 of the statutes is created to read:

1 **168.045 Ethanol quality testing.** No ethanol producer may deliver, sell, or
2 offer to sell ethanol intended for use in automotive gasoline in this state to any person
3 in this state unless all of the following apply:

4 **(1)** The ethanol producer tests the ethanol to ensure that it conforms with
5 quality standards for ethanol published by the American Society for Testing and
6 Materials.

7 **(2)** The ethanol producer files a copy of the tests conducted under sub. (1) with
8 the department.

9 **SECTION 3.** 285.14 (3) of the statutes is created to read:

10 285.14 **(3)** ETHANOL REQUIREMENTS IN AUTOMOTIVE GASOLINE. (a) At least 30 days
11 before the department provides a report under sub. (2), the department shall
12 determine whether it is necessary, as a result of the standards for automotive
13 gasoline established under s. 168.04 (2m) (a), to amend the state implementation
14 plan addressed in the report to include additional requirements for the reduction of
15 the emissions of an air contaminant by air contaminant sources in any part of this
16 state in order to attain and maintain a federal ambient air quality standard
17 promulgated under 42 USC 7409 or to protect visibility under 42 USC 7491.

18 (b) In the design and conduct of the analysis used to make the determination
19 under par. (a), including in the selection of assumptions and the interpretation of any
20 inconclusive results, the department shall exercise its discretion in a manner that
21 provides preference to the use of automotive gasoline containing ethanol derived
22 from biological materials, in accordance with the priority in s. 1.12 (4) for using
23 combustible renewable energy resources to meet energy demands in this state over
24 using nonrenewable combustible energy resources.

(c) If the department determines under par. (a) that additional requirements would be necessary, the department shall notify the department of commerce of that determination and the department may not include the additional requirements in the state implementation plan.

(END)