



States' Biofuels Statutes

STATE OF SOUTH DAKOTA

This project was undertaken in partnership with the USDA Office of the Chief Economist, The Office of Energy Policy and New Uses. For information on the full project, visit [States' Biofuels Statutory Citations](#).

Current through the 2014 Legislative Session of the South Dakota State Legislature.

§ 37-2-34. Definition of terms

Terms used in §§ 37-2-35 to 37-2-38, inclusive, mean:

- (1) "Franchise-related document," a franchise agreement, branded jobber contract, branded marketer agreement, and any other contract or directive of a franchisor relating to terms or conditions of the sale of fuel by a franchisee or customer;
- (2) "Renewable fuel," biodiesel, biodiesel blend, ethyl alcohol, and ethanol blend, all as defined in § 10-47B-3, and any motor fuel made from a blend, in any ratio, of gasoline and the product commonly or commercially known as E-85 or an ethanol blend and the product commonly or commercially known as E-85.

§ 37-2-34.1. Ethanol blender pump defined

The term, ethanol blender pump, refers to a mechanism provided by the retail dealer for the dispensing at retail of ethanol blend as defined in § 10-47B-3 so that the end user may select the ratio of ethanol to gasoline to be dispensed. The pump shall be the type that:

- (1) Dispenses at retail a blend of gasoline and ethanol in the ratio selected by the purchaser;
- (2) Is manufactured to an industry standard and carries a warranty for compatibility with dispenser components and storage and piping systems;
- (3) Has at least four hoses and dispenses the following:
 - (a) Either a blend of ten percent ethanol or the minimum blend percentage approved for all vehicles by the United States Environmental Protection Agency;
 - (b) A blend of at least fifteen percent ethanol; and
 - (c) E85 fuel; and
- (4) Complies with all alternative fuel, biofuel, and flexible fuel requirements established by law.

37-2-35. Certain contract restrictions on the sale of renewable motor fuels prohibited

No franchise-related document entered into or renewed on or after July 1, 2008 may contain any provision allowing a franchisor to restrict the franchisee or any affiliate of the franchisee from:

- (1) Installing on the marketing premises of the franchisee a renewable fuel pump or tank, except that the franchisee's franchisor may restrict the installation of a tank on leased marketing premises of the franchisor;
- (2) Converting an existing tank or pump on the marketing premises of the franchisee for renewable fuel use;
- (3) Advertising the sale of any renewable fuel, including through the use of signage;
- (4) Selling renewable fuel in any specified area on the marketing premises of the franchisee, including any area in which a name or logo of a franchisor or any other entity appears;
- (5) Purchasing renewable fuel from sources other than the franchisor if the franchisor does not offer its own renewable fuel for sale by the franchisee;

- (6) Listing renewable fuel availability or prices, including on service station signs, fuel dispensers, or light poles;
 - (7) Allowing for payment of renewable fuel with any form of payment available for any other type of fuel;
 - (8) Installing on the marketing premises of the franchisee an ethanol blender pump as defined in § 37-2-34.1; or
 - (9) Using any pump to dispense a specified ethanol blend or range of blends, if the pump is approved by the authority having jurisdiction, as defined in § 34-38-23, for dispensing the specified ethanol blend or range of blends.
- Nothing in this section authorizes any activity that constitutes mislabeling, misbranding, willful adulteration, or other trademark violations by the franchisee.

37-2-37. Franchisee may not be prevented from selling renewable fuels in lieu of one grade of gasoline

No franchise-related document that requires that three grades of gasoline be sold by the applicable franchisee may prevent the franchisee from selling one or more renewable fuels in lieu of one, and only one, grade of gasoline.