

## CHAMBER ACTION

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1 The Agriculture Committee recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

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6 A bill to be entitled

7 An act relating to disaster preparedness response and  
8 recovery; creating s. 526.143, F.S.; providing that each  
9 motor fuel terminal facility and wholesaler that sells  
10 motor fuel in the state must be capable of operating its  
11 distribution loading racks using an alternate power source  
12 for a specified period by a certain date; providing  
13 requirements with respect to the operation of such  
14 equipment following a major disaster; providing  
15 requirements with respect to inspection of such equipment;  
16 requiring newly constructed or substantially renovated  
17 motor fuel retail outlets to be capable of operation using  
18 an alternate power source; defining "substantially  
19 renovated"; providing inspection requirements; requiring  
20 certain motor fuel retail outlets to be capable of  
21 operation using an alternate power source by a specified  
22 date; requiring certain owners of motor fuel retail  
23 outlets within a county to maintain a portable generator

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24 as an alternate power source for a specified number of  
 25 outlets; providing inspection and recordkeeping  
 26 requirements; providing applicability; providing  
 27 severability; providing for preemption to the state of the  
 28 regulation of and requirements for siting and placement of  
 29 an alternate power source and any related equipment at  
 30 motor fuel terminal facilities, wholesalers, and retail  
 31 sales outlets; amending s. 252.35, F.S.; expanding the  
 32 duty of the Division of Emergency Management to conduct a  
 33 public educational campaign on emergency preparedness  
 34 issues; providing an additional duty of the division with  
 35 respect to educational outreach concerning disaster  
 36 preparedness; providing an effective date.

37

38 Be It Enacted by the Legislature of the State of Florida:

39

40 Section 1. Section 526.143, Florida Statutes, is created  
 41 to read:

42 526.143 Alternate means of power generation for motor fuel  
 43 dispensing facilities.--

44 (1) No later than December 31, 2006, each motor fuel  
 45 terminal facility, as defined in s. 526.303(16), and wholesaler,  
 46 as defined in s. 526.303(17), that sells motor fuel in this  
 47 state must be capable of operating its distribution loading  
 48 racks using an alternate power source for a minimum of 72 hours.  
 49 Pending a postdisaster examination of the equipment by the  
 50 operator to determine any extenuating damage that would render  
 51 it inoperable or unsafe to use, the facility must have such

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52 alternate power source available for operation no later than 36  
53 hours after a major disaster, as defined in s. 252.34. Initial  
54 inspection for proper installation and operation shall be  
55 completed by a local building inspector, and verification of the  
56 inspection must be submitted to the local county emergency  
57 management agency. Inspectors from the Department of Agriculture  
58 and Consumer Services shall perform a periodic visual inspection  
59 of the alternate power source to ensure that the emergency  
60 auxiliary electrical equipment is installed. Each facility shall  
61 perform annual inspections to ensure that the emergency  
62 auxiliary electrical generators are in good working order.

63 (2) Each newly constructed or substantially renovated  
64 motor fuel retail outlet, as defined in s. 526.303(14), for  
65 which a certificate of occupancy is issued on or after July 1,  
66 2006, must be prewired with an appropriate transfer switch and  
67 be capable of operating all fuel pumps, dispensing equipment,  
68 life-safety systems, and payment acceptance equipment using an  
69 alternate power source. As used in this subsection, the term  
70 "substantially renovated" means a renovation that results in an  
71 increase of greater than 50 percent in the assessed value of the  
72 motor fuel retail outlet. Local building inspectors shall  
73 include an equipment and operations check for compliance with  
74 this subsection in the normal inspection process before issuing  
75 a certificate of occupancy. A copy of the certificate of  
76 occupancy shall be provided to the county emergency management  
77 agency upon issuance of such certificate. Each facility shall  
78 perform periodic inspections to ensure that the installed  
79 transfer switch and emergency auxiliary electrical generators

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80 are in good working order and provide proof of those inspections  
81 to the county emergency management agency.

82 (3) (a) No later than December 31, 2006, each motor fuel  
83 retail outlet described in subparagraph 1. or subparagraph 2.  
84 must be prewired with an appropriate transfer switch and be  
85 capable of operating all fuel pumps, dispensing equipment, life-  
86 safety systems, and payment-acceptance equipment using an  
87 alternate power source:

88 1. A motor fuel retail outlet which has 16 or more fueling  
89 positions.

90 2. A motor fuel retail outlet that had a minimum monthly  
91 average motor fuel sales volume of 125,000 gallons for any 6-  
92 month period during calendar year 2005.

93 (b) A person or corporation that owns or operates more  
94 than 10 motor fuel retail outlets within a single county shall  
95 maintain at least one portable generator that is capable of  
96 providing an alternate power source as required under subsection  
97 (2) for every 10 retail outlets owned or operated by the person  
98 or corporation.

99 (c) Installation of the wiring and transfer switch  
100 required under paragraph (a) shall be performed by a certified  
101 electrical contractor. Each retail outlet subject to this  
102 subsection must keep a copy of the documentation of such  
103 installation on site or at its corporate headquarters. In  
104 addition, each retail outlet must keep a written record that  
105 confirms the periodic testing and ensured operational capacity  
106 of the equipment. The required documents must be made available

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107 upon request to the Division of Emergency Management and the  
108 county emergency management agency.

109 (4) (a) Subsections (2) and (3) apply to any self-service,  
110 full-service, or combination self-service and full-service motor  
111 fuel outlet regardless of whether the business is located on the  
112 grounds of, or is owned by, another retail business  
113 establishment that does not engage in the business of selling  
114 motor fuel.

115 (b) Subsections (2) and (3) do not apply to:

- 116 1. An automobile dealer;  
117 2. A person who operates a fleet of motor vehicles; or  
118 3. A person who sells motor fuel exclusively to a fleet of  
119 motor vehicles.

120 (5) If any provision of this section or its application to  
121 any person or circumstance is held invalid, the invalidity does  
122 not affect other provisions or applications of the section which  
123 can be given effect without the invalid provision or  
124 application, and to this end the provisions of this section are  
125 declared severable.

126 (6) Notwithstanding any other law or local ordinance, to  
127 ensure an appropriate emergency management response to major  
128 disasters in the state, the regulation of and requirements for  
129 the siting and placement of an alternate power source and any  
130 related equipment at motor fuel terminal facilities,  
131 wholesalers, and retail sales outlets shall be exclusively  
132 controlled by the state.

133 Section 2. Paragraph (i) of subsection (2) of section  
134 252.35, Florida Statutes, is amended, paragraphs (j) through (v)

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135 are renumbered as paragraphs (k) through (w), respectively, and  
136 a new paragraph (j) is added to that subsection, to read:

137 252.35 Emergency management powers; Division of Emergency  
138 Management.--

139 (2) The division is responsible for carrying out the  
140 provisions of ss. 252.31-252.90. In performing its duties under  
141 ss. 252.31-252.90, the division shall:

142 (i) Institute statewide public awareness programs. This  
143 shall include an intensive public educational campaign on  
144 emergency preparedness issues, including, but not limited to,  
145 the personal responsibility of individual citizens to be self-  
146 sufficient for up to 72 hours following a natural or manmade  
147 disaster. The public educational campaign shall include relevant  
148 information on statewide disaster plans, evacuation routes, fuel  
149 suppliers, and shelters. All educational materials must be  
150 available in alternative formats and mediums to ensure that they  
151 are available to persons with disabilities.

152 (j) The Division of Emergency Management and the  
153 Department of Education shall coordinate with the Agency For  
154 Persons with Disabilities to provide an educational outreach  
155 program on disaster preparedness and readiness to individuals  
156 who have limited English skills and identify persons who are in  
157 need of assistance but are not defined under special-needs  
158 criteria.

159 Section 3. This act shall take effect July 1, 2006.