

## **GAS TAX ADVANCES, STATUTE OF REPOSE COMES OUT OF REPOSE**

SSB3141, a bill that would increase Iowa's gas tax by five cents per year in 2013 and 2014, took another tentative step forward this week when it was voted out of the Senate Transportation Committee. The bill would also increase registration fees for new vehicles and alternative fuel vehicles. The House version of the bill, HSB547, advanced out of subcommittee on Monday as well. It would raise the gas tax by four cents per year in 2013 and 2014. A somewhat unusual alignment of lobbying groups support the legislation, including the Associated General Contractors, local governments, Farm Bureau Federation, and the Bankers' Association among others. Although discussions continue at the capitol, the gas tax bills remain in a precarious political position after earlier this fall Governor Branstad stepped away from recommendations to raise the gas tax and increase some registration fees made by his Transportation 2020 Citizen Advisory Committee. The Committee recommended raising, at least an additional \$215 million annually to address the critical needs in road and bridge infrastructure in the State. The Governor stopped short of saying he'd veto a bill, but the possibility remains. Instead, he asked the Department of Transportation (DOT) to find \$50 million in efficiencies to be put back into the Road Use Tax Fund. With the added wild card effect of an upcoming election year (and a year after redistricting at that), many groups will be watching this legislation closely as session continues.

Shifting gears to property-related legislation, a subcommittee was held this week on SSB3090, a bill that would prohibit cities from implementing ordinances regulating rental housing occupancy based on familial or non-familial relationships, and instead limit any such regulation to a restriction on square footage. Under the bill, a city would not be able to restrict the number of unrelated occupants of a rental property. The League of cities and individual cities in attendance at the subcommittee stated that while the square footage restriction may go to safety concerns like ensuring occupants have access to adequate fire exits, regulating based on square footage alone does not get to the other aims of these regulations such as nuisance type concerns about excessive parking, noise and trash, nor to concerns about preserving the character of single family or historic neighborhoods and the property values of the homes in them. The bill was not signed out of subcommittee, because the Senators said they would like more time to study the issue.

How many people know that Iowa has a statute of repose? How many people know what the statute of repose does? A statute of repose creates an absolute time period after which no action can be brought regardless of when the cause of action is discovered. In contrast a statute of limitations (which is a type of statute of repose) limits when an action can be brought once the cause is known or, in certain cases, should have been known. Iowa's statute of repose (Code section 614.1, subsection 11) relating to an unsafe or defective condition of an improvement to real property is fifteen years after the date on which the act or omission creating the unsafe or defective condition occurred. The House Commerce Committee passed HF2307 this week which shortens the time period to ten years.

A subcommittee was held this week on HSB608, a bill that would amend Code section 123.173A, adding spirits to the types of alcoholic beverages (in addition to beer and wine) that can be auctioned at a charity event. More importantly, the bill also would have removed the current requirement that a non-profit must retain a receipt for the purchase of the alcohol at retail from an Iowa retail licensee or permittee for a year. This change would have opened up the ability for non-profits to auction alcohol purchased or donated from out of state sources. For instance, if you traveled to Napa and bought a case of wine, under the changes in the bill you could donate it to an Iowa charity for auction. After opposition in subcommittee because of concerns over implications for the current system Iowa has set up for alcohol purchase and distribution, the bill was stripped of its more meaningful provisions and moved out of the House Commerce Committee only with provisions adding spirits to the list of alcohols that can be lawfully auctioned by a charity. With the main thrust of the bill gone, this cannot be counted as the full change the charities championing the bill were aiming for.

Jessica S. Harder & Thomas E. Stanberry  
Davis Brown Law Firm  
515.288.2500  
<http://davisbrownlaw.com>