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**SUBSTITUTE HOUSE BILL 1029**

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**State of Washington**

**60th Legislature**

**2007 Regular Session**

**By** House Committee on Technology, Energy & Communications (originally sponsored by Representatives B. Sullivan, Linville and Morris)

READ FIRST TIME 01/25/07.

1 AN ACT Relating to defining E85 motor fuel; and amending RCW  
2 19.112.010, 19.112.120, 82.04.4334, 82.08.955, and 82.12.955.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 19.112.010 and 2006 c 338 s 15 are each amended to  
5 read as follows:

6 The definitions in this section apply throughout this chapter  
7 unless the context clearly requires otherwise.

8 (1) "Biodiesel fuel" means the monoalkyl esters of long chain fatty  
9 acids derived from plant or animal matter that meet the registration  
10 requirements for fuels and fuel additives established by the federal  
11 environmental protection agency and standards established by the  
12 American society of testing and materials.

13 (2) "Diesel" means special fuel as defined in RCW 82.38.020, and  
14 diesel fuel dyed in accordance with the regulations in 26 C.F.R. Sec.  
15 48.4082-1T as of October 24, 2005.

16 (3) "Director" means the director of agriculture.

17 (4) "E85 motor fuel" means an alternative fuel that is a blend of  
18 denatured ethanol and hydrocarbon that typically contains eighty-five

1 percent ethanol by volume, but at a minimum must contain seventy  
2 percent ethanol by volume, and complies with ASTM specification  
3 D5798-99.

4 (5) "Motor fuel" means any liquid product used for the generation  
5 of power in an internal combustion engine used for the propulsion of a  
6 motor vehicle upon the highways of this state, and any biodiesel fuel.  
7 Motor fuels containing ethanol may be marketed if either (a) the base  
8 motor fuel meets the applicable standards before the addition of the  
9 ethanol or (b) the resultant blend meets the applicable standards after  
10 the addition of the ethanol.

11 **Sec. 2.** RCW 19.112.120 and 2006 c 338 s 3 are each amended to read  
12 as follows:

13 (1) By December 1, 2008, motor vehicle fuel licensees under chapter  
14 82.36 RCW, other than motor vehicle fuel distributors, shall provide  
15 evidence to the department of licensing that at least two percent of  
16 total gasoline sold in Washington, measured on a quarterly basis, is  
17 denatured ethanol.

18 (2) If the director of ecology determines that ethanol content  
19 greater than two percent of the total gasoline sold in Washington will  
20 not jeopardize continued attainment of the federal clean air act's  
21 national ambient air quality standard for ozone pollution in Washington  
22 and the director of agriculture determines and publishes this  
23 determination in the Washington State Register that sufficient raw  
24 materials are available within Washington to support economical  
25 production of ethanol at higher levels, the director of agriculture may  
26 require by rule that licensees provide evidence to the department of  
27 licensing that denatured ethanol comprises between two percent and at  
28 least ten percent of total gasoline sold in Washington, measured on a  
29 quarterly basis.

30 (3) The requirements of subsections (1) and (2) of this section  
31 shall take effect no sooner than one hundred eighty days after the  
32 determination has been published in the Washington State Register.

33 (4) The director and the director of licensing shall each adopt  
34 rules, in coordination with each other, for enforcing and carrying out  
35 the purposes of this section.

36 (5) Nothing in this section is intended to prohibit the production,  
37 sale, or use of motor fuel for use in federally designated flexibly

1 fueled vehicles capable of using (~~up to eighty five percent ethanol~~  
2 ~~fuel blends~~) E85 motor fuel. Nothing in this section is intended to  
3 limit the use of high octane gasoline not blended with ethanol for use  
4 in aircraft.

5 **Sec. 3.** RCW 82.04.4334 and 2003 c 63 s 1 are each amended to read  
6 as follows:

7 (1) In computing tax there may be deducted from the measure of tax  
8 amounts received from the retail sale, or for the distribution, of:

9 (a) Biodiesel fuel; or

10 (b) (~~Alcohol fuel, if the alcohol fuel is at least eighty five~~  
11 ~~percent of the volume of the fuel being sold or distributed~~) E85 motor  
12 fuel.

13 (2) For the purposes of this section and RCW 82.08.955 and  
14 82.12.955, the following definitions apply:

15 (a) "Biodiesel fuel" means a mono alkyl ester of long chain fatty  
16 acids derived from vegetable oils or animal fats for use in  
17 compression-ignition engines and that meets the requirements of the  
18 American society of testing and materials specification D 6751 in  
19 effect as of January 1, 2003.

20 (b) (~~"Alcohol fuel" means any alcohol made from a product other~~  
21 ~~than petroleum or natural gas, which is used alone or in combination~~  
22 ~~with gasoline or other petroleum products for use as a fuel for motor~~  
23 ~~vehicles, farm implements and machines, or implements of husbandry.~~)

24 "E85 motor fuel" means an alternative fuel that is a blend of denatured  
25 ethanol and hydrocarbon that typically contains eighty-five percent  
26 ethanol by volume, but at a minimum must contain seventy percent  
27 ethanol by volume, and complies with ASTM specification D5798-99.

28 (c) "Distribution" means any of the actions specified in RCW  
29 82.36.020(2).

30 (3) This section expires July 1, 2009.

31 **Sec. 4.** RCW 82.08.955 and 2003 c 63 s 2 are each amended to read  
32 as follows:

33 (1) The tax levied by RCW 82.08.020 does not apply to sales of  
34 machinery and equipment, or to services rendered in respect to  
35 constructing structures, installing, constructing, repairing, cleaning,  
36 decorating, altering, or improving of structures or machinery and

1 equipment, or to sales of tangible personal property that becomes an  
2 ingredient or component of structures or machinery and equipment, if  
3 the machinery, equipment, or structure is used directly for the retail  
4 sale of a biodiesel (~~((or alcohol fuel))~~) blend or E85 motor fuel.  
5 Structures and machinery and equipment that are used for the retail  
6 sale of a biodiesel (~~((or alcohol fuel))~~) blend or E85 motor fuel and for  
7 other purposes are exempt only on the portion used directly for the  
8 retail sale of a biodiesel (~~((or alcohol fuel))~~) blend or E85 motor fuel.

9 (2) The tax levied by RCW 82.08.020 does not apply to sales of fuel  
10 delivery vehicles or to sales of or charges made for labor and services  
11 rendered in respect to installing, repairing, cleaning, altering, or  
12 improving the vehicles including repair parts and replacement parts if  
13 at least seventy-five percent of the fuel distributed by the vehicles  
14 is a biodiesel (~~((or alcohol fuel))~~) blend or E85 motor fuel.

15 (3) A person taking the exemption under this section must keep  
16 records necessary for the department to verify eligibility under this  
17 section. The exemption is available only when the buyer provides the  
18 seller with an exemption certificate in a form and manner prescribed by  
19 the department. The seller shall retain a copy of the certificate for  
20 the seller's files.

21 (4) For the purposes of this section, the definitions in RCW  
22 82.04.4334 and this subsection apply.

23 (a) (~~("Alcohol fuel blend" means fuel that contains at least  
24 eighty-five percent alcohol fuel by volume.~~

25 ~~(b))~~) "Biodiesel blend" means fuel that contains at least twenty  
26 percent biodiesel fuel by volume.

27 (b) "E85 motor fuel" means an alternative fuel that is a blend of  
28 denatured ethanol and hydrocarbon that typically contains eighty-five  
29 percent ethanol by volume, but at a minimum must contain seventy  
30 percent ethanol by volume, and complies with ASTM specification  
31 D5798-99.

32 (c) "Machinery and equipment" means industrial fixtures, devices,  
33 and support facilities and tangible personal property that becomes an  
34 ingredient or component thereof, including repair parts and replacement  
35 parts that are integral and necessary for the delivery of biodiesel  
36 (~~((or alcohol fuel))~~) blends or E85 motor fuel into the fuel tank of a  
37 motor vehicle.

38 (5) This section expires July 1, 2009.

1       **Sec. 5.** RCW 82.12.955 and 2003 c 63 s 3 are each amended to read  
2 as follows:

3       (1) The provisions of this chapter do not apply in respect to the  
4 use of machinery and equipment, or to services rendered in respect to  
5 installing, repairing, cleaning, altering, or improving of eligible  
6 machinery and equipment, or tangible personal property that becomes an  
7 ingredient or component of machinery and equipment used directly for  
8 the retail sale of a biodiesel or ((~~alcohol-fuel blend~~)) E85 motor  
9 fuel.

10       (2) The provisions of this chapter do not apply in respect to the  
11 use of fuel delivery vehicles including repair parts and replacement  
12 parts and to services rendered in respect to installing, repairing,  
13 cleaning, altering, or improving the vehicles if at least seventy-five  
14 percent of the fuel distributed by the vehicles is a biodiesel or  
15 ((~~alcohol-fuel blend~~)) E85 motor fuel.

16       (3) For the purposes of this section, the definitions in RCW  
17 82.04.4334 and 82.08.955 apply.

18       (4) This section expires July 1, 2009.

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