
ENGROSSED SUBSTITUTE HOUSE BILL 2504

State of Washington

61st Legislature

2010 Regular Session

By House Technology, Energy & Communications (originally sponsored by Representatives Eddy, Morris, Van De Wege, McCoy, Haler, Chase, Armstrong, Schmick, Walsh, Hunt, Kessler, Ormsby, and Short)

READ FIRST TIME 02/01/10.

1 AN ACT Relating to minimum renewable fuel content requirements;
2 amending RCW 19.112.020, 19.112.060, 19.112.110, 19.112.160,
3 19.112.900, 43.19.642, 42.56.270, and 43.19.646; adding a new section
4 to chapter 19.112 RCW; creating new sections; repealing RCW 19.112.120,
5 19.112.130, 19.112.140, 19.112.150, 19.112.170, 19.112.180, and
6 43.19.643; and prescribing penalties.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that in 2006, the
9 state of Washington made a commitment to establish a market for
10 alternative fuels. As part of that commitment, state agencies were
11 required to use an increasing percentage of biodiesel to operate their
12 state fleets. The legislature further finds that as a result of the
13 commitments that were made in 2006, significant public and private
14 investments have been made to develop in-state feedstock and oilseed
15 crushing capacity. In order to ensure that these investments prove to
16 be successful, it is the intent of the legislature that state agencies
17 make every effort to purchase biodiesel that is derived from locally
18 grown, in-state feedstocks.

1 **Sec. 2.** RCW 19.112.020 and 2006 c 338 s 8 are each amended to read
2 as follows:

3 (1) This chapter shall be administered by the director or his or
4 her authorized agent. (~~For the purpose of administering this chapter,~~
5 ~~for motor fuel except biodiesel fuel,~~)

6 (2)(a) The director shall adopt rules for maintaining standards for
7 motor fuel. The rules may include:

8 (i) All or part of the standards set forth in the Annual Book of
9 ASTM Standards and supplements ((thereto)), ((and)) amendments, or
10 revisions thereof(, are adopted, together with));

11 (ii) All or part of the standards set forth in the national
12 institute of standards and technology (NIST) handbook 130, uniform laws
13 and regulations in the areas of legal metrology and engine fuel quality
14 rules, and any supplements, amendments, or revisions thereof; and

15 (iii) Any applicable federal environmental protection agency
16 standards.

17 (b) If a conflict exists between federal environmental protection
18 agency standards, ASTM standards, NIST standards, or state standards,
19 for purposes of uniformity, federal environmental protection agency
20 standards shall take precedence over ASTM and NIST standards. Any
21 state standards adopted must be consistent with federal environmental
22 protection agency standards and ASTM and NIST standards not in conflict
23 with the federal environmental protection agency standards.

24 ~~((+2))~~ (3) The director may establish a fuel testing laboratory or
25 may contract with a laboratory for testing.

26 (4) The director may ((also)) adopt rules on false and misleading
27 advertising, labeling and posting of prices, and the standards for, and
28 identity of, motor fuels. The director ((shall)) may require fuel
29 pumps offering biodiesel and ethanol blends to be identified by a label
30 stating the percentage of biodiesel or ethanol.

31 ~~((3) The rules adopted under RCW 19.112.140 shall also provide~~
32 ~~that the diesel refiner is responsible for meeting the ASTM standards~~
33 ~~required by chapter 338, Laws of 2006 when providing diesel fuel into~~
34 ~~the distribution system.))~~

35 **Sec. 3.** RCW 19.112.060 and 2006 c 338 s 6 are each amended to read
36 as follows:

37 (1)(a) Any person who knowingly violates any provision of this

1 chapter or rules adopted under it is guilty of a misdemeanor and, upon
2 conviction, shall be punished by a fine of not more than one thousand
3 dollars or imprisonment for not more than one year, or both.

4 (b) The director (~~shall~~) may assess a civil penalty ranging from
5 one hundred dollars to ten thousand dollars per occurrence, giving due
6 consideration to the appropriateness of the penalty with respect to the
7 gravity of the violation, and the history of previous violations.
8 Civil penalties collected under this chapter shall be deposited into
9 the motor vehicle fund.

10 (2) The penalties in subsection (1)(a) of this section do not apply
11 to violations of RCW 19.112.110 (~~and 19.112.120~~).

12 **Sec. 4.** RCW 19.112.110 and 2009 c 132 s 2 are each amended to read
13 as follows:

14 (1) (~~Special fuel licensees under chapter 82.38 RCW, other than~~
15 ~~international fuel tax agreement licensees, dyed special fuel users,~~
16 ~~and special fuel distributors, shall provide evidence to the department~~
17 ~~of licensing that at least two percent of the total annual diesel fuel~~
18 ~~sold in Washington is biodiesel or renewable diesel fuel, following the~~
19 ~~earlier of: (a) November 30, 2008; or (b) when a determination is made~~
20 ~~by the director, published in the Washington State Register, that~~
21 ~~feedstock grown in Washington state can satisfy a two percent~~
22 ~~requirement)) Beginning January 1, 2011, all diesel fuel sold or
23 offered for sale in western Washington must contain at least two
24 percent biodiesel fuel or renewable diesel fuel by volume. Beginning
25 July 1, 2011, all diesel fuel sold or offered for sale in eastern
26 Washington must contain at least two percent biodiesel fuel or
27 renewable diesel fuel by volume.~~

28 (2) (~~Special fuel licensees under chapter 82.38 RCW, other than~~
29 ~~international fuel tax agreement licensees, dyed special fuel users,~~
30 ~~and special fuel distributors, shall provide evidence to the department~~
31 ~~of licensing that at least five percent of total annual diesel fuel~~
32 ~~sold in Washington is biodiesel or renewable diesel fuel, when the~~
33 ~~director determines, and publishes this determination in the Washington~~
34 ~~State Register, that both in-state oil seed crushing capacity and~~
35 ~~feedstock grown in Washington state can satisfy a three percent~~
36 ~~requirement)) Beginning sixty days after the director determines that
37 production of biodiesel fuel in this state from feedstock grown or~~

1 produced in Washington has reached a level of at least fifteen million
2 gallons over the preceding twelve months, all diesel fuel sold or
3 offered for sale in Washington must contain at least five percent
4 biodiesel fuel or renewable diesel fuel by volume.

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

8 ~~(4))~~ The director ~~((and the director of licensing shall each))~~ may
9 adopt rules~~((, in coordination with each other,))~~ for enforcing and
10 carrying out the purposes of this section.

11 (4) The requirements of this section do not apply to fuel sold or
12 offered for sale for use by railroad locomotives or marine engines,
13 except for fuel sold or offered for sale for use by the Washington
14 state ferry system.

15 **Sec. 5.** RCW 19.112.160 and 2006 c 338 s 11 are each amended to
16 read as follows:

17 The governor, by executive order, may suspend all or portions of
18 the minimum renewable fuel content requirements in RCW 19.112.110 ~~((or~~
19 ~~19.112.120, or 43.19.642))~~, based on a determination that such
20 requirements are temporarily technically or economically infeasible, or
21 pose a significant risk to public safety.

22 **Sec. 6.** RCW 19.112.900 and 1990 c 102 s 11 are each amended to
23 read as follows:

24 ~~((RCW 19.112.005 through 19.112.080 shall constitute a new chapter~~
25 ~~in Title 19 RCW and))~~ This chapter may be cited as the motor fuel
26 quality act.

27 NEW SECTION. **Sec. 7.** A new section is added to chapter 19.112 RCW
28 to read as follows:

29 (1) Each biodiesel producer in Washington must keep records
30 documenting the quantity of biodiesel produced and the quantity of
31 biodiesel produced from agricultural and nonagricultural feedstock
32 grown or produced in Washington. Biodiesel production information must
33 be provided to the department of agriculture on a form prescribed by
34 the director.

1 (2) The director shall have access to the records at any reasonable
2 time for the purpose of carrying out this chapter.

3 (3) The director may adopt rules to implement this section.

4 (4) Failure to maintain records or to submit production information
5 to the department of agriculture is a violation of this chapter.

6 (5) Information that can be identified to a particular business and
7 that is collected under this section is exempt from public disclosure
8 under chapter 42.56 RCW.

9 **Sec. 8.** RCW 43.19.642 and 2009 c 470 s 716 are each amended to
10 read as follows:

11 ~~((1) Effective June 1, 2006, for agencies complying with the
12 ultra low sulfur diesel mandate of the United States environmental
13 protection agency for on highway diesel fuel, agencies shall use
14 biodiesel as an additive to ultra low sulfur diesel for lubricity,
15 provided that the use of a lubricity additive is warranted and that the
16 use of biodiesel is comparable in performance and cost with other
17 available lubricity additives. The amount of biodiesel added to the
18 ultra low sulfur diesel fuel shall be not less than two percent.~~

19 ~~(2) Effective June 1, 2009, state agencies are required to use a
20 minimum of twenty percent biodiesel as compared to total volume of all
21 diesel purchases made by the agencies for the operation of the
22 agencies' diesel powered vessels, vehicles, and construction equipment.~~

23 ~~(3))~~ All state agencies using biodiesel fuel shall, beginning on
24 July 1, 2006, file biannual reports with the department of general
25 administration documenting the use of the fuel and a description of how
26 any problems encountered were resolved.

27 ~~((4) For the 2009-2011 fiscal biennium, the Washington state
28 ferries is required to use a minimum of five percent biodiesel as
29 compared to total volume of all diesel purchases made by the Washington
30 state ferries for the operation of the Washington state ferries diesel
31 powered vessels so long as the per gallon price of diesel containing a
32 five percent biodiesel blend level does not exceed the per gallon price
33 of diesel by more than five percent. If the per gallon price of diesel
34 containing a five percent biodiesel blend level exceeds the per gallon
35 price of diesel by more than five percent, the requirements of this
36 section do not apply to vessel fuel purchases by the Washington state
37 ferries.~~

1 ~~(5) By December 1, 2009, the department of general administration~~
2 ~~shall:~~

3 ~~(a) Report to the legislature on the average true price~~
4 ~~differential for biodiesel by blend and location; and~~

5 ~~(b) Examine alternative fuel procurement methods that work to~~
6 ~~address potential market barriers for in-state biodiesel producers and~~
7 ~~report these findings to the legislature.)~~

8 **Sec. 9.** RCW 42.56.270 and 2009 c 394 s 3 are each amended to read
9 as follows:

10 The following financial, commercial, and proprietary information is
11 exempt from disclosure under this chapter:

12 (1) Valuable formulae, designs, drawings, computer source code or
13 object code, and research data obtained by any agency within five years
14 of the request for disclosure when disclosure would produce private
15 gain and public loss;

16 (2) Financial information supplied by or on behalf of a person,
17 firm, or corporation for the purpose of qualifying to submit a bid or
18 proposal for (a) a ferry system construction or repair contract as
19 required by RCW 47.60.680 through 47.60.750 or (b) highway construction
20 or improvement as required by RCW 47.28.070;

21 (3) Financial and commercial information and records supplied by
22 private persons pertaining to export services provided under chapters
23 43.163 and 53.31 RCW, and by persons pertaining to export projects
24 under RCW 43.23.035;

25 (4) Financial and commercial information and records supplied by
26 businesses or individuals during application for loans or program
27 services provided by chapters 43.325, 43.163, 43.160, 43.330, and
28 43.168 RCW, or during application for economic development loans or
29 program services provided by any local agency;

30 (5) Financial information, business plans, examination reports, and
31 any information produced or obtained in evaluating or examining a
32 business and industrial development corporation organized or seeking
33 certification under chapter 31.24 RCW;

34 (6) Financial and commercial information supplied to the state
35 investment board by any person when the information relates to the
36 investment of public trust or retirement funds and when disclosure

1 would result in loss to such funds or in private loss to the providers
2 of this information;

3 (7) Financial and valuable trade information under RCW 51.36.120;

4 (8) Financial, commercial, operations, and technical and research
5 information and data submitted to or obtained by the clean Washington
6 center in applications for, or delivery of, program services under
7 chapter 70.95H RCW;

8 (9) Financial and commercial information requested by the public
9 stadium authority from any person or organization that leases or uses
10 the stadium and exhibition center as defined in RCW 36.102.010;

11 (10)(a) Financial information, including but not limited to account
12 numbers and values, and other identification numbers supplied by or on
13 behalf of a person, firm, corporation, limited liability company,
14 partnership, or other entity related to an application for a horse
15 racing license submitted pursuant to RCW 67.16.260(1)(b), liquor
16 license, gambling license, or lottery retail license;

17 (b) Internal control documents, independent auditors' reports and
18 financial statements, and supporting documents: (i) Of house-banked
19 social card game licensees required by the gambling commission pursuant
20 to rules adopted under chapter 9.46 RCW; or (ii) submitted by tribes
21 with an approved tribal/state compact for class III gaming;

22 (11) Proprietary data, trade secrets, or other information that
23 relates to: (a) A vendor's unique methods of conducting business; (b)
24 data unique to the product or services of the vendor; or (c)
25 determining prices or rates to be charged for services, submitted by
26 any vendor to the department of social and health services for purposes
27 of the development, acquisition, or implementation of state purchased
28 health care as defined in RCW 41.05.011;

29 (12)(a) When supplied to and in the records of the department of
30 (~~community, trade, and economic development~~) commerce:

31 (i) Financial and proprietary information collected from any person
32 and provided to the department of (~~community, trade, and economic
33 development~~) commerce pursuant to RCW 43.330.050(8); and

34 (ii) Financial or proprietary information collected from any person
35 and provided to the department of (~~community, trade, and economic
36 development~~) commerce or the office of the governor in connection with
37 the siting, recruitment, expansion, retention, or relocation of that
38 person's business and until a siting decision is made, identifying

1 information of any person supplying information under this subsection
2 and the locations being considered for siting, relocation, or expansion
3 of a business;

4 (b) When developed by the department of (~~community, trade, and~~
5 ~~economic development~~) commerce based on information as described in
6 (a)(i) of this subsection, any work product is not exempt from
7 disclosure;

8 (c) For the purposes of this subsection, "siting decision" means
9 the decision to acquire or not to acquire a site;

10 (d) If there is no written contact for a period of sixty days to
11 the department of (~~community, trade, and economic development~~)
12 commerce from a person connected with siting, recruitment, expansion,
13 retention, or relocation of that person's business, information
14 described in (a)(ii) of this subsection will be available to the public
15 under this chapter;

16 (13) Financial and proprietary information submitted to or obtained
17 by the department of ecology or the authority created under chapter
18 70.95N RCW to implement chapter 70.95N RCW;

19 (14) Financial, commercial, operations, and technical and research
20 information and data submitted to or obtained by the life sciences
21 discovery fund authority in applications for, or delivery of, grants
22 under chapter 43.350 RCW, to the extent that such information, if
23 revealed, would reasonably be expected to result in private loss to the
24 providers of this information;

25 (15) Financial and commercial information provided as evidence to
26 the department of licensing as required by RCW 19.112.110 (~~or~~
27 ~~19.112.120~~), except information disclosed in aggregate form that does
28 not permit the identification of information related to individual fuel
29 licensees;

30 (16) Any production records, mineral assessments, and trade secrets
31 submitted by a permit holder, mine operator, or landowner to the
32 department of natural resources under RCW 78.44.085;

33 (17)(a) Farm plans developed by conservation districts, unless
34 permission to release the farm plan is granted by the landowner or
35 operator who requested the plan, or the farm plan is used for the
36 application or issuance of a permit;

37 (b) Farm plans developed under chapter 90.48 RCW and not under the

1 federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to
2 RCW 42.56.610 and 90.64.190;

3 (18) Financial, commercial, operations, and technical and research
4 information and data submitted to or obtained by a health sciences and
5 services authority in applications for, or delivery of, grants under
6 RCW 35.104.010 through 35.104.060, to the extent that such information,
7 if revealed, would reasonably be expected to result in private loss to
8 providers of this information;

9 (19) Information gathered under chapter 19.85 RCW or RCW 34.05.328
10 that can be identified to a particular business; (~~and~~)

11 (20) Financial and commercial information submitted to or obtained
12 by the University of Washington, other than information the university
13 is required to disclose under RCW 28B.20.150, when the information
14 relates to investments in private funds, to the extent that such
15 information, if revealed, would reasonably be expected to result in
16 loss to the University of Washington consolidated endowment fund or to
17 result in private loss to the providers of this information; and

18 (21) Biodiesel production information collected under section 7 of
19 this act that can be identified to a particular business.

20 **Sec. 10.** RCW 43.19.646 and 2006 c 338 s 12 are each amended to
21 read as follows:

22 (1) The department of general administration must assist state
23 agencies seeking to meet the biodiesel fuel requirements in RCW
24 (~~(43.19.642)~~) 19.112.110 by coordinating the purchase and delivery of
25 biodiesel if requested by any state agency. The department may use
26 long-term contracts of up to ten years, when purchasing from in-state
27 suppliers who use predominantly in-state feedstock, to secure a
28 sufficient and stable supply of biodiesel for use by state agencies.

29 (2) The department shall compile and analyze the reports submitted
30 under RCW 43.19.642(~~(+4)~~) and report in an electronic format its
31 findings and recommendations to the governor and committees of the
32 legislature with responsibility for energy issues, within sixty days
33 from the end of each reporting period. The governor shall consider
34 these reports in determining whether to temporarily suspend minimum
35 renewable fuel content requirements as authorized under RCW 19.112.160.

1 NEW SECTION. **Sec. 11.** The director of the department of
2 agriculture shall report to the governor and the legislature by
3 December 1, 2011, regarding the impacts of this act on fuel suppliers,
4 distributors, and retailers in the state, including any problems that
5 may have arisen regarding biodiesel fuel quality or availability.

6 NEW SECTION. **Sec. 12.** The following acts or parts of acts are
7 each repealed:

8 (1) RCW 19.112.120 (Motor vehicle fuel licensees--Required sales of
9 denatured ethanol--Rules--Limitation of section) and 2007 c 309 s 2 &
10 2006 c 338 s 3;

11 (2) RCW 19.112.130 (Information submitted under RCW 19.112.110 or
12 19.112.120--Limitation on release) and 2006 c 338 s 4;

13 (3) RCW 19.112.140 (Standards for biodiesel fuel/fuel blended with
14 biodiesel fuel--Rules) and 2006 c 338 s 7;

15 (4) RCW 19.112.150 (Biofuels advisory committee) and 2006 c 338 s
16 9;

17 (5) RCW 19.112.170 (Determination of the supply of certain fuels--
18 Notification--Declaration concerning the applicability of RCW
19 19.112.110 or 19.112.120) and 2006 c 338 s 13;

20 (6) RCW 19.112.180 (Goals under RCW 19.112.170--Report--Executive
21 request legislation) and 2006 c 338 s 14; and

22 (7) RCW 43.19.643 (Biodiesel fuel blends--Definitions) and 2003 c
23 17 s 3.

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