

ESSB 6508 - H AMD 1066

By Representative Morris

ADOPTED AS AMENDED 03/01/2006

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that it is in the
4 public interest to establish a market for alternative fuels in
5 Washington. By requiring a growing percentage of our fuel supply to be
6 renewable biofuel that meets appropriate fuel quality standards, we
7 will reduce our dependence on imports of foreign oil, improve the
8 health and quality of life for Washingtonians, and stimulate the
9 creation of a new industry in Washington that benefits our farmers and
10 rural communities. The legislature finds that it is in the public
11 interest for the state to play a central role in spurring the market by
12 purchasing an increasing amount of alternative fuels produced in
13 Washington. The legislature finds that we must act now and that the
14 time available before the requirements of this act take effect is
15 sufficient for feedstock and fuel providers to prepare for successful
16 implementation.

17 The legislature intends for consumers to have a choice of fuels and
18 to encourage and promote the development, availability, and use of a
19 diversity of renewable fuels and fuel blends ranging from fuels
20 composed of no renewable content to completely renewable fuels.

21 NEW SECTION. **Sec. 2.** A new section is added to chapter 19.112 RCW
22 to read as follows:

23 (1) Special fuel licensees under chapter 82.38 RCW, other than
24 international fuel tax agreement licensees, dyed special fuel users,
25 and special fuel distributors, shall provide evidence to the department
26 of licensing that at least two percent of the total annual diesel fuel
27 sold in Washington is biodiesel fuel, following the earlier of: (a)
28 November 30, 2008; or (b) when a determination is made by the director,

1 published in the Washington State Register, that feedstock grown in
2 Washington state can satisfy a two-percent requirement.

3 (2) Special fuel licensees under chapter 82.38 RCW, other than
4 international fuel tax agreement licensees, dyed special fuel users,
5 and special fuel distributors, shall provide evidence to the department
6 of licensing that at least five percent of total annual diesel fuel
7 sold in Washington is biodiesel fuel, when the director determines, and
8 publishes this determination in the Washington State Register, that
9 both in-state oil seed crushing capacity and feedstock grown in
10 Washington state can satisfy a three-percent requirement.

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

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

17 NEW SECTION. **Sec. 3.** A new section is added to chapter 19.112 RCW
18 to read as follows:

19 (1) By December 1, 2008, motor vehicle fuel licensees under chapter
20 82.36 RCW, other than motor vehicle fuel distributors, shall provide
21 evidence to the department of licensing that at least two percent of
22 total gasoline sold in Washington, measured on a quarterly basis, is
23 denatured ethanol.

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

36 (3) The requirements of subsections (1) and (2) of this section

1 shall take effect no sooner than one hundred eighty days after the
2 determination has been published in the Washington State Register.

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

6 (5) Nothing in this section is intended to prohibit the production,
7 sale, or use of motor fuel for use in federally designated flexibly
8 fueled vehicles capable of using up to eighty-five percent ethanol fuel
9 blends. Nothing in this section is intended to limit the use of high
10 octane gasoline not blended with ethanol for use in aircraft.

11 NEW SECTION. **Sec. 4.** A new section is added to chapter 19.112 RCW
12 to read as follows:

13 The director of the department of licensing shall establish rules
14 to ensure that information submitted as required by section 2 or 3 of
15 this act can be combined or aggregated for reporting purposes by the
16 department of licensing without releasing identifying individual
17 company information.

18 **Sec. 5.** RCW 19.112.060 and 1990 c 102 s 7 are each amended to read
19 as follows:

20 (1)(a) Any person who knowingly violates any provision of this
21 chapter or rules adopted under it is guilty of a misdemeanor and, upon
22 conviction, shall be punished by a fine of not more than one thousand
23 dollars or imprisonment for not more than one year, or both.

24 (b) The director shall assess a civil penalty ranging from one
25 hundred dollars to ten thousand dollars per occurrence, giving due
26 consideration to the appropriateness of the penalty with respect to the
27 gravity of the violation, and the history of previous violations.
28 Civil penalties collected under this chapter shall be deposited into
29 the motor vehicle fund.

30 (2) The penalties in subsection (1)(a) of this section do not apply
31 to violations of sections 2 and 3 of this act.

32 NEW SECTION. **Sec. 6.** A new section is added to chapter 19.112 RCW
33 to read as follows:

34 (1) The director shall adopt rules for maintaining standards for
35 biodiesel fuel or fuel blended with biodiesel fuel by adopting all or

1 part of the standards set forth in the Annual Book of ASTM Standards
2 and supplements, amendments, or revisions thereof, all or part of the
3 standards set forth in the National Institute of Standards and
4 Technology (NIST) Handbook 130, Uniform Laws and Regulations in the
5 areas of legal metrology and engine fuel quality rules, and any
6 supplements, amendments, or revisions thereof, together with applicable
7 federal environmental protection agency standards. If a conflict
8 exists between federal environmental protection agency standards, ASTM
9 standards, or NIST standards, for purposes of uniformity, federal
10 environmental protection agency standards shall take precedence over
11 ASTM and NIST standards. The department of agriculture shall not
12 exceed ASTM standards for diesel.

13 (2) The rules adopted under subsection (1) of this section shall be
14 updated to provide for fuel stability standards when national or
15 international fuel stability standards have been adopted.

16 **Sec. 7.** RCW 19.112.020 and 1990 c 102 s 3 are each amended to read
17 as follows:

18 (1) This chapter shall be administered by the director or his or
19 her authorized agent. For the purpose of administering this chapter,
20 for motor fuel except biodiesel fuel, the standards set forth in the
21 Annual Book of ASTM Standards and supplements thereto, and revisions
22 thereof, are adopted, together with applicable federal environmental
23 protection agency standards. If a conflict exists between federal
24 environmental protection agency standards, ASTM standards, or state
25 standards, for purposes of uniformity, federal environmental protection
26 agency standards shall take precedence over ASTM standards. Any state
27 standards adopted must be consistent with federal environmental
28 protection agency standards and ASTM standards not in conflict with
29 federal environmental protection agency standards.

30 (2) The director may establish a fuel testing laboratory or may
31 contract with a laboratory for testing. The director may also adopt
32 rules on false and misleading advertising, labeling and posting of
33 prices, and the standards for, and identity of, motor fuels. The
34 director shall require fuel pumps offering biodiesel and ethanol blends
35 to be identified by a label stating the percentage of biodiesel or
36 ethanol.

1 NEW SECTION. **Sec. 8.** A new section is added to chapter 19.112 RCW
2 to read as follows:

3 The director shall establish a biofuels advisory committee to
4 advise the director on implementing or suspending the minimum renewable
5 fuel content requirements. The committee shall advise the director on
6 applicability to all users; logistical, technical, and economic issues
7 of implementation, including the potential for credit trading,
8 compliance and enforcement provisions, and tracking and reporting
9 requirements; and how the use of renewable fuel blends greater than two
10 percent and renewable fuels other than biodiesel or ethanol could
11 achieve the goals of chapter . . . , Laws of 2006 (this act). The
12 director shall make recommendations to the legislature and the governor
13 on the implementation or suspension of chapter . . . , Laws of 2006
14 (this act) by September 1, 2007.

15 **Sec. 9.** RCW 43.19.642 and 2003 c 17 s 2 are each amended to read
16 as follows:

17 (1) All state agencies are encouraged to use a fuel blend of twenty
18 percent biodiesel and eighty percent petroleum diesel for use in
19 diesel-powered vehicles and equipment.

20 (2) Effective June 1, 2006, for agencies complying with the ultra-
21 low sulfur diesel mandate of the United States environmental protection
22 agency for on-highway diesel fuel, agencies shall use biodiesel as an
23 additive to ultra-low sulfur diesel for lubricity, provided that the
24 use of a lubricity additive is warranted and that the use of biodiesel
25 is comparable in performance and cost with other available lubricity
26 additives. The amount of biodiesel added to the ultra-low sulfur
27 diesel fuel shall be not less than two percent.

28 (3) Effective June 1, 2009, state agencies are required to use a
29 minimum of twenty percent biodiesel as compared to total volume of all
30 diesel purchases made by the agencies for the operation of the
31 agencies' diesel-powered vessels, vehicles, and construction equipment.

32 (4) All state agencies using biodiesel fuel shall, beginning on
33 July 1, 2006, file quarterly reports with the department of general
34 administration documenting the use of the fuel and a description of how
35 any problems encountered were resolved.

1 NEW SECTION. **Sec. 10.** A new section is added to chapter 19.112
2 RCW to read as follows:

3 The governor, by executive order, may suspend all or portions of
4 the minimum renewable fuel content requirements in section 2 or 3 of
5 this act, or RCW 43.19.642, based on a determination that such
6 requirements are temporarily technically or economically infeasible, or
7 pose a significant risk to public safety.

8 NEW SECTION. **Sec. 11.** A new section is added to chapter 43.19 RCW
9 to read as follows:

10 (1) The department of general administration must assist state
11 agencies seeking to meet the biodiesel fuel requirements in RCW
12 43.19.642 by coordinating the purchase and delivery of biodiesel if
13 requested by any state agency. The department may use long-term
14 contracts of up to ten years, when purchasing from in-state suppliers
15 who use predominantly in-state feedstock, to secure a sufficient and
16 stable supply of biodiesel for use by state agencies.

17 (2) The department shall compile and analyze the reports submitted
18 under RCW 43.19.642(4) and report in an electronic format its findings
19 and recommendations to the governor and committees of the legislature
20 with responsibility for energy issues, within sixty days from the end
21 of each reporting period. The governor shall consider these reports in
22 determining whether to temporarily suspend minimum renewable fuel
23 content requirements as authorized under section 10 of this act.

24 NEW SECTION. **Sec. 12.** A new section is added to chapter 19.112
25 RCW to read as follows:

26 (1) By November 30, 2008, the director shall determine whether the
27 state's diesel fuel supply is comprised of at least ten percent
28 biodiesel made predominantly from Washington feedstock.

29 (2) By November 30, 2008, the director shall determine whether the
30 state's gasoline fuel supply is comprised of at least twenty percent
31 ethanol made predominantly from Washington feedstock, without
32 jeopardizing continued attainment of the federal clean air act's
33 national ambient air quality standard for ozone pollution.

34 (3) By December 1, 2008, the director shall notify the governor and
35 the legislature of the findings in subsections (1) and (2) of this
36 section.

1 (4) If the findings from the director indicate that the goals of
2 subsection (1) or (2) of this section, or both, have been achieved,
3 then the governor shall issue an executive order declaring that section
4 2 or 3 of this act, or both, are no longer applicable.

5 NEW SECTION. **Sec. 13.** A new section is added to chapter 19.112
6 RCW to read as follows:

7 (1) If either or both of the goals in section 12 of this act are
8 not achieved by November 30, 2008, the director shall monitor the
9 state's diesel and gasoline fuel supply until such time as those goals,
10 or either of them, is met.

11 (2) The director shall report to the governor and the legislature
12 regarding the goals in section 12 of this act by November 30th of the
13 year in which a goal is met.

14 (3) Following notification under this section that a goal has been
15 met, the governor shall prepare executive request legislation repealing
16 section 2 or 3 of this act, or both, as applicable.

17 **Sec. 14.** RCW 19.112.010 and 1991 c 145 s 1 are each amended to
18 read as follows:

19 (~~As used in this chapter:~~) The definitions in this section apply
20 throughout this chapter unless the context clearly requires otherwise.

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

26 (2) "Diesel" means special fuel as defined in RCW 82.38.020, and
27 diesel fuel dyed in accordance with the regulations in 26 C.F.R. Sec.
28 48.4082-1T as of October 24, 2005.

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

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

1 ((2) "~~Director~~" means the director of agriculture.))

2 NEW SECTION. **Sec. 15.** If any provision of this act or its
3 application to any person or circumstance is held invalid, the
4 remainder of the act or the application of the provision to other
5 persons or circumstances is not affected."

6 Correct the title.

EFFECT: Provides that the legislature intends for consumers to have a diverse choice of fuels.

Clarifies that special fuel licensees who are special fuel users are exempted from requirements to sell biodiesel fuels.

Specifies that the director of agriculture publishes determinations related to the minimum renewable fuel content requirements for biodiesel and ethanol in the Washington State Register.

Specifies that minimum renewable fuel content requirements for biodiesel and ethanol shall take effect no sooner than one hundred eighty days after the director of agriculture's determination has been published in the Washington State Register.

Clarifies that the director of agriculture and the director of licensing shall each adopt rules related to the minimum renewable fuel content requirements in coordination with each other.

Changes the ethanol minimum renewable fuel content requirement from a percent per gallon requirement to a volumetric requirement based on a percent of total gasoline sold in Washington.

Specifies that motor vehicle fuel licensees under chapter 82.36 RCW, other than motor vehicle fuel distributors, provide evidence to the department of licensing on a quarterly basis that ethanol comprises at least two percent total gasoline sold, or between two percent and at least ten percent of total gasoline sold in Washington if the requirement increases.

Clarifies the ethanol minimum fuel content requirement does not prohibit the production, sale, or use of motor fuel for use in flexible fuel vehicles.

Clarifies the ethanol minimum fuel content requirement does not limit the use of high octane gasoline not blended with ethanol for use in aircraft.

Exempts special fuel licensees, reporting on sales of biodiesel and ethanol, from existing criminal provision contained in the code.

Allows for the imposition of civil penalties.

Specifies that the director of agriculture shall adopt rules for maintaining standards for biodiesel fuel or fuel blended with biodiesel including fuel stability standards once national or international standards have been adopted.

Specifies that the biofuels advisory committee will consider how renewable fuels other than biodiesel and ethanol could achieve the goals of this act.

Allows the Governor to suspend the minimum renewable fuel content requirements for state agencies if requirements are temporarily technically or economically infeasible or pose a significant risk to public safety.

Allows the department of general administration to use long-term contracts of up to ten years when purchasing from in-state suppliers who use predominately in-state feedstock when securing biodiesel for state agencies.

Increases the amount of time from thirty to sixty days for the department of agriculture to report findings to the governor and legislature about the use of biodiesel by state agencies.

Provides a definition for "biodiesel fuel" and "diesel" to chapter 19.112 RCW, the motor fuel quality act.

Provides a severability clause.

Makes a number of technical changes.

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