

# SENATE BILL REPORT

## SB 6458

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As of February 4, 2010

**Title:** An act relating to minimum renewable fuel content requirements.

**Brief Description:** Concerning minimum renewable fuel content requirements.

**Sponsors:** Senators Ranker, Honeyford, Rockefeller, Delvin, Marr, Hargrove, Gordon, Shin and Kline.

**Brief History:**

**Committee Activity:** Environment, Water & Energy: 1/27/10.

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### SENATE COMMITTEE ON ENVIRONMENT, WATER & ENERGY

**Staff:** Sam Thompson (786-7413)

**Background:** Renewable fuel is produced from plant or animal products or wastes, as opposed to fossil fuel sources, and includes biodiesel and ethanol.

Federal Renewable Fuel Standard. The Energy Policy Act of 2005 established a federal renewable fuel standard (RFS) program, intended to encourage blending of renewable fuel into U.S. motor vehicle fuel. The federal RFS requires increased annual use of renewable fuel. A 12.95 billion gallon mandate has been set for 2010, increasing to a 36 billion gallon mandate for 2022.

State RFS. In 2006 Washington adopted a state RFS. The state RFS requires that at least 2 percent of diesel annually sold in Washington be biodiesel or renewable diesel. The requirement may increase to at least 5 percent if the Washington State Department of Agriculture (WSDA) determines that both in-state feedstock and oil-seed crushing capacity can satisfy a 3 percent requirement. This has not occurred.

In addition, at least 2 percent of gasoline sold in Washington must be ethanol. The requirement may increase if: (1) the Department of Ecology (Ecology) determines that the increase would not jeopardize attainment of federal Clean Air Act standards; and (2) WSDA determines that sufficient raw material is available in Washington to support production of higher ethanol blends. This has not occurred.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Use by State Agencies. State agencies must use at least 20 percent biodiesel compared to the total volume of agency diesel purchases. By mid-2013, 40 percent of state and local government fleet fuel use must be met by electricity or biofuel, to the extent determined practicable by the state Department of Commerce (Commerce). Beginning mid-2015, the requirement increases to 100 percent, to the extent determined practicable by Commerce. Commerce may suspend the 100 percent requirement if it determines that 100 percent usage is not practicable.

**Summary of Bill:** The state RFS for biodiesel and renewable diesel is changed from at least 2 percent of diesel annually sold to at a requirement that diesel sold must contain at least 2 percent biodiesel or renewable diesel by volume. The change takes effect August 1, 2010, in Western Washington, and October 1, 2010, in Eastern Washington. The RFS for ethanol is eliminated.

Potential Increase. If WSDA determines that at least 25 million gallons of biodiesel has been produced over the preceding 12 months using feedstock grown or produced in Washington, Oregon, Idaho, and Montana, the RFS requirement will increase to 5 percent biodiesel or renewable diesel by volume.

These requirements do not apply to fuel sold or offered for sale for use by railroad locomotives or marine engines.

Motor Fuel Standards. WSDA motor fuel standards may include American Society for Testing and Materials standards, National Institute of Standards and Technology standards, or federal Environmental Protection Agency standards.

Reporting. Washington biodiesel producers must document the quantity of biodiesel they produce, including quantity produced from feedstock grown in Washington, Oregon, Idaho and Montana. This information must be provided to WSDA. WSDA may adopt rules implementing documentation requirements. Producers failing to maintain records or submit production information to WSDA may face misdemeanor and civil fine liability (\$100 to \$10,000 per occurrence). Information collected by WSDA that can be identified to a particular business is not subject to public disclosure.

Other. Conflicting and obsolete provisions are deleted, including a provision authorizing a defunct Biofuels Advisory Committee.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: This bill addresses accountability problems in the state RFS. It will promote growth of feedstock and new production facilities in Washington, creating jobs. The extra cost to consumers for B2 fuel will be approximately

one cent per gallon, and little more for higher blends. Concerns regarding gelling of biodiesel at low temperatures are overstated. The Washington Farm Bureau may support this measure if provisions are changed. The current state RFS should be changed to require B2 and eventually higher blends.

CON: The state has not met state RFS mandates for use of biofuel in state vehicles and ferries. Gelling concerns are substantial. The bill limits consumer choice; many consumers will be driven to purchase fuel in other states. Fuel costs will rise for businesses and consumers. Infrastructure difficulties arise; new tanks will be needed to store biodiesel, increasing business costs.

**Persons Testifying:** PRO: Cameron Hewes, General Biodiesel; Pearson Burke, Inland Empire Oilseeds; Scott Johnson, Gen-X Energy Group, Inc.; Todd Ellis, Imperium Renewables; Shelby Neal, National Biodiesel Board; Scot Dilley, WA Farm Bureau; Peter Moulton, Department of Commerce; Kirk Robinson, WSDA.

CON: Greg Hanon, Western States Petroleum Assn.; Charlie Brown, WA Oil Marketers Association; Chris McCabe, Assn. of WA Business.