
**Technology, Energy &
Communications Committee**

HB 2666

Brief Description: Ensuring biofuel market access.

Sponsors: Representatives Holmquist, Wallace, Sump, Morris, Dunshee, Crouse, B. Sullivan, McDonald, Hunt, Morrell, McCune, Green, Ericks, Skinner, Lantz, Woods, Cox, Dunn, Appleton, O'Brien, Serben, Rodne, P. Sullivan, Simpson, Sells, Linville, Moeller, Ormsby, Strow, Kretz, Kilmer, Jarrett and Haler.

Brief Summary of Bill

- Establishes a renewable fuel standard for biodiesel and ethanol.
- Provides a definition of biodiesel.
- Clarifies that tax exemptions and preferential tax rates are available to assist in the production, manufacturing and distribution of ethanol.

Hearing Date: 1/17/06

Staff: Scott Richards (786-7156).

Background:

Renewable Fuel Standard

A Renewable Fuel Standard (RFS) requires that a certain percentage of motor fuel be obtained from renewable sources, such as ethanol or biodiesel. Currently, five states including California, Ohio, Hawaii, Minnesota and Montana have either a Renewable Fuel Standard or have passed legislation to use biofuels on a state level.

Biodiesel

Biodiesel is a non-petroleum diesel fuel produced from renewable resources such as vegetable oils, animal fats, and recycled cooking oils. It can be blended at any percentage with petroleum diesel or used as a pure product (neat diesel). Like petroleum diesel, biodiesel operates in compression-ignition engines. According to the United States Department of Energy, biodiesel blends of up to 20 percent biodiesel can be used in nearly all diesel equipment with little or no engine modifications. Higher blends can also be used in many engines built since 1994 with little or no engine modification.

Ethanol

Ethanol may be produced from a variety of feedstocks such as corn, wheat, barley, potatoes, sugarcane and the cellulose of straw and trees. In the United States the majority of ethanol is made from corn. The most common blends are:

- E10 - 10% ethanol and 90% unleaded gasoline

E10 is approved for use in any make or model of vehicle sold in the U.S. In 2004, about one-third of America's gasoline was blended with ethanol, most in this 10% variety.

- E85 - 85% ethanol and 15% unleaded gasoline

E85 is an alternative fuel for use in flexible fuel vehicles (FFVs). FFVs are designed to run on a variety of mixtures of unleaded gasoline and an alcohol fuel (usually ethanol). Currently more than four million FFVs are on roads in the United States. When E85 is not available, FFVs can operate on gasoline or any ethanol blend up to 85%.

Current Law

Motor Fuel Quality Act

The Motor Fuel Quality Act provides for the establishment of quality specifications for all liquid motor fuels, except aviation fuel, marine fuel, and liquefied petroleum gases, and establishes a sampling, testing, and enforcement program. The term motor fuel means any liquid product used for the generation of power in an internal combustion engine used for the propulsion of a motor vehicle upon the highways of this state. Motor fuels containing ethanol may be marketed if either (a) the base motor fuel meets the applicable standards before the addition of the ethanol or (b) the resultant blend meets the applicable standards after the addition of the ethanol.

Tax Exemptions and Preferential Tax Rates for Biofuels

Currently, Washington law makes available tax exemptions or preferential tax rates to promote biodiesel fuel and/or feedstocks and alcohol fuel. Ethanol is an alcohol fuel. Current tax exemptions and preferential tax rates are designed to facilitate market access of these biofuels.

Retail Sales and Use Tax Exemption for Distribution of Biodiesel and Alcohol Fuels

The purpose of the retail sales and use tax exemptions (RCW 82.08.955 and 82.12.955 respectively) is to encourage fuel dealers to sell biodiesel and alcohol fuels. Alcohol fuel means any alcohol made from a product other than petroleum or natural gas, which is used alone or in combination with gasoline or other petroleum products for use as a fuel for motor vehicles, farm implements and machines, or implements of husbandry. There are two primary types of alcohol fuels: ethanol and methanol. Exemption from retail sales/use tax is allowed for machinery and equipment which is used directly to facilitate the retail sale of biodiesel or alcohol fuel blend or for vehicles used to deliver such fuels. The exemption also includes services associated with the construction of structures to facilitate the sale of these fuels. This exemption is scheduled to expire on July 1, 2009.

Leasehold Excise Tax Exemption for Gasohol Facilities

The purpose of the leasehold tax exemption (RCW 82.29A.135) is to encourage the production of alcohol for use in gasohol fuel and to reduce the reliance on petroleum-based fuel. Leasehold interests in real and personal property used primarily for manufacturing alcohol fuel, biodiesel fuel, and wood biomass fuel are exempt from leasehold tax. The exemption is available for six years after the facility is operational. The exemption is scheduled to expire at the end of 2009.

Property Tax Exemption for Alcohol and Biodiesel Fuel Manufacturing Facilities

The purpose of the property tax exemption (RCW 84.36.635) is to encourage the manufacturing of alternatives to petroleum-based fuels. Real and personal property used to manufacture alcohol fuel or biodiesel fuel is exempt from property tax. Land used to grow crops which are used for such fuel is not subject to the exemption. The exemption is provided for the first six years following completion of the manufacturing facility. No new applications for this exemption may be submitted to county assessors after December 31, 2009.

Preferential Business and Occupation Tax Rate for Manufacturers of Alternative Fuels

The purpose of the preferential business and occupation tax rate (RCW 82.04.260) is to encourage the production of alternative fuels in Washington. A preferential business and occupation tax rate of 0.138 percent is provided for manufacturers of alcohol fuel or wood biomass fuel. The general tax rate for manufacturing is 0.484 percent. This preferential tax rate is scheduled to expire on July 1, 2009.

Retail Sales/Use Tax Exemption for Manufacturing Machinery

The purpose of the manufacturing machinery retail sales/use tax (82.08.02565 and 82.12.02565, respectively) is to encourage manufacturing activity to take place in Washington and create family wage jobs. New or replacement manufacturing machinery and equipment is exempt from retail sales/use tax if it is used in a manufacturing operation. Both materials and installation labor are included for machinery, equipment, pollution control equipment and the internal use portion of cogeneration equipment. Repair parts and labor, R&D equipment, testing devices and certain logging and rockcrushing equipment are also covered by the exemption. Excluded from the exemption are short-lived tools, hand tools, and consumable supplies. About 15,000 - 16,000 manufacturing firms in Washington are potentially eligible for the exemption.

Summary of Bill:

Biodiesel and Ethanol Fuel Standards

Biodiesel

All diesel motor fuel offered at retail sale in Washington must contain at least two percent biodiesel fuel by volume as long as there is sufficient verifiable quantities of competitively priced Washington-based biodiesel available to meet the state's aggregate diesel motor fuel demand.

The Director of the Department of Agriculture shall not include a producer's gallons of biodiesel unless it can be verified that a predominant portion of the feedstock used to produce the biodiesel was grown in Washington.

Ethanol

All nondiesel motor fuels offered at retail sale in Washington must contain at least ten percent ethanol by volume as long as there is sufficient verifiable quantities of competitively priced Washington-produced ethanol available to meet the state's aggregate nondiesel motor fuel demand.

The Director of the Department of Agriculture shall not include a producer's gallons of ethanol unless it can be verified that a predominant portion of the feedstock used to produce the ethanol was grown in Washington State.

Exceptions

The Director may authorize on a temporary basis the sale of motor fuels that do not meet the Washington-based or produced requirement, if sufficient verifiable quantities of either competitively priced Washington-based biodiesel fuel or Washington-produced ethanol, or both, are not available to meet the minimum requirement. Also, the Director may authorize on a temporary basis the sale of motor fuels that do not meet the Washington-based or produced requirement, if compliance with these requirements is an undue hardship for the motor fuel manufacturer, distributor, retailer or consumer.

Motor Fuel Quality Act

For purposes of the Motor Fuel Quality Act, biodiesel fuel means a mono alkyl ester of long chain fatty acids derived from vegetable oils or animal fats for use in compression-ignition engines and that meets the requirements of the American society of testing and materials specification D 6751 in effect as of January 1, 2003.

Tax Exemptions and Preferential Tax Rates for Ethanol

Currently, Washington law makes available tax exemptions or preferential tax rates to promote biodiesel fuel and/or feedstocks and alcohol fuel. Ethanol is an alcohol fuel. Current tax exemptions and preferential tax rates are designed to facilitate market access of these biofuels. Amending to include ethanol or the manufacturing of ethanol makes no substantive changes to Washington law.

Retail Sales and Use Tax Exemption for Distribution of Biodiesel and Alcohol Fuels

To encourage distribution, ethanol is exempt from the retail sales/use tax under RCW 82.08.955 and RCW 82.12.955, respectively.

Leasehold Excise Tax Exemption for Gasohol Facilities

All leasehold interests in buildings, machinery, equipment and other personal property which is used primarily for the manufacturing of ethanol, the land upon which this property is located, and land that is reasonably necessary in the manufacturing of ethanol are exempt from leasehold taxes for a period six years from the date of which the facility or the addition to the existing facility becomes operational under RCW 82.29A.135.

For manufacturing facilities which produce products in addition to ethanol, the amount of the leasehold tax exemption shall be based upon the annual percentage of the total value of all products manufactured .

Property Tax Exemption for Alcohol and Biodiesel Fuel Manufacturing Facilities

To encourage the manufacturing of ethanol, real and personal property used to manufacture ethanol is exempt for property tax. (RCW 84.36.635)

Preferential Business and Occupation Tax Rate for Manufacturers of Alternative Fuels

To encourage manufacturing of ethanol, a preferential business and occupation tax rate of 0.138% is provided to manufacturers of ethanol. (RCW 82.04.260)

Retail Sales/Use Tax Exemption for Manufacturing Machinery

To encourage manufacturing activity to take place in Washington and create family wage jobs, retail sales and use tax (82.08.02565 and 82.12.02565, respectively) for new or replacement manufacturing machinery and equipment is exempt from retail sales/use tax if it is used in a manufacturing operation. Both materials and installation labor are included for machinery, equipment, pollution control equipment and the internal use portion of cogeneration equipment.

Repair parts and labor, R&D equipment, testing devices and certain logging and rockcrushing equipment are also covered by the exemption.

Appropriation: None.

Fiscal Note: Requested on 1/16/06.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.