

ESSB 6508 - H AMD

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 department of licensing shall not publicly release, unless  
14 pursuant to an order of a court of competent jurisdiction, information  
15 submitted as evidence as required by section 2 or 3 of this act, except  
16 information disclosed in aggregate form that does not permit the  
17 identification of information related to individual fuel licensees.

18 **Sec. 5.** RCW 42.56.270 and 2005 c 274 s 407 are each amended to  
19 read as follows:

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

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

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

31 (3) Financial and commercial information and records supplied by  
32 private persons pertaining to export services provided under chapters  
33 43.163 and 53.31 RCW, and by persons pertaining to export projects  
34 under RCW 43.23.035;

35 (4) Financial and commercial information and records supplied by  
36 businesses or individuals during application for loans or program

1 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,  
2 or during application for economic development loans or program  
3 services provided by any local agency;

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

8 (6) Financial and commercial information supplied to the state  
9 investment board by any person when the information relates to the  
10 investment of public trust or retirement funds and when disclosure  
11 would result in loss to such funds or in private loss to the providers  
12 of this information;

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

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

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

21 (10) Financial information, including but not limited to account  
22 numbers and values, and other identification numbers supplied by or on  
23 behalf of a person, firm, corporation, limited liability company,  
24 partnership, or other entity related to an application for a liquor  
25 license, gambling license, or lottery retail license;

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

33 (12)(a) When supplied to and in the records of the department of  
34 community, trade, and economic development:

35 (i) Financial and proprietary information collected from any person  
36 and provided to the department of community, trade, and economic  
37 development pursuant to RCW 43.330.050(8) and 43.330.080(4); and

1 (ii) Financial or proprietary information collected from any person  
2 and provided to the department of community, trade, and economic  
3 development or the office of the governor in connection with the  
4 siting, recruitment, expansion, retention, or relocation of that  
5 person's business and until a siting decision is made, identifying  
6 information of any person supplying information under this subsection  
7 and the locations being considered for siting, relocation, or expansion  
8 of a business;

9 (b) When developed by the department of community, trade, and  
10 economic development based on information as described in (a)(i) of  
11 this subsection, any work product is not exempt from disclosure;

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

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

20 (13) Financial and commercial information provided as evidence to  
21 the department of licensing as required by section 2 or 3 of this act,  
22 except information disclosed in aggregate form that does not permit the  
23 identification of information related to individual fuel licensees.

24 **Sec. 6.** RCW 19.112.060 and 1990 c 102 s 7 are each amended to read  
25 as follows:

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

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

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

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

3        (1) The director shall adopt rules for maintaining standards for  
4 biodiesel fuel or fuel blended with biodiesel fuel by adopting all or  
5 part of the standards set forth in the Annual Book of ASTM Standards  
6 and supplements, amendments, or revisions thereof, all or part of the  
7 standards set forth in the National Institute of Standards and  
8 Technology (NIST) Handbook 130, Uniform Laws and Regulations in the  
9 areas of legal metrology and engine fuel quality rules, and any  
10 supplements, amendments, or revisions thereof, together with applicable  
11 federal environmental protection agency standards. The rules shall  
12 provide that the biodiesel refiner is responsible for meeting the ASTM  
13 standards required by this act when providing biodiesel fuel into the  
14 distribution system. If a conflict exists between federal  
15 environmental protection agency standards, ASTM standards, or NIST  
16 standards, for purposes of uniformity, federal environmental protection  
17 agency standards shall take precedence over ASTM and NIST standards.  
18 The department of agriculture shall not exceed ASTM standards for  
19 diesel.

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

23        **Sec. 8.**    RCW 19.112.020 and 1990 c 102 s 3 are each amended to read  
24 as follows:

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

1       (2) The director may establish a fuel testing laboratory or may  
2 contract with a laboratory for testing. The director may also adopt  
3 rules on false and misleading advertising, labeling and posting of  
4 prices, and the standards for, and identity of, motor fuels. The  
5 director shall require fuel pumps offering biodiesel and ethanol blends  
6 to be identified by a label stating the percentage of biodiesel or  
7 ethanol.

8       (3) The rules adopted under section 7 of this act shall also  
9 provide that the diesel refiner is responsible for meeting the ASTM  
10 standards required by this act when providing diesel fuel into the  
11 distribution system.

12       NEW SECTION. Sec. 9. A new section is added to chapter 19.112 RCW  
13 to read as follows:

14       The director shall establish a biofuels advisory committee to  
15 advise the director on implementing or suspending the minimum renewable  
16 fuel content requirements. The committee shall advise the director on  
17 applicability to all users; logistical, technical, and economic issues  
18 of implementation, including the potential for credit trading,  
19 compliance and enforcement provisions, and tracking and reporting  
20 requirements; and how the use of renewable fuel blends greater than two  
21 percent and renewable fuels other than biodiesel or ethanol could  
22 achieve the goals of chapter . . . , Laws of 2006 (this act). In  
23 addition, the committee shall make recommendations to the legislature  
24 and governor on the potential to use alternatives to biodiesel, which  
25 are produced from nonpetroleum renewable sources (inclusive of  
26 vegetable oils and animal fats), to meet the minimum renewable fuel  
27 content requirement. The director shall make recommendations to the  
28 legislature and the governor on the implementation or suspension of  
29 chapter . . . , Laws of 2006 (this act) by September 1, 2007.

30       **Sec. 10.** RCW 43.19.642 and 2003 c 17 s 2 are each amended to read  
31 as follows:

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

35       (2) Effective June 1, 2006, for agencies complying with the ultra-  
36 low sulfur diesel mandate of the United States environmental protection

1 agency for on-highway diesel fuel, agencies shall use biodiesel as an  
2 additive to ultra-low sulfur diesel for lubricity, provided that the  
3 use of a lubricity additive is warranted and that the use of biodiesel  
4 is comparable in performance and cost with other available lubricity  
5 additives. The amount of biodiesel added to the ultra-low sulfur  
6 diesel fuel shall be not less than two percent.

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

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

15 NEW SECTION. Sec. 11. A new section is added to chapter 19.112  
16 RCW to read as follows:

17 The governor, by executive order, may suspend all or portions of  
18 the minimum renewable fuel content requirements in section 2 or 3 of  
19 this act, or RCW 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 NEW SECTION. Sec. 12. A new section is added to chapter 43.19 RCW  
23 to read as follows:

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

31 (2) The department shall compile and analyze the reports submitted  
32 under RCW 43.19.642(4) and report in an electronic format its findings  
33 and recommendations to the governor and committees of the legislature  
34 with responsibility for energy issues, within sixty days from the end  
35 of each reporting period. The governor shall consider these reports in

1 determining whether to temporarily suspend minimum renewable fuel  
2 content requirements as authorized under section 11 of this act.

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

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

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

13 (3) By December 1, 2008, the director shall notify the governor and  
14 the legislature of the findings in subsections (1) and (2) of this  
15 section.

16 (4) If the findings from the director indicate that the goals of  
17 subsection (1) or (2) of this section, or both, have been achieved,  
18 then the governor shall issue an executive order declaring that section  
19 2 or 3 of this act, or both, are no longer applicable.

20 NEW SECTION. **Sec. 14.** A new section is added to chapter 19.112  
21 RCW to read as follows:

22 (1) If either or both of the goals in section 13 of this act are  
23 not achieved by November 30, 2008, the director shall monitor the  
24 state's diesel and gasoline fuel supply until such time as those goals,  
25 or either of them, is met.

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

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

32 **Sec. 15.** RCW 19.112.010 and 1991 c 145 s 1 are each amended to  
33 read as follows:

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

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

6       (2) "Diesel" means special fuel as defined in RCW 82.38.020, and  
7 diesel fuel dyed in accordance with the regulations in 26 C.F.R. Sec.  
8 48.4082-1T as of October 24, 2005.

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

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

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

18       NEW SECTION. Sec. 16. This act takes effect July 1, 2006.

19       NEW SECTION. Sec. 17. If any provision of this act or its  
20 application to any person or circumstance is held invalid, the  
21 remainder of the act or the application of the provision to other  
22 persons or circumstances is not affected."

23       Correct the title.

--- END ---