

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 6508

Chapter 338, Laws of 2006

59th Legislature
2006 Regular Session

FUEL QUALITY STANDARDS

EFFECTIVE DATE: 7/1/06

Passed by the Senate March 6, 2006
YEAS 29 NAYS 19

BRAD OWEN

President of the Senate

Passed by the House March 1, 2006
YEAS 68 NAYS 30

FRANK CHOPP

Speaker of the House of Representatives

Approved March 30, 2006.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6508** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

March 30, 2006 - 9:38 a.m.

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 6508

AS AMENDED BY THE HOUSE

Passed Legislature - 2006 Regular Session

State of Washington 59th Legislature 2006 Regular Session

By Senate Committee on Water, Energy & Environment (originally sponsored by Senators Rasmussen, Poulsen, Kline, McCaslin, Brown, Oke, Schmidt, Swecker, Finkbeiner and Kohl-Welles; by request of Governor Gregoire)

READ FIRST TIME 02/02/06.

1 AN ACT Relating to developing minimum renewable fuel content
2 requirements and fuel quality standards; amending RCW 42.56.270,
3 19.112.060, 19.112.020, 43.19.642, and 19.112.010; adding new sections
4 to chapter 19.112 RCW; adding a new section to chapter 43.19 RCW;
5 creating a new section; and providing an effective date.

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

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

1 sufficient for feedstock and fuel providers to prepare for successful
2 implementation.

3 The legislature intends for consumers to have a choice of fuels and
4 to encourage and promote the development, availability, and use of a
5 diversity of renewable fuels and fuel blends ranging from fuels
6 composed of no renewable content to completely renewable fuels.

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

9 (1) Special fuel licensees under chapter 82.38 RCW, other than
10 international fuel tax agreement licensees, dyed special fuel users,
11 and special fuel distributors, shall provide evidence to the department
12 of licensing that at least two percent of the total annual diesel fuel
13 sold in Washington is biodiesel fuel, following the earlier of: (a)
14 November 30, 2008; or (b) when a determination is made by the director,
15 published in the Washington State Register, that feedstock grown in
16 Washington state can satisfy a two-percent requirement.

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

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

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

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

33 (1) By December 1, 2008, motor vehicle fuel licensees under chapter
34 82.36 RCW, other than motor vehicle fuel distributors, shall provide
35 evidence to the department of licensing that at least two percent of

1 total gasoline sold in Washington, measured on a quarterly basis, is
2 denatured ethanol.

3 (2) If the director of ecology determines that ethanol content
4 greater than two percent of the total gasoline sold in Washington will
5 not jeopardize continued attainment of the federal clean air act's
6 national ambient air quality standard for ozone pollution in Washington
7 and the director of agriculture determines and publishes this
8 determination in the Washington State Register that sufficient raw
9 materials are available within Washington to support economical
10 production of ethanol at higher levels, the director of agriculture may
11 require by rule that licensees provide evidence to the department of
12 licensing that denatured ethanol comprises between two percent and at
13 least ten percent of total gasoline sold in Washington, measured on a
14 quarterly basis.

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

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

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

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

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

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

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

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

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

10 (3) Financial and commercial information and records supplied by
11 private persons pertaining to export services provided under chapters
12 43.163 and 53.31 RCW, and by persons pertaining to export projects
13 under RCW 43.23.035;

14 (4) Financial and commercial information and records supplied by
15 businesses or individuals during application for loans or program
16 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
17 or during application for economic development loans or program
18 services provided by any local agency;

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

23 (6) Financial and commercial information supplied to the state
24 investment board by any person when the information relates to the
25 investment of public trust or retirement funds and when disclosure
26 would result in loss to such funds or in private loss to the providers
27 of this information;

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

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

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

36 (10) Financial information, including but not limited to account
37 numbers and values, and other identification numbers supplied by or on

1 behalf of a person, firm, corporation, limited liability company,
2 partnership, or other entity related to an application for a liquor
3 license, gambling license, or lottery retail license;

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

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

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

16 (ii) Financial or proprietary information collected from any person
17 and provided to the department of community, trade, and economic
18 development or the office of the governor in connection with the
19 siting, recruitment, expansion, retention, or relocation of that
20 person's business and until a siting decision is made, identifying
21 information of any person supplying information under this subsection
22 and the locations being considered for siting, relocation, or expansion
23 of a business;

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

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

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

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

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

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

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

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

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

17 (1) The director shall adopt rules for maintaining standards for
18 biodiesel fuel or fuel blended with biodiesel fuel by adopting all or
19 part of the standards set forth in the Annual Book of ASTM Standards
20 and supplements, amendments, or revisions thereof, all or part of the
21 standards set forth in the National Institute of Standards and
22 Technology (NIST) Handbook 130, Uniform Laws and Regulations in the
23 areas of legal metrology and engine fuel quality rules, and any
24 supplements, amendments, or revisions thereof, together with applicable
25 federal environmental protection agency standards. The rules shall
26 provide that the biodiesel refiner is responsible for meeting the ASTM
27 standards required by this act when providing biodiesel fuel into the
28 distribution system. If a conflict exists between federal
29 environmental protection agency standards, ASTM standards, or NIST
30 standards, for purposes of uniformity, federal environmental protection
31 agency standards shall take precedence over ASTM and NIST standards.
32 The department of agriculture shall not exceed ASTM standards for
33 diesel.

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

1 **Sec. 8.** RCW 19.112.020 and 1990 c 102 s 3 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, the standards set forth in the
6 Annual Book of ASTM Standards and supplements thereto, and revisions
7 thereof, are adopted, together with applicable federal environmental
8 protection agency standards. If a conflict exists between federal
9 environmental protection agency standards, ASTM standards, or state
10 standards, for purposes of uniformity, federal environmental protection
11 agency standards shall take precedence over ASTM standards. Any state
12 standards adopted must be consistent with federal environmental
13 protection agency standards and ASTM standards not in conflict with
14 federal environmental protection agency standards.

15 (2) The director may establish a fuel testing laboratory or may
16 contract with a laboratory for testing. The director may also adopt
17 rules on false and misleading advertising, labeling and posting of
18 prices, and the standards for, and identity of, motor fuels. The
19 director shall require fuel pumps offering biodiesel and ethanol blends
20 to be identified by a label stating the percentage of biodiesel or
21 ethanol.

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

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

28 The director shall establish a biofuels advisory committee to
29 advise the director on implementing or suspending the minimum renewable
30 fuel content requirements. The committee shall advise the director on
31 applicability to all users; logistical, technical, and economic issues
32 of implementation, including the potential for credit trading,
33 compliance and enforcement provisions, and tracking and reporting
34 requirements; and how the use of renewable fuel blends greater than two
35 percent and renewable fuels other than biodiesel or ethanol could
36 achieve the goals of chapter ..., Laws of 2006 (this act). In
37 addition, the committee shall make recommendations to the legislature

1 and governor on the potential to use alternatives to biodiesel, which
2 are produced from nonpetroleum renewable sources (inclusive of
3 vegetable oils and animal fats), to meet the minimum renewable fuel
4 content requirement. The director shall make recommendations to the
5 legislature and the governor on the implementation or suspension of
6 chapter . . . , Laws of 2006 (this act) by September 1, 2007.

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

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

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

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

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

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

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

1 NEW SECTION. **Sec. 12.** A new section is added to chapter 43.19 RCW
2 to read as follows:

3 (1) The department of general administration must assist state
4 agencies seeking to meet the biodiesel fuel requirements in RCW
5 43.19.642 by coordinating the purchase and delivery of biodiesel if
6 requested by any state agency. The department may use long-term
7 contracts of up to ten years, when purchasing from in-state suppliers
8 who use predominantly in-state feedstock, to secure a sufficient and
9 stable supply of biodiesel for use by state agencies.

10 (2) The department shall compile and analyze the reports submitted
11 under RCW 43.19.642(4) and report in an electronic format its findings
12 and recommendations to the governor and committees of the legislature
13 with responsibility for energy issues, within sixty days from the end
14 of each reporting period. The governor shall consider these reports in
15 determining whether to temporarily suspend minimum renewable fuel
16 content requirements as authorized under section 11 of this act.

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

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

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

27 (3) By December 1, 2008, the director shall notify the governor and
28 the legislature of the findings in subsections (1) and (2) of this
29 section.

30 (4) If the findings from the director indicate that the goals of
31 subsection (1) or (2) of this section, or both, have been achieved,
32 then the governor shall issue an executive order declaring that section
33 2 or 3 of this act, or both, are no longer applicable.

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

36 (1) If either or both of the goals in section 13 of this act are

1 not achieved by November 30, 2008, the director shall monitor the
2 state's diesel and gasoline fuel supply until such time as those goals,
3 or either of them, is met.

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

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

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

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

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

19 (2) "Diesel" means special fuel as defined in RCW 82.38.020, and
20 diesel fuel dyed in accordance with the regulations in 26 C.F.R. Sec.
21 48.4082-1T as of October 24, 2005.

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

23 (4) "Motor fuel" means any liquid product used for the generation
24 of power in an internal combustion engine used for the propulsion of a
25 motor vehicle upon the highways of this state, and any biodiesel fuel.
26 Motor fuels containing ethanol may be marketed if either (a) the base
27 motor fuel meets the applicable standards before the addition of the
28 ethanol or (b) the resultant blend meets the applicable standards after
29 the addition of the ethanol.

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

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

32 NEW SECTION. **Sec. 17.** If any provision of this act or its
33 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

Passed by the Senate March 6, 2006.

Passed by the House March 1, 2006.

Approved by the Governor March 30, 2006.

Filed in Office of Secretary of State March 30, 2006.