

ESHB 1055 - S COMM AMD

By Committee on Water, Energy & Telecommunications

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

3 "Sec. 1. RCW 19.112.010 and 2006 c 338 s 15 are each amended to
4 read as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

7 (1) "Alcohol fuel" means any alcohol made from a product other than
8 petroleum or natural gas that is used alone or in combination with
9 gasoline or other petroleum products for use as a fuel in self-
10 propelled motor vehicles.

11 (2) "Alternative fuel" means all products or energy sources used to
12 propel motor vehicles, other than conventional gasoline, diesel, or
13 reformulated gasoline. Alternative fuel includes, but is not limited
14 to, liquefied petroleum gas, liquefied natural gas, compressed natural
15 gas, biodiesel fuel, E85 motor fuel, fuels containing seventy percent
16 or more by volume of alcohol fuel, fuels that are derived from biomass,
17 hydrogen fuel, anhydrous ammonia fuel, nonhazardous motor fuel, or
18 electricity, excluding onboard electric generation.

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

24 ((+2)) (4) "Diesel" means special fuel as defined in RCW
25 82.38.020, and diesel fuel dyed in accordance with the regulations in
26 26 C.F.R. Sec. 48.4082-1T as of October 24, 2005.

27 ((+3)) (5) "Director" means the director of agriculture.

28 ((+4)) (6) "E85 motor fuel" means an alternative fuel that is a
29 blend of ethanol and hydrocarbon of which the ethanol portion is

1 nominally seventy-five to eighty-five percent denatured fuel ethanol by
2 volume that complies with the most recent version of American society
3 of testing and materials specification D 5798.

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

11 (8) "Nonhazardous motor fuel" means any fuel of a type distributed
12 for use in self-propelled motor vehicles that does not contain a
13 hazardous liquid as defined in RCW 19.122.020.

14 **Sec. 2.** RCW 19.112.120 and 2006 c 338 s 3 are each amended to read
15 as follows:

16 (1) By December 1, 2008, motor vehicle fuel licensees under chapter
17 82.36 RCW, other than motor vehicle fuel distributors, shall provide
18 evidence to the department of licensing that at least two percent of
19 total gasoline sold in Washington, measured on a quarterly basis, is
20 denatured ethanol.

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

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

36 (4) The director and the director of licensing shall each adopt

1 rules, in coordination with each other, for enforcing and carrying out
2 the purposes of this section.

3 (5) Nothing in this section is intended to prohibit the production,
4 sale, or use of motor fuel for use in federally designated flexibly
5 fueled vehicles capable of using (~~up to eighty five percent ethanol~~
6 ~~fuel blends~~) E85 motor fuel. Nothing in this section is intended to
7 limit the use of high octane gasoline not blended with ethanol for use
8 in aircraft.

9 **Sec. 3.** RCW 82.04.4334 and 2003 c 63 s 1 are each amended to read
10 as follows:

11 (1) In computing tax there may be deducted from the measure of tax
12 amounts received from the retail sale, or for the distribution, of:

- 13 (a) Biodiesel fuel; or
- 14 (b) (~~Alcohol fuel, if the alcohol fuel is at least eighty five~~
15 ~~percent of the volume of the fuel being sold or distributed~~) E85 motor
16 fuel.

17 (2) For the purposes of this section and RCW 82.08.955 and
18 82.12.955, the following definitions apply:

19 (a) "Biodiesel fuel" means a mono alkyl ester of long chain fatty
20 acids derived from vegetable oils or animal fats for use in
21 compression-ignition engines and that meets the requirements of the
22 American society of testing and materials specification D 6751 in
23 effect as of January 1, 2003.

24 (b) (~~"Alcohol fuel" means any alcohol made from a product other~~
25 ~~than petroleum or natural gas, which is used alone or in combination~~
26 ~~with gasoline or other petroleum products for use as a fuel for motor~~
27 ~~vehicles, farm implements and machines, or implements of husbandry.~~)
28 "E85 motor fuel" means an alternative fuel that is a blend of ethanol
29 and hydrocarbon of which the ethanol portion is nominally seventy-five
30 to eighty-five percent denatured fuel ethanol by volume that complies
31 with the most recent version of American society of testing and
32 materials specification D 5798.

33 (c) "Distribution" means any of the actions specified in RCW
34 82.36.020(2).

35 (3) This section expires July 1, 2009.

1 **Sec. 4.** RCW 82.08.955 and 2003 c 63 s 2 are each amended to read
2 as follows:

3 (1) The tax levied by RCW 82.08.020 does not apply to sales of
4 machinery and equipment, or to services rendered in respect to
5 constructing structures, installing, constructing, repairing, cleaning,
6 decorating, altering, or improving of structures or machinery and
7 equipment, or to sales of tangible personal property that becomes an
8 ingredient or component of structures or machinery and equipment, if
9 the machinery, equipment, or structure is used directly for the retail
10 sale of a biodiesel (~~((or alcohol fuel))~~) blend or E85 motor fuel.
11 Structures and machinery and equipment that are used for the retail
12 sale of a biodiesel (~~((or alcohol fuel))~~) blend or E85 motor fuel and for
13 other purposes are exempt only on the portion used directly for the
14 retail sale of a biodiesel (~~((or alcohol fuel))~~) blend or E85 motor fuel.

15 (2) The tax levied by RCW 82.08.020 does not apply to sales of fuel
16 delivery vehicles or to sales of or charges made for labor and services
17 rendered in respect to installing, repairing, cleaning, altering, or
18 improving the vehicles including repair parts and replacement parts if
19 at least seventy-five percent of the fuel distributed by the vehicles
20 is a biodiesel (~~((or alcohol fuel))~~) blend or E85 motor fuel.

21 (3) A person taking the exemption under this section must keep
22 records necessary for the department to verify eligibility under this
23 section. The exemption is available only when the buyer provides the
24 seller with an exemption certificate in a form and manner prescribed by
25 the department. The seller shall retain a copy of the certificate for
26 the seller's files.

27 (4) For the purposes of this section, the definitions in RCW
28 82.04.4334 and this subsection apply.

29 (a) (~~("Alcohol fuel blend" means fuel that contains at least
30 eighty five percent alcohol fuel by volume.~~

31 ~~(b))~~) "Biodiesel blend" means fuel that contains at least twenty
32 percent biodiesel fuel by volume.

33 (b) "E85 motor fuel" means an alternative fuel that is a blend of
34 ethanol and hydrocarbon of which the ethanol portion is nominally
35 seventy-five to eighty-five percent denatured fuel ethanol by volume
36 that complies with the most recent version of American society of
37 testing and materials specification D 5798.

1 (c) "Machinery and equipment" means industrial fixtures, devices,
2 and support facilities and tangible personal property that becomes an
3 ingredient or component thereof, including repair parts and replacement
4 parts that are integral and necessary for the delivery of biodiesel
5 (~~or alcohol fuel~~) blends or E85 motor fuel into the fuel tank of a
6 motor vehicle.

7 (5) This section expires July 1, 2009.

8 **Sec. 5.** RCW 82.12.955 and 2003 c 63 s 3 are each amended to read
9 as follows:

10 (1) The provisions of this chapter do not apply in respect to the
11 use of machinery and equipment, or to services rendered in respect to
12 installing, repairing, cleaning, altering, or improving of eligible
13 machinery and equipment, or tangible personal property that becomes an
14 ingredient or component of machinery and equipment used directly for
15 the retail sale of a biodiesel or (~~alcohol fuel blend~~) E85 motor
16 fuel.

17 (2) The provisions of this chapter do not apply in respect to the
18 use of fuel delivery vehicles including repair parts and replacement
19 parts and to services rendered in respect to installing, repairing,
20 cleaning, altering, or improving the vehicles if at least seventy-five
21 percent of the fuel distributed by the vehicles is a biodiesel or
22 (~~alcohol fuel blend~~) E85 motor fuel.

23 (3) For the purposes of this section, the definitions in RCW
24 82.04.4334 and 82.08.955 apply.

25 (4) This section expires July 1, 2009.

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

28 (1) Special fuel licensees under chapter 82.38 RCW, other than
29 international fuel tax agreement licensees, dyed special fuel users,
30 and special fuel distributors, shall not use biodiesel fuel derived
31 from palm oil to qualify towards the biodiesel fuel requirements
32 established in RCW 19.112.110, unless the following conditions are
33 satisfied:

34 (a) The special fuel licensee can demonstrate that, at the time of
35 production, there was not sufficient Washington grown feedstock
36 available to produce the biodiesel; and

- 1 (b) The palm oil was purchased from a company that:
2 (i) Maintains active membership in the roundtable on sustainable
3 palm oil; and
4 (ii) Implements the roundtable on sustainable palm oil's directives
5 as they are promulgated in order to ensure the sustainability of the
6 palm oil.
7 (2) For purposes of this section, "palm oil" means a form of edible
8 vegetable oil obtained from the fruit of the oil palm tree."

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9 On page 1, line 1 of the title, after "fuels;" strike the remainder
10 of the title and insert "amending RCW 19.112.010, 19.112.120,
11 82.04.4334, 82.08.955, and 82.12.955; and adding a new section to
12 chapter 19.112 RCW."

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