
SUBSTITUTE HOUSE BILL 2512

State of Washington 60th Legislature 2008 Regular Session

By House Technology, Energy & Communications (originally sponsored by Representatives Morris, Quall, Hudgins, and Chase)

READ FIRST TIME 02/05/08.

1 AN ACT Relating to renewable fuel content compliance; amending RCW
2 19.112.110, 19.112.120, 43.21F.045, 19.112.130, 19.112.130, and
3 19.112.130; adding a new section to chapter 19.112 RCW; adding a new
4 section to chapter 43.24 RCW; adding a new section to chapter 43.63A
5 RCW; adding a new section to chapter 82.01 RCW; adding a new section to
6 chapter 43.23 RCW; creating a new section; prescribing penalties; and
7 providing an expiration date.

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

9 NEW SECTION. **Sec. 1.** The legislature finds that consumers should
10 have access to a diversity of renewable fuels and fuel blends ranging
11 from fuels composed of no renewable content to completely renewable
12 fuels. It is the intent of the legislature to ensure that minimum
13 renewable fuel content and reporting requirements for biodiesel and
14 ethanol are enforced.

15 **Sec. 2.** RCW 19.112.110 and 2006 c 338 s 2 are each amended to read
16 as follows:

17 (1) Each special fuel licensee((s)) under chapter 82.38 RCW, other
18 than international fuel tax agreement licensees, dyed special fuel

1 users, and special fuel distributors, shall provide evidence to the
2 department of licensing that at least two percent of ~~((the))~~ its total
3 annual diesel fuel ~~((sold))~~ sales in Washington ~~((is))~~ are biodiesel
4 fuel, following the earlier of: (a) November 30, 2008; or (b) when a
5 determination is made by the director, published in the Washington
6 State Register, that feedstock grown in Washington state can satisfy a
7 two-percent requirement.

8 (2) Each special fuel licensee~~((s))~~ under chapter 82.38 RCW, other
9 than international fuel tax agreement licensees, dyed special fuel
10 users, and special fuel distributors, shall provide evidence to the
11 department of licensing that at least five percent of its total annual
12 diesel fuel ~~((sold))~~ sales in Washington ~~((is))~~ are biodiesel fuel,
13 when the director determines, and publishes this determination in the
14 Washington State Register, that both in-state oil seed crushing
15 capacity and feedstock grown in Washington state can satisfy a
16 three-percent requirement.

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

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

23 (5) If the governor designates, as described under section 4(4)(b)
24 of this act, a state agency other than the department of licensing to
25 adopt rules to enforce the minimum renewable fuel content and reporting
26 requirements, that agency is responsible for the duties of the
27 department of licensing in this section.

28 **Sec. 3.** RCW 19.112.120 and 2007 c 309 s 2 are each amended to read
29 as follows:

30 (1) By December 1, 2008, each motor vehicle fuel licensee~~((s))~~
31 under chapter 82.36 RCW, other than motor vehicle fuel distributors,
32 shall provide evidence to the department of licensing that at least two
33 percent of its total gasoline ~~((sold))~~ sales in Washington, measured on
34 a quarterly basis, ~~((is))~~ are denatured ethanol.

35 (2) If the director of ecology determines that ethanol content
36 greater than two percent of the total gasoline sold in Washington will
37 not jeopardize continued attainment of the federal clean air act's

1 national ambient air quality standard for ozone pollution in Washington
2 and the director of agriculture determines and publishes this
3 determination in the Washington State Register that sufficient raw
4 materials are available within Washington to support economical
5 production of ethanol at higher levels, the director of agriculture may
6 require by rule that each licensee(~~s~~) provide evidence to the
7 department of licensing that denatured ethanol comprises between two
8 percent and at least ten percent of its total gasoline (~~sold~~) sales
9 in Washington, measured on a quarterly basis.

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

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

16 (5) Nothing in this section is intended to prohibit the production,
17 sale, or use of motor fuel for use in federally designated flexibly
18 fueled vehicles capable of using E85 motor fuel. Nothing in this
19 section is intended to limit the use of high octane gasoline not
20 blended with ethanol for use in aircraft.

21 (6) If the governor designates, as described under section 4(4)(b)
22 of this act, a state agency other than the department of licensing to
23 adopt rules to enforce the minimum renewable fuel content and reporting
24 requirements, that agency is responsible for the duties of the
25 department of licensing in this section.

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

28 (1) By January 15, 2009, each special fuel licensee under RCW
29 19.112.110(1) and each motor vehicle fuel licensee under RCW
30 19.112.120(1) shall submit a quarterly renewable fuel content report
31 providing evidence of compliance to the energy policy division of the
32 department of community, trade, and economic development. The report
33 must contain the following:

34 (a) The number of gallons of biodiesel fuel and ethanol requested
35 quarterly from suppliers, blenders, or importers for distribution in
36 Washington;

1 (b) The number of gallons of biodiesel fuel and ethanol procured
2 quarterly from suppliers, blenders, or importers for distribution in
3 Washington;

4 (c) The number of gallons of diesel and gasoline procured quarterly
5 from suppliers, blenders, or importers for distribution in Washington;
6 and

7 (d) A brief description on efforts made by the licensee to comply
8 with the minimum renewable fuel content requirements under RCW
9 19.112.110 and 19.112.120.

10 (2)(a) The quarterly renewable fuel content report must be
11 submitted to the energy policy division of the department of community,
12 trade, and economic development within fifteen days after the end of
13 the quarter.

14 (b) The first quarterly report submitted by each licensee on
15 January 15, 2009, must be collected by the energy policy division of
16 the department of community, trade, and economic development for
17 informational purposes. The energy policy division of the department
18 of community, trade, and economic development shall notify licensees
19 failing to submit the first quarterly report and inform them of the
20 requirement to report under this section.

21 (c) Beginning April 15, 2009, the failure to submit a renewable
22 fuel content report by a licensee is deemed willful and results in a
23 penalty for disregarding the reporting requirements under RCW
24 19.112.110 and 19.112.120.

25 (d) The director of the energy policy division of the department of
26 community, trade, and economic development shall impose a penalty on a
27 licensee for failure to submit a quarterly renewable fuel content
28 report. The penalty must be equal to ten thousand dollars for each
29 renewable fuel content quarterly report not submitted to the energy
30 policy division of the department of community, trade, and economic
31 development. The penalty must be paid within fourteen days after
32 notification by the energy policy division of the department of
33 community, trade, and economic development of a failure to submit a
34 quarterly renewable fuel content report.

35 (3) The director of the energy policy division of the department of
36 community, trade, and economic development shall design the quarterly
37 renewable fuel content report as required under this section,
38 distribute the report to applicable licensees in a timely manner,

1 collect submitted reports, and submit an annual report to the
2 legislature detailing compliance with the renewable fuel content
3 requirements under RCW 19.112.110 and 19.112.120.

4 (4)(a) By December 1, 2009, the energy policy division of the
5 department of community, trade, and economic development shall report
6 to the governor and the appropriate committees of the legislature (i)
7 its recommendations on the lowest cost method for ensuring compliance
8 with the minimum renewable fuel content and reporting requirements
9 under RCW 19.112.110 and 19.112.120 and (ii) which state agency should
10 adopt rules to enforce the minimum renewable fuel content and reporting
11 requirements under RCW 19.112.110 and 19.112.120. The energy policy
12 division of the department of community, trade, and economic
13 development shall prepare its recommendations in consultation with the
14 department of licensing, the department of agriculture, and the
15 department of revenue in preparation of the report.

16 (b) By December 30, 2009, the governor shall determine the
17 appropriate agency to adopt rules to enforce the minimum renewable fuel
18 content and reporting requirements under RCW 19.112.110 and 19.112.120
19 and shall designate the state agency to develop rules to enforce the
20 minimum renewable fuel content and reporting requirements under RCW
21 19.112.110 and 19.112.120.

22 (5) All penalties paid under this section to the energy policy
23 division of the department of community, trade, and economic
24 development shall be deposited into the energy freedom account under
25 RCW 43.325.040.

26 (6) The department of community, trade, and economic development
27 shall not publicly release, unless pursuant to an order of a court of
28 competent jurisdiction, information submitted under this section as
29 required by RCW 19.112.110 or 19.112.120, except information disclosed
30 in aggregate form that does not permit the identification of
31 information related to individual fuel licensees.

32 **Sec. 5.** RCW 43.21F.045 and 1996 c 186 s 103 are each amended to
33 read as follows:

34 (1) The department shall supervise and administer energy-related
35 activities as specified in RCW 43.330.904 and shall advise the governor
36 and the legislature with respect to energy matters affecting the state.

1 (2) In addition to other powers and duties granted to the
2 department, the department shall have the following powers and duties:

3 (a) Prepare and update contingency plans for implementation in the
4 event of energy shortages or emergencies. The plans shall conform to
5 chapter 43.21G RCW and shall include procedures for determining when
6 these shortages or emergencies exist, the state officers and agencies
7 to participate in the determination, and actions to be taken by various
8 agencies and officers of state government in order to reduce hardship
9 and maintain the general welfare during these emergencies. The
10 department shall coordinate the activities undertaken pursuant to this
11 subsection with other persons. The components of plans that require
12 legislation for their implementation shall be presented to the
13 legislature in the form of proposed legislation at the earliest
14 practicable date. The department shall report to the governor and the
15 legislature on probable, imminent, and existing energy shortages, and
16 shall administer energy allocation and curtailment programs in
17 accordance with chapter 43.21G RCW.

18 (b) Establish and maintain a central repository in state government
19 for collection of existing data on energy resources, including:

20 (i) Supply, demand, costs, utilization technology, projections, and
21 forecasts;

22 (ii) Comparative costs of alternative energy sources, uses, and
23 applications; and

24 (iii) Inventory data on energy research projects in the state
25 conducted under public and/or private auspices, and the results
26 thereof.

27 (c) Coordinate federal energy programs appropriate for state-level
28 implementation, carry out such energy programs as are assigned to it by
29 the governor or the legislature, and monitor federally funded local
30 energy programs as required by federal or state regulations.

31 (d) Develop energy policy recommendations for consideration by the
32 governor and the legislature.

33 (e) Provide assistance, space, and other support as may be
34 necessary for the activities of the state's two representatives to the
35 Pacific northwest electric power and conservation planning council. To
36 the extent consistent with federal law, the director shall request that
37 Washington's council members request the administrator of the

1 Bonneville power administration to reimburse the state for the expenses
2 associated with the support as provided in the Pacific Northwest
3 Electric Power Planning and Conservation Act (P.L. 96-501).

4 (f) Cooperate with state agencies, other governmental units, and
5 private interests in the prioritization and implementation of the state
6 energy strategy elements and on other energy matters.

7 (g) Serve as the official state agency responsible for coordinating
8 implementation of the state energy strategy.

9 (h) No later than December 1, 1982, and by December 1st of each
10 even-numbered year thereafter, prepare and transmit to the governor and
11 the appropriate committees of the legislature a report on the
12 implementation of the state energy strategy and other important energy
13 issues, as appropriate.

14 (i) Provide support for increasing cost-effective energy
15 conservation, including assisting in the removal of impediments to
16 timely implementation.

17 (j) Provide support for the development of cost-effective energy
18 resources including assisting in the removal of impediments to timely
19 construction.

20 (k) Adopt rules, under chapter 34.05 RCW, necessary to carry out
21 the powers and duties enumerated in this chapter.

22 (l) Provide administrative assistance, space, and other support as
23 may be necessary for the activities of the energy facility site
24 evaluation council, as provided for in RCW 80.50.030.

25 (m) Appoint staff as may be needed to administer energy policy
26 functions and manage energy facility site evaluation council
27 activities. These employees are exempt from the provisions of chapter
28 41.06 RCW.

29 (n) Ensure compliance with the minimum renewable fuel content
30 reporting requirements under section 4 of this act.

31 (3) To the extent the powers and duties set out under this section
32 relate to energy education, applied research, and technology transfer
33 programs they are transferred to Washington State University.

34 (4) To the extent the powers and duties set out under this section
35 relate to energy efficiency in public buildings they are transferred to
36 the department of general administration.

1 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.24 RCW
2 to read as follows:

3 (1)(a) The director of licensing shall adopt rules to enforce the
4 minimum renewable fuel content and reporting requirements under RCW
5 19.112.110 and 19.112.120.

6 (b) The director shall impose penalties to enforce the minimum
7 renewable fuel content and reporting requirements under RCW 19.112.110
8 and 19.112.120.

9 (2) This section applies only if the governor designates the
10 department of licensing as the agency to adopt rules to enforce the
11 minimum renewable fuel content and reporting requirements under RCW
12 19.112.110 and 19.112.120 under section 4(4)(b) of this act.

13 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.63A RCW
14 to read as follows:

15 (1)(a) The director of the department of community, trade, and
16 economic development shall adopt rules to enforce the minimum renewable
17 fuel content and reporting requirements under RCW 19.112.110 and
18 19.112.120.

19 (b) The director shall impose penalties to enforce the minimum
20 renewable fuel content and reporting requirements under RCW 19.112.110
21 and 19.112.120.

22 (2) This section applies only if the governor designates the
23 department of community, trade, and economic development as the agency
24 to adopt rules to enforce the minimum renewable fuel content and
25 reporting requirements under RCW 19.112.110 and 19.112.120 under
26 section 4(4)(b) of this act.

27 **Sec. 8.** RCW 19.112.130 and 2006 c 338 s 4 are each amended to read
28 as follows:

29 (1) The department of (~~licensing~~) community, trade, and economic
30 development shall not publicly release, unless pursuant to an order of
31 a court of competent jurisdiction, information submitted as evidence as
32 required by RCW 19.112.110 or 19.112.120, except information disclosed
33 in aggregate form that does not permit the identification of
34 information related to individual fuel licensees.

35 (2) This section applies only if the governor designates the
36 department of community, trade, and economic development as the agency

1 to adopt rules to enforce the minimum renewable fuel content and
2 reporting requirements under RCW 19.112.110 and 19.112.120 under
3 section 4(4)(b) of this act.

4 NEW SECTION. Sec. 9. A new section is added to chapter 82.01 RCW
5 to read as follows:

6 (1)(a) The director shall adopt rules to enforce the minimum
7 renewable fuel content and reporting requirements under RCW 19.112.110
8 and 19.112.120.

9 (b) The director shall impose penalties to enforce the minimum
10 renewable fuel content and reporting requirements under RCW 19.112.110
11 and 19.112.120.

12 (2) This section applies only if the governor designates the
13 department as the agency to adopt rules to enforce the minimum
14 renewable fuel content and reporting requirements under RCW 19.112.110
15 and 19.112.120 under section 4(4)(b) of this act.

16 **Sec. 10.** RCW 19.112.130 and 2006 c 338 s 4 are each amended to
17 read as follows:

18 (1) The department of (~~licensing~~) revenue shall not publicly
19 release, unless pursuant to an order of a court of competent
20 jurisdiction, information submitted as evidence as required by RCW
21 19.112.110 or 19.112.120, except information disclosed in aggregate
22 form that does not permit the identification of information related to
23 individual fuel licensees.

24 (2) This section applies only if the governor designates the
25 department of revenue as the agency to adopt rules to enforce the
26 minimum renewable fuel content and reporting requirements under RCW
27 19.112.110 and 19.112.120 under section 4(4)(b) of this act.

28 NEW SECTION. Sec. 11. A new section is added to chapter 43.23 RCW
29 to read as follows:

30 (1)(a) The director of the department shall adopt rules to enforce
31 the minimum renewable fuel content and reporting requirements under RCW
32 19.112.110 and 19.112.120.

33 (b) The director of the department shall impose penalties to
34 enforce the minimum renewable fuel content and reporting requirements
35 under RCW 19.112.110 and 19.112.120.

1 (2) This section applies only if the governor designates the
2 department as the agency to adopt rules to enforce the minimum
3 renewable fuel content and reporting requirements under RCW 19.112.110
4 and 19.112.120 under section 4(4)(b) of this act.

5 **Sec. 12.** RCW 19.112.130 and 2006 c 338 s 4 are each amended to
6 read as follows:

7 (1) The department of (~~licensing~~) agriculture shall not publicly
8 release, unless pursuant to an order of a court of competent
9 jurisdiction, information submitted as evidence as required by RCW
10 19.112.110 or 19.112.120, except information disclosed in aggregate
11 form that does not permit the identification of information related to
12 individual fuel licensees.

13 (2) This section applies only if the governor designates the
14 department of agriculture as the agency to adopt rules to enforce the
15 minimum renewable fuel content and reporting requirements under RCW
16 19.112.110 and 19.112.120 under section 4(4)(b) of this act.

17 NEW SECTION. **Sec. 13.** Sections 4 and 5 of this act expire July 1,
18 2010.

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