

# FINAL BILL REPORT

## ESSB 6508

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Synopsis as Enacted

**Brief Description:** Developing minimum renewable fuel content requirements and fuel quality standards in an alternative fuels market.

**Sponsors:** 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).

#### **Senate Committee on Water, Energy & Environment** **House Committee on Technology, Energy & Communications**

**Background:** 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 RFS or have passed legislation requiring state governmental agencies to use biodiesel.

Biodiesel is non-petroleum diesel fuel produced from renewable resources such as vegetable oils, animal fats, and recycled cooking oils. It can be blended with petroleum diesel or used as a pure product (known as B100). According to the United States Department of Energy, biodiesel blends of up to 20 percent (B20) can be used in nearly all diesel equipment with little or no engine modifications. Blends with higher levels of biodiesel can also be used in many engines built since 1994 with little or no engine modification.

Ethanol is produced from a variety of feed stocks such as corn, wheat, barley, potatoes, sugarcane, and straw and tree cellulose. In the United States, most ethanol is made from corn. The most common blends are:

- E10 - 10 percent ethanol and 90 percent unleaded gasoline. E10 is approved for use in any vehicle sold in the U.S. In 2004, about one-third of America's gasoline was blended with ethanol, most in this 10 percent variety.
- E85 - 85 percent ethanol and 15 percent unleaded gasoline. E85 is an alternative fuel used in flexible fuel vehicles (FFVs). When E85 is not available, FFVs can operate on gasoline or any ethanol blend up to 85 percent.

The Department of Agriculture's (DOA) fuel sampling, testing, and enforcement program adopts *American Society for Testing and Materials* (ASTM) and Environmental Protection Agency (EPA) fuel standards. EPA standards prevail if there is a conflict. The DOA may establish a laboratory for testing motor vehicle fuels.

All state agencies are encouraged to use a fuel blend of 20 percent biodiesel and 80 percent petroleum diesel in diesel-powered vehicles and equipment. Effective June 1, 2006, agencies complying with the EPA's ultra-low sulfur diesel mandate for on-highway diesel fuel must use at least 2 percent biodiesel as an additive for lubricity. The Governor's Executive Order 05-01

requires state agencies to use a 20 percent biodiesel blend by September 1, 2009, and encourages agencies to use a 5 percent blend as soon as practicable.

**Summary:** The Legislature intends that consumers have a choice of fuels ranging from zero renewable content to completely renewable fuel.

Certain special fuel licensees must provide evidence to the Department of Licensing (DOL) that at least 2 percent of total annual diesel fuel sales are biodiesel fuel sales, whenever the earlier of two events occur: (1) The Director of the DOA determines that feedstock grown in Washington can satisfy the 2 percent requirement; or (2) on November 30, 2008. The reporting level rises to 5 percent biodiesel sales when the Director of DOA determines that both in-state oil seed crushing capacity and feedstock grown in Washington can satisfy 3 percent of total annual diesel fuel sales.

Beginning December 1, 2008, certain motor vehicle fuel licensees must provide evidence that at least 2 percent of all gasoline sold in Washington is denatured ethanol.

All gasoline sold in Washington must contain higher percentages of denatured ethanol if the Director of the Department of Ecology (DOE) determines that ethanol content greater than 2 percent will not jeopardize continued attainment of federal Clean Air Act standards, and the Director of DOA determines that sufficient raw materials are available within Washington to support economical production of ethanol at higher levels. Nothing limits the use of E85, or the use of high octane gasoline without ethanol, for use by aircraft.

DOA decisions to change fuel content levels must be published and will not take effect for at least 180 days. The Director must adopt rules for enforcing and carrying out the RFS for both biodiesel and ethanol. DOA rules must ensure that biodiesel refiners are responsible for meeting ASTM standards when providing biodiesel fuel into the distribution system. Likewise, diesel refiners are responsible for meeting ASTM standards when providing diesel into the distribution system. Biodiesel rules must include fuel stability standards when national or international standards have been adopted.

DOL must ensure that information submitted by fuel licensees is combined or aggregated without releasing identifying individual company information. Fuel licensees reporting under this act are exempt from existing criminal penalties. Civil penalties may be imposed for violations.

The Director of DOA may optionally contract with a laboratory for testing. The Director of DOA must require fuel pumps offering biodiesel or ethanol blends to be identified by a label stating the content level.

The Director of DOA must establish a Biofuels Advisory Committee to advise the Director in implementing or suspending the minimum renewable fuel content requirements. The committee will advise the Director on: logistical, technical, and economic issues; the potential for credit trading; compliance and enforcement issues; tracking and reporting requirements; and other fuels produced from nonpetroleum renewable sources, besides biodiesel or ethanol, which could achieve the goals of the act. The Director must make recommendations to the Legislature and the Governor by September 1, 2007.

Effective June 1, 2009, 20 percent of all diesel purchased and used by state agencies for operating diesel-powered vehicles, vessels, and construction equipment must be biodiesel. If requested by any state agency, the Department of General Administration (GA) must assist those agencies by coordinating the purchase and delivery of biodiesel. GA may use long-term contracts of up to 10 years when purchasing from in-state suppliers who use predominately in-state feedstocks.

All state agencies using biodiesel fuel must file quarterly reports with GA documenting any problems encountered and describing how they were resolved. GA must analyze these reports and report its findings and recommendations to the Governor and the Legislature within 60 days after each reporting period. The Governor must consider these reports in determining whether to temporarily suspend minimum renewable fuel content standards.

The Governor may, by executive order, suspend all or portions of the minimum renewable fuel content requirements if they are temporarily technically or economically infeasible or pose a significant risk to public safety.

If, by November 30, 2008, the Director of DOA determines that the state's diesel fuel supply comprises at least 10 percent biodiesel made predominantly from Washington feedstock, and the goals of this act have been achieved, the Governor and the Legislature must be notified. Upon notification, the Governor must suspend applicability of the minimum fuel content requirements by executive order.

If, by November 30, 2008, the Director of DOA determines that the state's gasoline fuel supply comprises at least 20 percent ethanol made predominantly from Washington feedstock, without jeopardizing continued attainment of the federal Clean Air Act's National Ambient Air Quality Standard for ozone pollution, and the goals of this act have been achieved, the Governor and Legislature must be notified. Upon notification, the Governor must suspend applicability of the minimum fuel content requirements by executive order.

After November 30, 2008, if the Director of DOA determines the goals of the act have been accomplished notice must be given to the Governor and the Legislature. The Governor must then prepare executive request legislation repealing the applicable minimum fuel content requirement.

"Diesel" fuel is defined to mean special fuel and dyed special fuel. "Biodiesel fuel" is defined and the definition of "motor fuel" is revised to include biodiesel.

**Votes on Final Passage:**

Senate	27	20	
House	68	30	(House amended)
Senate	29	19	(Senate concurred)

**Effective:** July 1, 2006