

# SENATE BILL REPORT

## SB 6508

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As Reported By Senate Committee On:  
Water, Energy & Environment, January 31, 2006

**Title:** An act relating to developing minimum renewable fuel content requirements and fuel quality standards.

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

**Sponsors:** Senators Rasmussen, Poulsen, Kline, McCaslin, Brown, Oke, Schmidt, Swecker, Finkbeiner and Kohl-Welles; by request of Governor Gregoire.

**Brief History:**

**Committee Activity:** Water, Energy & Environment: 1/24/06, 1/31/06 [DPS, DNP, w/oRec].

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### SENATE COMMITTEE ON WATER, ENERGY & ENVIRONMENT

**Majority Report:** That Substitute Senate Bill No. 6508 be substituted therefor, and the substitute bill do pass.

Signed by Senators Poulsen, Chair; Rockefeller, Vice Chair; Fraser, Pridemore and Regala.

**Minority Report:** Do not pass.

Signed by Senators Morton, Ranking Minority Member and Delvin.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Honeyford and Mulliken.

**Staff:** Richard Rodger (786-7461)

**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 Renewable Fuel Standard or have passed legislation to use biofuels on a state level.

Biodiesel is a non-petroleum diesel fuel produced from renewable resources such as vegetable oils, animal fats, and recycled cooking oils. It can be blended at any percentage with petroleum diesel or used as a pure product (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. Higher blends can also be used in many engines built since 1994 with little or no engine modification.

Ethanol may be produced from a variety of feed stocks such as corn, wheat, barley, potatoes, sugarcane, and the cellulose of straw and trees. In the United States the majority of 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 make or model of 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; and
- E85 - 85 percent ethanol and 15 percent unleaded gasoline. E85 is an alternative fuel for use 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 fuel standards provided in the *Annual Book of the American Society for Testing and Materials* (ASTM), along with applicable Environmental Protection Act (EPA) standards. EPA standards prevail if there is a conflict. The DOA may establish a laboratory for testing motor vehicle fuels.

**Summary of Substitute Bill:** All diesel fuel sold or offered for sale in Washington must contain at least 2 percent biodiesel whenever the earlier of two events are met: (1) When the Director of the DOA determines that a predominant portion of the feedstock to satisfy the 2 percent requirement was grown in Washington; or (2) on December 1, 2008. If the Director of Agriculture determines that both in-state oil seed crushing capacity and feedstock grown in Washington can satisfy the 2 percent requirement, all diesel fuel sold or offered for sale in Washington must contain at least 5 percent biodiesel fuel.

Beginning July 1, 2008, all gasoline sold or offered for sale in Washington must contain at least 2 percent denatured ethanol. All gasoline sold or offered for sale in Washington must contain up to a maximum of 10 percent of denatured ethanol by volume, if the Director of the Department of Ecology (DOE) determines that ethanol content greater than 2.5 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.

The Director must allow blenders and retailers of biodiesel or ethanol six months to meet the new minimum content requirement. The Director must adopt rules for enforcing and carrying out the renewable fuels standard for both biodiesel and ethanol.

DOA's standards for biodiesel fuels must, in addition to the ASTM and EPA standards, include the *National Institute of Standards and Technology Handbook* (NIST) standards. If a conflict exists between these standards, the EPA standards take precedence. DOA's standards must not exceed the ASTM standards for diesel.

The Director of Agriculture must require fuel pumps offering 2 percent biodiesel or 2 percent ethanol blends to be identified by a label stating the content level.

As an alternative to using a DOA testing laboratory, the Director may contract with a laboratory for testing. The Director of DOA must establish a biofuels advisory committee to advise the Director in implementing the minimum renewable fuel content requirements. The Director must make recommendations, regarding the content requirements to the Legislature and the Governor by September 1, 2007.

The Governor may, by executive order, suspend all or portions of the minimum renewable fuel content requirements standard if it is determined that requirements are temporarily technically or economically infeasible.

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

If, by November 30, 2008, the Director of Agriculture determines that the state's gasoline fuel supply is comprised of at least 5 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 the applicability of the minimum fuel content requirements by executive order.

Starting November 30, 2009, the Director of Agriculture must make an annual determination of whether predominately Washington feedstock are used to meet the minimum fuel content requirements. If the Director of Agriculture determines the goals of the act have been accomplished, the Director must notify the Governor and Legislature. The Governor must then prepare executive request legislation repealing the applicable minimum fuel content requirement.

**Substitute Bill Compared to Original Bill:** The 2 percent biodiesel fuel requirement is delayed by one year unless the Director of the DOA determines that a predominant portion of the feedstock to satisfy the 2 percent requirement was grown in Washington. In addition to in-state oil seed crushing capacity, feedstock grown in Washington must be sufficient to satisfy the 2 percent biodiesel requirement before the content level is raised to 5 percent.

The date for ethanol usage is moved back one year to December 1, 2008, and the content level is lowered to 2 percent denatured ethanol by volume. The Department of Agriculture must not exceed ASTM standards for diesel. Fuel pumps offering 2 percent biodiesel or 2 percent ethanol blends must be labeled. The Director must make recommendations to the Legislature and the Governor by September 1, 2007.

The Governor may, by executive order, suspend the fuel content requirements that are determined to be temporarily technically or economically infeasible. If the goals of the act are met before November 30, 2008, the Governor must suspend the applicability of the minimum fuel content requirements by executive order. The Director of Agriculture must make an annual determination of whether the goals of the act have been accomplished. If the goals are accomplished, the Governor must then prepare executive request legislation to repeal the fuel content requirements.

**Appropriation:** None.

**Fiscal Note:** Available on the original bill.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** This bill will help create additional demand for biodiesel in Washington. Biodiesel has many benefits over diesel fuel. Its substitution for diesel will improve air quality, reduce dependency on oil, help diversify and create new crops for farmers, and improve the local economy. Biodiesel has been proven a success by the many businesses, agencies, and individuals who currently use it on a regular basis. A renewable fuel standard will complement other Washington-proposed policies for infrastructure investments. Growers need a date certain so growers can have the confidence to get started. There is a crisis in agriculture; farms have a difficult time being profitable even when they are very productive. Farmers need alternative crops to be profitable. If this bill is not tied to Washington crops, the demand will be met from other states and Canada. An oil seed industry will give farmers an opportunity to diversify and lower their marketing risks.

**Testimony Against:** The ethanol mandates raise air quality concerns, as the 2 percent blend may not provide the benefits sought and is not enough to remove any water from the fuel. Supply problems may result if everyone is required to use ethanol. There are concerns about the effects of biodiesel blends, the quality of the fuel, and the consistency of supply. Engine manufacturers may not provide warranty coverage for vehicles using biodiesel. Biodiesel has been shown to have problems at low temperatures and problems with fuel placed in storage. Restricting feedstock to Washington grown will slow the industry down. Government should not be in the business of creating demand, but should let the markets work for themselves. Incentives are more supportable than mandates. Railroad companies may need an exemption, because manufacturers of locomotive may void warranties if there are quality issues.

**Testimony Other:** Pushing the trigger dates back will allow Washington producers to get started. This is not a tool that will fix everything, but will be very helpful. As the bill is now, it does not recognize in-state feedstock production. Mandates may not be the best way to help establish markets; incentives are better. There are safety concerns about sea vessels and perhaps they should be exempted. Some automobile consumer's warranties may be voided if they use more than a 5 percent blend.

**Who Testified:** PRO: Senator Marilyn Rasmussen, prime sponsor; Matt Steuerwalt, Governor's Office; Rhys Roth; Climate Solutions; Rob Elam, Propel Fuels; Todd Ellis, Seattle Biodiesel; Jeff Stephens, Washington Biodiesel; Clifford Traisman, Washington Environmental Council/Washington Conservation Voters; Fred Fleming, grower; Mike Massey, grower; Jim Armstrong, Spokane Conservation District; Jim Jesernig; Washington Association of Conservation Districts; John Stuhlmiller, Washington Farm Bureau; Fritz Glover, Economic Development Group of Kittitas County.

CON: Duke Schaub, Associated General Contractors of Washington; Chris McCabe, Association of Washington Businesses; Bill Kidd, Washington State Petroleum Association; Bill Stauffacher, BNSF Rail.

OTHER: Charlie Brown, Washington Oil Marketers Association; Jim Pederson, PetroCard Company.