

ESHB 2504 - S COMM AMD

By Committee on Environment, Water & Energy

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

3 "NEW SECTION. **Sec. 1.** The legislature finds that in 2006, the
4 state of Washington made a commitment to establish a market for
5 alternative fuels. As part of that commitment, state agencies were
6 required to use an increasing percentage of biodiesel to operate their
7 state fleets. The legislature further finds that as a result of the
8 commitments that were made in 2006, significant public and private
9 investments have been made to develop in-state feedstock and oilseed
10 crushing capacity. In order to ensure that these investments prove to
11 be successful, it is the intent of the legislature that state agencies
12 make every effort to purchase biodiesel that is derived from locally
13 grown, in-state feedstocks.

14 **Sec. 2.** RCW 19.112.020 and 2006 c 338 s 8 are each amended to read
15 as follows:

16 (1) This chapter shall be administered by the director or his or
17 her authorized agent. (~~For the purpose of administering this chapter,~~
18 ~~for motor fuel except biodiesel fuel,~~)

19 (2)(a) The director shall adopt rules for maintaining standards for
20 motor fuel. The rules may include:

21 (i) All or part of the standards set forth in the Annual Book of
22 ASTM Standards and supplements ((thereto)), ((and)) amendments, or
23 revisions thereof((, are adopted, together with));

24 (ii) All or part of the standards set forth in the national
25 institute of standards and technology (NIST) handbook 130, uniform laws
26 and regulations in the areas of legal metrology and engine fuel quality
27 rules, and any supplements, amendments, or revisions thereof; and

28 (iii) Any applicable federal environmental protection agency
29 standards.

1 **(b)** If a conflict exists between federal environmental protection
2 agency standards, ASTM standards, NIST standards, or state standards,
3 for purposes of uniformity, federal environmental protection agency
4 standards shall take precedence over ASTM and NIST standards. Any
5 state standards adopted must be consistent with federal environmental
6 protection agency standards and ASTM and NIST standards not in conflict
7 with the federal environmental protection agency standards.

8 ~~((2))~~ **(3)** The director may establish a fuel testing laboratory or
9 may contract with a laboratory for testing.

10 **(4)** The director may ~~((also))~~ adopt rules on false and misleading
11 advertising, labeling and posting of prices, and the standards for, and
12 identity of, motor fuels. The director ~~((shall))~~ may require fuel
13 pumps offering biodiesel and ethanol blends to be identified by a label
14 stating the percentage of biodiesel or ethanol.

15 ~~((3) The rules adopted under RCW 19.112.140 shall also provide
16 that the diesel refiner is responsible for meeting the ASTM standards
17 required by chapter 338, Laws of 2006 when providing diesel fuel into
18 the distribution system.))~~

19 **Sec. 3.** RCW 19.112.060 and 2006 c 338 s 6 are each amended to read
20 as follows:

21 **(1)(a)** Except as provided in subsection (3) of this section, any
22 person who knowingly violates any provision of this chapter or rules
23 adopted under it is guilty of a misdemeanor and, upon conviction, shall
24 be punished by a fine of not more than one thousand dollars or
25 imprisonment for not more than one year, or both.

26 **(b)** The director shall assess a civil penalty ranging from one
27 hundred dollars to ~~((ten))~~ twenty thousand dollars per occurrence,
28 giving due consideration to the appropriateness of the penalty with
29 respect to the gravity of the violation, and the history of previous
30 violations. Civil penalties collected under this chapter shall be
31 deposited into the motor vehicle fund.

32 **(2)** The penalties in subsection (1)(a) of this section do not apply
33 to violations of RCW 19.112.110 ~~((and 19.112.120))~~.

34 **(3)** No civil penalties may be assessed until the director of the
35 department of general administration certifies that the state agencies
36 are meeting the requirements under RCW 43.19.642.

1 **Sec. 4.** RCW 19.112.110 and 2009 c 132 s 2 are each amended to read
2 as follows:

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

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

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

24 ~~(4) The director and the director of licensing shall each adopt~~
25 ~~rules, in coordination with each other, for enforcing and carrying out~~
26 ~~the purposes of this section)) Beginning April 1, 2011, all diesel fuel~~
27 ~~sold for use in Washington by a diesel fuel seller must contain an~~
28 ~~annual average of at least two percent biodiesel fuel or renewable~~
29 ~~diesel fuel by volume. The compliance period for 2011 is April 1,~~
30 ~~2011, through December 31, 2011. For all subsequent years, the annual~~
31 ~~compliance period is January 1st through December 31st.~~

32 (2) Beginning sixty days after the director determines that
33 production of biodiesel fuel in this state from feedstock grown or
34 produced in Washington has reached a level of at least fifteen million
35 gallons over the preceding twelve months, all diesel fuel sold for use
36 in Washington by a diesel fuel seller must contain an annual average of
37 at least five percent biodiesel fuel or renewable diesel fuel by
38 volume.

1 (3) Each diesel fuel seller must provide quarterly progress reports
2 to the director demonstrating compliance with the requirements of this
3 section, including reporting the total amounts of diesel fuel,
4 biodiesel fuel, and renewable diesel fuel sold for use in the state.
5 Information must be submitted to the department of agriculture on a
6 form prescribed by the director.

7 (4) The director shall adopt rules for enforcing and carrying out
8 this section.

9 (5)(a) The director shall have access to diesel, biodiesel, and
10 renewable diesel fuel records of a diesel fuel seller at any reasonable
11 time for the purpose of carrying out this chapter.

12 (b) Failure to maintain records or to report required information
13 to the department of agriculture is a violation of this chapter.

14 (c) Information that can be identified to a particular business and
15 that is collected under this section is exempt from public disclosure
16 under chapter 42.56 RCW.

17 (6) For purposes of this section, "diesel fuel seller" means a
18 licensee under chapter 82.38 RCW, other than an international fuel tax
19 agreement licensee, dyed special fuel user, or special fuel
20 distributor.

21 (7) This section does not apply to fuel sold or offered for sale
22 for use by:

23 (a) Railroad locomotives;

24 (b) Marine engines, except marine engines used by the Washington
25 state ferry system;

26 (c) Equipment at electric generating plants regulated by the United
27 States nuclear regulatory commission; or

28 (d) Motors used to temporarily:

29 (i) Generate electricity to meet peak demand; or

30 (ii) Generate electricity or deliver natural gas when normal
31 generation or delivery is disrupted.

32 (8) Subsection (7)(c) of this section expires thirty days after the
33 United States nuclear regulatory commission approves the use of diesel
34 fuel containing two percent or more biodiesel fuel or renewable diesel
35 fuel by volume in equipment at electric generating plants that it
36 regulates.

1 ~~use of biodiesel is comparable in performance and cost with other~~
2 ~~available lubricity additives. The amount of biodiesel added to the~~
3 ~~ultra low sulfur diesel fuel shall be not less than two percent.~~

4 ~~(2))~~ Effective June 1, 2009, state agencies are required to use a
5 minimum of ~~((twenty))~~ ten percent biodiesel as compared to total volume
6 of all diesel purchases made by the agencies for the operation of the
7 agencies' diesel-powered vessels, vehicles, and construction equipment.
8 State agencies are required to use a minimum of twenty percent
9 biodiesel under this subsection once the director of the Washington
10 state department of agriculture determines that the state can meet that
11 requirement.

12 ~~((3))~~ (2) All state agencies using biodiesel fuel shall,
13 beginning on July 1, 2006, file biannual reports with the department of
14 general administration documenting the use of the fuel and a
15 description of how any problems encountered were resolved.

16 ~~((4) For the 2009-2011 fiscal biennium, the Washington state~~
17 ~~ferries is required to use a minimum of five percent biodiesel as~~
18 ~~compared to total volume of all diesel purchases made by the Washington~~
19 ~~state ferries for the operation of the Washington state ferries diesel-~~
20 ~~powered vessels so long as the per gallon price of diesel containing a~~
21 ~~five percent biodiesel blend level does not exceed the per gallon price~~
22 ~~of diesel by more than five percent. If the per gallon price of diesel~~
23 ~~containing a five percent biodiesel blend level exceeds the per gallon~~
24 ~~price of diesel by more than five percent, the requirements of this~~
25 ~~section do not apply to vessel fuel purchases by the Washington state~~
26 ~~ferries.~~

27 ~~(5) By December 1, 2009, the department of general administration~~
28 ~~shall:~~

29 ~~(a) Report to the legislature on the average true price~~
30 ~~differential for biodiesel by blend and location; and~~

31 ~~(b) Examine alternative fuel procurement methods that work to~~
32 ~~address potential market barriers for in state biodiesel producers and~~
33 ~~report these findings to the legislature.)~~

34 (3) For the 2009-2011 fiscal biennium, the Washington state ferries
35 is required to meet the biodiesel requirement set forth in chapter . .
36 . (Senate Bill No. 6381), Laws of 2010, for the operation of the
37 Washington state ferries diesel-powered vessels.

1 **Sec. 9.** RCW 42.56.270 and 2009 c 394 s 3 are each amended to read
2 as follows:

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

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

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

14 (3) Financial and commercial information and records supplied by
15 private persons pertaining to export services provided under chapters
16 43.163 and 53.31 RCW, and by persons pertaining to export projects
17 under RCW 43.23.035;

18 (4) Financial and commercial information and records supplied by
19 businesses or individuals during application for loans or program
20 services provided by chapters 43.325, 43.163, 43.160, 43.330, and
21 43.168 RCW, or during application for economic development loans or
22 program services provided by any local agency;

23 (5) Financial information, business plans, examination reports, and
24 any information produced or obtained in evaluating or examining a
25 business and industrial development corporation organized or seeking
26 certification under chapter 31.24 RCW;

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

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

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

37 (9) Financial and commercial information requested by the public

1 stadium authority from any person or organization that leases or uses
2 the stadium and exhibition center as defined in RCW 36.102.010;

3 (10)(a) Financial information, including but not limited to account
4 numbers and values, and other identification numbers supplied by or on
5 behalf of a person, firm, corporation, limited liability company,
6 partnership, or other entity related to an application for a horse
7 racing license submitted pursuant to RCW 67.16.260(1)(b), liquor
8 license, gambling license, or lottery retail license;

9 (b) Internal control documents, independent auditors' reports and
10 financial statements, and supporting documents: (i) Of house-banked
11 social card game licensees required by the gambling commission pursuant
12 to rules adopted under chapter 9.46 RCW; or (ii) submitted by tribes
13 with an approved tribal/state compact for class III gaming;

14 (11) Proprietary data, trade secrets, or other information that
15 relates to: (a) A vendor's unique methods of conducting business; (b)
16 data unique to the product or services of the vendor; or (c)
17 determining prices or rates to be charged for services, submitted by
18 any vendor to the department of social and health services for purposes
19 of the development, acquisition, or implementation of state purchased
20 health care as defined in RCW 41.05.011;

21 (12)(a) When supplied to and in the records of the department of
22 (~~community, trade, and economic development~~) commerce:

23 (i) Financial and proprietary information collected from any person
24 and provided to the department of (~~community, trade, and economic~~
25 ~~development~~) commerce pursuant to RCW 43.330.050(8); and

26 (ii) Financial or proprietary information collected from any person
27 and provided to the department of (~~community, trade, and economic~~
28 ~~development~~) commerce or the office of the governor in connection with
29 the siting, recruitment, expansion, retention, or relocation of that
30 person's business and until a siting decision is made, identifying
31 information of any person supplying information under this subsection
32 and the locations being considered for siting, relocation, or expansion
33 of a business;

34 (b) When developed by the department of (~~community, trade, and~~
35 ~~economic development~~) commerce based on information as described in
36 (a)(i) of this subsection, any work product is not exempt from
37 disclosure;

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

3 (d) If there is no written contact for a period of sixty days to
4 the department of (~~community, trade, and economic development~~)
5 commerce from a person connected with siting, recruitment, expansion,
6 retention, or relocation of that person's business, information
7 described in (a)(ii) of this subsection will be available to the public
8 under this chapter;

9 (13) Financial and proprietary information submitted to or obtained
10 by the department of ecology or the authority created under chapter
11 70.95N RCW to implement chapter 70.95N RCW;

12 (14) Financial, commercial, operations, and technical and research
13 information and data submitted to or obtained by the life sciences
14 discovery fund authority in applications for, or delivery of, grants
15 under chapter 43.350 RCW, to the extent that such information, if
16 revealed, would reasonably be expected to result in private loss to the
17 providers of this information;

18 (15) Financial and commercial information provided as evidence to
19 the department of licensing as required by RCW 19.112.110 (~~or~~
20 ~~19.112.120~~), except information disclosed in aggregate form that does
21 not permit the identification of information related to individual fuel
22 licensees;

23 (16) Any production records, mineral assessments, and trade secrets
24 submitted by a permit holder, mine operator, or landowner to the
25 department of natural resources under RCW 78.44.085;

26 (17)(a) Farm plans developed by conservation districts, unless
27 permission to release the farm plan is granted by the landowner or
28 operator who requested the plan, or the farm plan is used for the
29 application or issuance of a permit;

30 (b) Farm plans developed under chapter 90.48 RCW and not under the
31 federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to
32 RCW 42.56.610 and 90.64.190;

33 (18) Financial, commercial, operations, and technical and research
34 information and data submitted to or obtained by a health sciences and
35 services authority in applications for, or delivery of, grants under
36 RCW 35.104.010 through 35.104.060, to the extent that such information,
37 if revealed, would reasonably be expected to result in private loss to
38 providers of this information;

1 (19) Information gathered under chapter 19.85 RCW or RCW 34.05.328
2 that can be identified to a particular business; (~~and~~)

3 (20) Financial and commercial information submitted to or obtained
4 by the University of Washington, other than information the university
5 is required to disclose under RCW 28B.20.150, when the information
6 relates to investments in private funds, to the extent that such
7 information, if revealed, would reasonably be expected to result in
8 loss to the University of Washington consolidated endowment fund or to
9 result in private loss to the providers of this information; and

10 (21) Biodiesel production and sales information collected under RCW
11 19.112.110 and section 7 of this act that can be identified to a
12 particular business.

13 **Sec. 10.** RCW 43.19.646 and 2006 c 338 s 12 are each amended to
14 read as follows:

15 (1) The department of general administration must assist state
16 agencies seeking to meet the biodiesel fuel requirements in RCW
17 (~~(43.19.642)~~) 19.112.110 by coordinating the purchase and delivery of
18 biodiesel if requested by any state agency. The department may use
19 long-term contracts of up to ten years, when purchasing from in-state
20 suppliers who use predominantly in-state feedstock, to secure a
21 sufficient and stable supply of biodiesel for use by state agencies.

22 (2) The department shall compile and analyze the reports submitted
23 under RCW 43.19.642(~~(+4)~~) and report in an electronic format its
24 findings and recommendations to the governor and committees of the
25 legislature with responsibility for energy issues, within sixty days
26 from the end of each reporting period. The governor shall consider
27 these reports in determining whether to temporarily suspend minimum
28 renewable fuel content requirements as authorized under RCW 19.112.160.

29 NEW SECTION. **Sec. 11.** The director of the department of
30 agriculture shall report to the governor and the legislature by
31 December 1, 2011, regarding the impact of this act on:

32 (1) Fuel suppliers, distributors, and retailers in the state,
33 including any problems that may have arisen regarding quality or
34 availability of biodiesel and renewable diesel; and

35 (2) Producers of feedstock and biodiesel and renewable diesel in
36 the state.

1 NEW SECTION. **Sec. 12.** The following acts or parts of acts are
2 each repealed:

3 (1) RCW 19.112.120 (Motor vehicle fuel licensees--Required sales of
4 denatured ethanol--Rules--Limitation of section) and 2007 c 309 s 2 &
5 2006 c 338 s 3;

6 (2) RCW 19.112.130 (Information submitted under RCW 19.112.110 or
7 19.112.120--Limitation on release) and 2006 c 338 s 4;

8 (3) RCW 19.112.140 (Standards for biodiesel fuel/fuel blended with
9 biodiesel fuel--Rules) and 2006 c 338 s 7;

10 (4) RCW 19.112.150 (Biofuels advisory committee) and 2006 c 338 s
11 9;

12 (5) RCW 19.112.170 (Determination of the supply of certain fuels--
13 Notification--Declaration concerning the applicability of RCW
14 19.112.110 or 19.112.120) and 2006 c 338 s 13;

15 (6) RCW 19.112.180 (Goals under RCW 19.112.170--Report--Executive
16 request legislation) and 2006 c 338 s 14; and

17 (7) RCW 43.19.643 (Biodiesel fuel blends--Definitions) and 2003 c
18 17 s 3."

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19 On page 1, line 1 of the title, after "requirements;" strike the
20 remainder of the title and insert "amending RCW 19.112.020, 19.112.060,
21 19.112.110, 19.112.160, 19.112.900, 43.19.642, 42.56.270, and
22 43.19.646; adding a new section to chapter 19.112 RCW; creating new
23 sections; repealing RCW 19.112.120, 19.112.130, 19.112.140, 19.112.150,
24 19.112.170, 19.112.180, and 43.19.643; prescribing penalties; and
25 providing a contingent expiration date."

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