

# SENATE BILL REPORT

## ESHB 2504

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As of February 22, 2010

**Title:** An act relating to minimum renewable fuel content requirements.

**Brief Description:** Concerning minimum renewable fuel content requirements.

**Sponsors:** House Committee on Technology, Energy & Communications (originally sponsored by Representatives Eddy, Morris, Van De Wege, McCoy, Haler, Chase, Armstrong, Schmick, Walsh, Hunt, Kessler, Ormsby and Short).

**Brief History:** Passed House: 2/13/10, 62-32.

**Committee Activity:** Environment, Water & Energy: 2/23/10.

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### SENATE COMMITTEE ON ENVIRONMENT, WATER & ENERGY

**Staff:** Sam Thompson (786-7413)

**Background:** Renewable fuel is produced from plant or animal sources, as opposed to fossil fuel sources, and includes biodiesel and ethanol. Biodiesel is often blended with petroleum diesel. Labels indicate blend percentages. A blend containing 2 percent biodiesel is labeled B2.

Federal Renewable Fuel Standard. The Energy Policy Act of 2005 established a federal renewable fuel standard (RFS) program to encourage blending of renewable fuel into U.S. motor vehicle fuel. The federal RFS requires increased annual use of renewable fuel. A 12.95 billion gallon mandate has been set for 2010, increasing to a 36 billion gallon mandate for 2022.

State RFS. In 2006 Washington adopted a state RFS. The state RFS requires that at least 2 percent of diesel annually sold in Washington be biodiesel or renewable diesel. The requirement may increase to at least 5 percent if the Washington State Department of Agriculture (WSDA) determines that both in-state feedstock and oil-seed crushing capacity can satisfy a 3 percent requirement. This has not occurred.

In addition, at least 2 percent of gasoline sold in Washington must be ethanol. The requirement may increase if: (1) the Department of Ecology (Ecology) determines that the increase would not jeopardize attainment of federal Clean Air Act standards; and (2) WSDA determines that sufficient raw material is available in Washington to support production of

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higher ethanol blends. This has not occurred.

Use by State Agencies. State agencies must generally use at least 20 percent biodiesel compared to the total volume of agency diesel purchases. However, the Washington State Ferry System (WSF) must use at least 5 percent biodiesel compared to the total volume of WSF diesel purchases in the 2009-11 fiscal biennium.

**Summary of Bill:** Findings and Intent. The Legislature finds that in 2006 the state committed to establish a market for alternative fuels, and required state agencies to use an increasing percentage of biodiesel to operate state fleets. As a result, significant investments have been made to develop in-state feedstock and oilseed crushing capacity. To ensure the success of investments, the Legislature intends that state agencies make every effort to purchase biodiesel derived from locally grown, in-state feedstock.

Change in State RFS. The state RFS for biodiesel and renewable diesel is changed from at least 2 percent of diesel annually sold to at least 2 percent biodiesel or renewable diesel by volume (i.e., B2 or a higher blend). The change takes effect January 1, 2011, in western Washington, and July 1, 2011, in eastern Washington. The RFS for ethanol is eliminated.

Beginning 60 days after WSDA determines that biodiesel production in Washington from feedstock grown or produced in Washington has reached at least 15 million gallons over the preceding 12 months, the RFS requirement will increase to at least 5 percent biodiesel or renewable diesel by volume (i.e., B5 or a higher blend).

These requirements do not apply to fuel sold for use by railroad locomotives or marine engines, except use by the WSF.

Use by State Agencies. Provisions in current law are deleted that require:

- state agencies to use at least 20 percent biodiesel compared to the total volume of agency diesel purchases and to use at least 2 percent biodiesel as an additive to ultra-low sulfur diesel for lubricity; and
- WSF to use at least 5 percent biodiesel compared to the total volume of WSF diesel purchases in the 2009-11 fiscal biennium.

Motor Fuel Standards. WSDA motor fuel standards may include American Society for Testing and Materials standards, National Institute of Standards and Technology standards, or federal Environmental Protection Agency standards.

Producer Reporting. Washington biodiesel producers must document the quantity of biodiesel they produce, including quantity produced from feedstock grown in Washington, and provide the information to WSDA. WSDA will have access to the records at any reasonable time. WSDA may adopt implementing rules. Producers failing to maintain records or submit production information to WSDA may face penalties. Information collected by WSDA that can be identified to a particular business is exempt from public disclosure requirements.

Report to Legislature. WSDA must report to the Governor and Legislature by December 1, 2011, regarding impacts of the act on fuel suppliers, distributors, and retailers in the state, including any problems that may have arisen regarding biodiesel fuel quality or availability.

Other. Conflicting and obsolete provisions are deleted, including a provision authorizing a defunct Biofuels Advisory Committee.

**Appropriation:** None.

**Fiscal Note:** Requested on February 17, 2010.

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

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