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**SUBSTITUTE HOUSE BILL 2504**

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**State of Washington**

**61st Legislature**

**2010 Regular Session**

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

READ FIRST TIME 02/01/10.

1 AN ACT Relating to minimum renewable fuel content requirements;  
2 amending RCW 19.112.020, 19.112.060, 19.112.110, 19.112.160,  
3 19.112.900, 43.19.642, and 42.56.270; adding a new section to chapter  
4 19.112 RCW; repealing RCW 19.112.120, 19.112.130, 19.112.140,  
5 19.112.150, 19.112.170, 19.112.180, and 43.19.643; and prescribing  
6 penalties.

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

8 **Sec. 1.** RCW 19.112.020 and 2006 c 338 s 8 are each amended to read  
9 as follows:

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

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

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

18 (ii) All or part of the standards set forth in the national

1 institute of standards and technology (NIST) handbook 130, uniform laws  
2 and regulations in the areas of legal metrology and engine fuel quality  
3 rules, and any supplements, amendments, or revisions thereof; and

4 (iii) Any applicable federal environmental protection agency  
5 standards.

6 (b) If a conflict exists between federal environmental protection  
7 agency standards, ASTM standards, NIST standards, or state standards,  
8 for purposes of uniformity, federal environmental protection agency  
9 standards shall take precedence over ASTM and NIST standards. Any  
10 state standards adopted must be consistent with federal environmental  
11 protection agency standards and ASTM and NIST standards not in conflict  
12 with the federal environmental protection agency standards.

13 ~~((+2))~~ (3) The director may establish a fuel testing laboratory or  
14 may contract with a laboratory for testing.

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

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

24 **Sec. 2.** RCW 19.112.060 and 2006 c 338 s 6 are each amended to read  
25 as follows:

26 (1)(a) Any person who knowingly violates any provision of this  
27 chapter or rules adopted under it is guilty of a misdemeanor and, upon  
28 conviction, shall be punished by a fine of not more than one thousand  
29 dollars or imprisonment for not more than one year, or both.

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

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

1           **Sec. 3.** 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))~~ Beginning January 1, 2011, all diesel fuel sold or  
12 offered for sale in western Washington must contain at least two  
13 percent biodiesel fuel or renewable diesel fuel by volume. Beginning  
14 July 1, 2011, all diesel fuel sold or offered for sale in eastern  
15 Washington must contain at least two percent biodiesel fuel or  
16 renewable diesel fuel by volume.

17           ~~(2) ((Special fuel licensees under chapter 82.38 RCW, other than~~  
18 ~~international fuel tax agreement licensees, dyed special fuel users,~~  
19 ~~and special fuel distributors, shall provide evidence to the department~~  
20 ~~of licensing that at least five percent of total annual diesel fuel~~  
21 ~~sold in Washington is biodiesel or renewable diesel fuel, when the~~  
22 ~~director determines, and publishes this determination in the Washington~~  
23 ~~State Register, that both in state oil seed crushing capacity and~~  
24 ~~feedstock grown in Washington state can satisfy a three percent~~  
25 ~~requirement))~~ Beginning sixty days after the director determines that  
26 production of biodiesel fuel in this state from feedstock grown or  
27 produced in Washington has reached a level of at least fifteen million  
28 gallons over the preceding twelve months, all diesel fuel sold or  
29 offered for sale in Washington must contain at least five percent  
30 biodiesel fuel or renewable diesel fuel by volume.

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

34           ~~(4))~~ The director ~~((and the director of licensing shall each))~~ may  
35 adopt rules~~((, in coordination with each other,))~~ for enforcing and  
36 carrying out the purposes of this section.

37           (4) The requirements of this section do not apply to fuel sold or

1 offered for sale for use by railroad locomotives or marine engines,  
2 except for fuel sold or offered for sale for use by the Washington  
3 state ferry system.

4 **Sec. 4.** RCW 19.112.160 and 2006 c 338 s 11 are each amended to  
5 read as follows:

6 The governor, by executive order, may suspend all or portions of  
7 the minimum renewable fuel content requirements in RCW 19.112.110 or  
8 (~~19.112.120, or~~) 43.19.642, based on a determination that such  
9 requirements are temporarily technically or economically infeasible, or  
10 pose a significant risk to public safety.

11 **Sec. 5.** RCW 19.112.900 and 1990 c 102 s 11 are each amended to  
12 read as follows:

13 (~~(RCW 19.112.005 through 19.112.080 shall constitute a new chapter~~  
14 ~~in Title 19 RCW and~~) This chapter may be cited as the motor fuel  
15 quality act.

16 NEW SECTION. **Sec. 6.** A new section is added to chapter 19.112 RCW  
17 to read as follows:

18 (1) Each biodiesel producer in Washington must keep records  
19 documenting the quantity of biodiesel produced and the quantity of  
20 biodiesel produced from agricultural and nonagricultural feedstock  
21 grown or produced in Washington. Biodiesel production information must  
22 be provided to the department of agriculture on a form prescribed by  
23 the director.

24 (2) The director shall have access to the records at any reasonable  
25 time for the purpose of carrying out this chapter.

26 (3) The director may adopt rules to implement this section.

27 (4) Failure to maintain records or to submit production information  
28 to the department of agriculture is a violation of this chapter.

29 (5) Information that can be identified to a particular business and  
30 that is collected under this section is exempt from public disclosure  
31 under chapter 42.56 RCW.

32 **Sec. 7.** RCW 43.19.642 and 2009 c 470 s 716 are each amended to  
33 read as follows:

34 (1) Effective June 1, 2006, for agencies complying with the ultra-

1 low sulfur diesel mandate of the United States environmental protection  
2 agency for on-highway diesel fuel, agencies shall use biodiesel as an  
3 additive to ultra-low sulfur diesel for lubricity, provided that the  
4 use of a lubricity additive is warranted and that the use of biodiesel  
5 is comparable in performance and cost with other available lubricity  
6 additives. The amount of biodiesel added to the ultra-low sulfur  
7 diesel fuel shall be not less than two percent.

8 (2) Effective June 1, 2009, state agencies are required to use a  
9 minimum of twenty percent biodiesel as compared to total volume of all  
10 diesel purchases made by the agencies for the operation of the  
11 agencies' diesel-powered vessels, vehicles, and construction equipment.

12 (3) All state agencies using biodiesel fuel shall, beginning on  
13 July 1, 2006, file biannual reports with the department of general  
14 administration documenting the use of the fuel and a description of how  
15 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 **Sec. 8.** RCW 42.56.270 and 2009 c 394 s 3 are each amended to read  
35 as follows:

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

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

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

10 (3) Financial and commercial information and records supplied by  
11 private persons pertaining to export services provided under chapters  
12 43.163 and 53.31 RCW, and by persons pertaining to export projects  
13 under RCW 43.23.035;

14 (4) Financial and commercial information and records supplied by  
15 businesses or individuals during application for loans or program  
16 services provided by chapters 43.325, 43.163, 43.160, 43.330, and  
17 43.168 RCW, or during application for economic development loans or  
18 program services provided by any local agency;

19 (5) Financial information, business plans, examination reports, and  
20 any information produced or obtained in evaluating or examining a  
21 business and industrial development corporation organized or seeking  
22 certification under chapter 31.24 RCW;

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

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

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

33 (9) Financial and commercial information requested by the public  
34 stadium authority from any person or organization that leases or uses  
35 the stadium and exhibition center as defined in RCW 36.102.010;

36 (10)(a) Financial information, including but not limited to account  
37 numbers and values, and other identification numbers supplied by or on  
38 behalf of a person, firm, corporation, limited liability company,

1 partnership, or other entity related to an application for a horse  
2 racing license submitted pursuant to RCW 67.16.260(1)(b), liquor  
3 license, gambling license, or lottery retail license;

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

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

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

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

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

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

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

35 (d) If there is no written contact for a period of sixty days to  
36 the department of (~~community, trade, and economic development~~)  
37 commerce from a person connected with siting, recruitment, expansion,

1 retention, or relocation of that person's business, information  
2 described in (a)(ii) of this subsection will be available to the public  
3 under this chapter;

4 (13) Financial and proprietary information submitted to or obtained  
5 by the department of ecology or the authority created under chapter  
6 70.95N RCW to implement chapter 70.95N RCW;

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

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

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

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

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

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

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

36 (20) Financial and commercial information submitted to or obtained  
37 by the University of Washington, other than information the university  
38 is required to disclose under RCW 28B.20.150, when the information



1 relates to investments in private funds, to the extent that such  
2 information, if revealed, would reasonably be expected to result in  
3 loss to the University of Washington consolidated endowment fund or to  
4 result in private loss to the providers of this information; and  
5 (21) Biodiesel production information collected under section 6 of  
6 this act that can be identified to a particular business.

7 NEW SECTION. **Sec. 9.** The following acts or parts of acts are each  
8 repealed:

9 (1) RCW 19.112.120 (Motor vehicle fuel licensees--Required sales of  
10 denatured ethanol--Rules--Limitation of section) and 2007 c 309 s 2 &  
11 2006 c 338 s 3;

12 (2) RCW 19.112.130 (Information submitted under RCW 19.112.110 or  
13 19.112.120--Limitation on release) and 2006 c 338 s 4;

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

16 (4) RCW 19.112.150 (Biofuels advisory committee) and 2006 c 338 s  
17 9;

18 (5) RCW 19.112.170 (Determination of the supply of certain fuels--  
19 Notification--Declaration concerning the applicability of RCW  
20 19.112.110 or 19.112.120) and 2006 c 338 s 13;

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

23 (7) RCW 43.19.643 (Biodiesel fuel blends--Definitions) and 2003 c  
24 17 s 3.

--- END ---