

HOUSE BILL REPORT

HB 1606

As Reported by House Committee On:
Technology, Energy & Communications

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

Brief Description: Concerning minimum renewable fuel content requirements.

Sponsors: Representatives Jacks, Haler, Van De Wege, Short, Eddy and McCoy; by request of Department of Agriculture.

Brief History:

Committee Activity:

Technology, Energy & Communications: 2/4/11, 2/9/11 [DPS].

Brief Summary of Substitute Bill

- Changes the existing renewable fuel standard for biodiesel.
- Requires all diesel fuel sold in the state for use in motor vehicles upon the highways of the state to contain at least 2 percent biodiesel fuel or renewable diesel fuel by volume.
- Eliminates the renewable fuel standard for ethanol.

HOUSE COMMITTEE ON TECHNOLOGY, ENERGY & COMMUNICATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives McCoy, Chair; Jacks, Vice Chair; Short, Assistant Ranking Minority Member; Billig, Carlyle, Eddy, Frockt, Haler, Hasegawa, Liias, Morris and Nealey.

Minority Report: Do not pass. Signed by 7 members: Representatives Crouse, Ranking Minority Member; Anderson, Dahlquist, Harris, Kelley, Kristiansen and McCune.

Staff: Kara Durbin (786-7133).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The state Motor Fuel Quality Act, enacted in 1990, adopted motor fuel standards, authorized the Washington State Department of Agriculture (WSDA) to set state fuel standards, and established a sampling, testing, and enforcement program administered by the WSDA.

Washington's Renewable Fuel Standard was enacted in 2006. It requires that at least 2 percent of diesel fuel annually sold in Washington must be biodiesel or renewable diesel fuel. This requirement will increase to at least 5 percent if the WSDA determines that both in-state feedstock and oilseed crushing capacity can satisfy a 3 percent requirement. This in-state threshold has not been met.

In addition, at least 2 percent of the total gasoline sold in the state must be denatured ethanol. This ethanol requirement may be increased if the WSDA determines: (1) an increase would not jeopardize the state's continued attainment of federal Clean Air Act standards; and (2) the state can economically support the production of higher ethanol blends.

State agencies generally must use at least 20 percent biodiesel compared to the total volume of agency diesel purchases. This requirement does not apply to the Washington State Ferries (WSF) for the 2009-2011 biennium. In September 2010 the Department of General Administration reported that biodiesel purchases by state agencies other than the WSF from January through June 2010 constituted 8.7 percent of total diesel purchased.

Pursuant to a provision contained in the 2010 Supplemental Transportation Budget, which took effect March 31, 2010, fuel purchased by the WSF at the Harbor Island Truck Terminal for diesel-powered vessels for the 2009-2011 fiscal biennium must be a minimum 5 percent biodiesel blend, as long as the price of the biodiesel does not exceed the standard diesel price by more than 5 percent per gallon.

Summary of Substitute Bill:

Changes to the Renewable Fuel Standard.

Beginning October 1, 2011, all diesel fuel sold or offered for sale in Washington for use in motor vehicles upon highways of the state must contain at least 2 percent biodiesel fuel or renewable diesel fuel by volume. The existing requirement that at least 2 percent of diesel fuel annually sold in Washington must be biodiesel or renewable fuel is deleted.

Beginning 60 days after the Washington State Department of Agriculture (WSDA) determines that in-state production of biodiesel fuel from feedstock grown or produced in Washington is at least 15 million gallons over the preceding 12 months, all diesel fuel sold or offered for sale in Washington for use in motor vehicles upon highways of the state must contain at least 5 percent biodiesel fuel or renewable diesel fuel by volume.

After July 1, 2020, the WSDA will review these requirements and recommend to the Legislature whether the requirements should be extended to other diesel fuel.

The Department of Licensing's authority to adopt renewable fuel standard enforcement and implementation rules is deleted. The WSDA retains its authority to adopt renewable fuel standard enforcement and implementation rules.

Recordkeeping.

Washington biodiesel producers must document the quantity of biodiesel produced, including the quantity produced from feedstock grown or produced in Washington. This documentation must be submitted to the WSDA. Failure to maintain records or submit information to the WSDA is a violation of the Motor Fuel Quality Act and may result in criminal misdemeanor or civil penalties.

The WSDA will have access to these records and may adopt rules to implement the documentation requirements.

Public Records Exemption.

Biodiesel production and sales information that can be identified to a particular business is exempt from public disclosure.

Penalties.

The WSDA may not assess a civil penalty for a violation of the Renewable Fuel Standard (RFS) requirements until the Department of General Administration (GA) certifies that state agencies are meeting the state RFS requirements. If state agency usage falls below the minimum state RFS requirements, a violator is not subject to civil penalties until the GA certifies that state agencies are meeting the state renewable fuel standard requirements.

Ethanol Requirement.

A provision in state law requiring that at least 2 percent of gasoline sold in Washington must be denatured ethanol is removed.

Motor Fuel Standards.

The WSDA may adopt American Society for Testing and Materials (ASTM) standards, National Institute of Science and Technology (NIST) standards, and federal Environmental Protection Agency standards for motor fuel by rule.

Labeling.

Labeling requirements for biodiesel are removed. The WSDA may require labeling of fuel pumps offering an ethanol blend or a biodiesel blend, but is not obligated to require that fuel pumps contain a label stating the percentage of ethanol or biodiesel being offered.

Other provisions.

The Biofuels Advisory Committee is eliminated. Obsolete provisions regarding 2008 biodiesel and ethanol supply determination requirements are removed.

Substitute Bill Compared to Original Bill:

The substitute bill clarifies that the recommendation made to the Legislature after July 1, 2020, regarding whether the minimum fuel content requirement should be extended to other fuel, is specific to diesel fuel. The substitute bill also corrects an erroneous cross-reference.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill will make the existing renewable fuel standard easier to enforce, and we will have a better product in the end. This bill attempts to recast the existing law in a practical way.

This is a "one Washington" bill that will benefit consumers, farmers, and bio-refiners all over the state. The state's biodiesel fuel quality program has been successful; we have had very few complaints regarding biodiesel or diesel. The most common problem has been having a label on the fuel pump that does not match the biodiesel blend being offered. State agency usage of biodiesel continues to increase. In the last six months of 2010 the state met 20 percent of its usage in western Washington, and 10 percent overall. British Columbia and Oregon already have in place similar standards.

This will provide rural jobs and contracts for farmers. This is a good government efficiency bill. While the trucking industry may have higher costs under this bill, the farming industry is being destroyed by not enacting this bill. This bill will help the state meet increased demand for biodiesel. This is not a debate over mandates; it is a debate over whether enforcement and administration of the existing renewable fuel standard has been effective. Pricing concerns that have been raised are overblown. On average, diesel has been seven-tenths of a penny cheaper; sometimes biodiesel has been slightly cheaper. Diesel and gasoline prices continue to fluctuate much more than a nickel over last five years.

Having a viable functioning market will help promote biodiesel fuel production in this state. Five years have passed and the fuel is not at the pumps as envisioned.

While we did not support the 5 percent biodiesel (B5) mandate in Portland initially, we now think mandates are a good thing. The mandate you passed in 2006 allows for more free market activity, more choice, and more entrants in the market. Two percent biodiesel (B2) or B5 fuel is still within the American Society for Testing and Materials (ASTM) specifications. If you follow routine maintenance, there are no real issues with using this fuel as compared to diesel.

This bill is good for air quality in our region; it will reduce air particulates. Diesel particulates are particularly toxic.

Changing the existing Renewable Fuel Standards is consistent with recommendations made in the State Energy Update produced by the Department of Commerce, as well as the recommendations made by the Clean Energy Leadership Council.

(With concerns) This type of mandate is more likely to increase carbon dioxide than decrease it. The City of Seattle stopped buying soy based biodiesel partially because of cost, and partially because it may increase particulate matter.

(Opposed) The downturn in the economy is having a significant impact on the trucking industry. The trucking industry is one of the only users that will have to comply with this new standard. The additional cost of biodiesel ranges from 2 cents to 7 cents per gallon, with an average increased cost of 4.8 cents per gallon. This disparity in cost has grown since last year. Federal preemption may impact this legislation. The additional cost of biodiesel is one issue, but added maintenance and quality issues are also a concern. In many cases, a substantial amount of additives is needed in order to solve a problem exacerbated by biodiesel.

If biodiesel is truly cost competitive, then why is the mandate in this bill needed? The state has never met its initial commitment in 2006 to use 20 percent biodiesel. The Governor's budget only has the ferries using 5 percent biodiesel; this is not fair. If this policy makes sense, why are some users exempt? This bill does not guarantee feedstock will be bought in Washington.

The state needs to follow through on its initial commitments. The most recent Department of Agriculture report shows that state agencies are not meeting the 20 percent usage standard. The B5 mandate should be based on a trigger of 30 million gallons of in-state production, not 15 million.

Persons Testifying: (In support) Representative Jacks, prime sponsor; Tom Davis and Mary Beth Lang, Department of Agriculture; Steve Starr, Inland Empire Oilseeds; Scott Dilley, Washington Farm Bureau; Wes McCart, Stevens County Farm Bureau; Todd Ellis, Imperium; Cameron Hewes, General Biodiesel; Ramon Benavides, General Energy Group Incorporated; Nick Economides, Chevron; Clark Gilman, Harvesting Clean Energy; Mark Fitz, Star Oilco; Rod Gleysteen, Pacifica; Craig Kenworthy, Puget Sound Clean Air Agency; Peter Moulton, Department of Commerce; and Jessica Finn-Coven, Climate Solutions.

(With concerns) Todd Myers, Washington Policy Center.

(Opposed) Larry Pursley, Washington Trucking Association; Bruce Holmstrom, Vancouver Oil Company; Chris McCabe, Association of Washington Business; and Greg Hanon, Western States Petroleum Association.

Persons Signed In To Testify But Not Testifying: None.