

SENATE BILL REPORT

SB 5478

As of February 16, 2011

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

Brief Description: Concerning minimum renewable fuel content requirements.

Sponsors: Senators Holmquist Newbry, Rockefeller, Hargrove and Chase; by request of Department of Agriculture.

Brief History:

Committee Activity: Environment, Water & Energy: 2/04/11.

SENATE COMMITTEE ON ENVIRONMENT, WATER & ENERGY

Staff: Sam Thompson (786-7413)

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

Washington's Renewable Fuel Standard (RFS), enacted in 2006 and appended to the Motor Fuel Quality Act, requires that at least 2 percent of diesel fuel annually sold in Washington be biodiesel or renewable diesel fuel. The requirement may increase to at least 5 percent if WSDA determines that both in-state feedstock and oil-seed crushing capacity can satisfy a 3 percent requirement. This has not occurred.

State agencies must generally use at least 20 percent biodiesel compared to the total volume of agency diesel purchases. This requirement has not been met; in September 2010, the Department of General Administration (GA) reported that biodiesel purchases by state agencies other than Washington State Ferries (WSF) from January to June 2010 constituted 8.7 percent of total diesel purchased.

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

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restriction has not applied, and WSF (the state's largest consumer of diesel) continues to purchase a biodiesel blend at Harbor Island.

Summary of Bill: Findings and Intent. The Legislature finds that in 2006 Washington committed to ensure market access for alternative fuels, resulting in significant investments to develop in-state feedstock production, oilseed crushing capacity, and biodiesel production and distribution infrastructure. The Legislature intends to strengthen the RFS to ensure that Washington follows through on its commitments, encourages continued growth of feedstock markets from oilseeds and food by-products, creates manufacturing jobs, and makes further strides toward energy independence.

RFS. 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.

Beginning 60 days after 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, WSDA will review RFS requirements and recommend to the Legislature whether they should be extended to other fuel.

The Department of Licensing's authority to adopt RFS enforcement and implementing rules is deleted. WSDA retains its authority to adopt RFS enforcement and implementing rules.

Recordkeeping Requirements. Washington biodiesel producers must document the quantity of biodiesel produced and the quantity produced from feedstock grown or produced in Washington, and provide the information to WSDA. Failure to maintain records or submit information to WSDA is a violation of the Motor Fuel Quality Act, with potential criminal misdemeanor and civil penalties.

WSDA will have access to biodiesel producer records at any reasonable time to carry out Motor Fuel Quality Act requirements. WSDA may adopt rules for enforcing and carrying out recordkeeping requirements.

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

Penalties. WSDA may not assess a civil penalty for violation of RFS requirements until GA certifies that state agencies are meeting state RFS requirements. If state agency usage falls below minimum state RFS requirements, a violator is not subject to a misdemeanor penalty until GA certifies that state agencies are meeting state RFS requirements.

Ethanol RFS Repealed. A provision requiring that at least 2 percent of gasoline sold in Washington be denatured ethanol measured on a quarterly basis is repealed.

Motor Fuel Standards. WSDA is given discretionary authority to adopt American Society for Testing and Materials (ASTM) standards and federal Environmental Protection Agency (EPA) standards for motor fuel. Language adopting ASTM and EPA standards for motor fuel, except biodiesel, is deleted.

WSDA motor fuel standards may include National Institute of Standards and Technology standards.

WSDA is given discretionary authority to require fuel pumps offering ethanol or biodiesel blends to be identified by labels stating blend percentages. Language requiring labels is deleted.

Other. Provisions are consolidated. Redundant, conflicting, and obsolete provisions are deleted or repealed, including a provision authorizing a defunct Biofuels Advisory Committee.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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