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HOUSE BILL 2740

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State of Washington

62nd Legislature

2012 Regular Session

By Representatives Lias, Van De Wege, Eddy, Fitzgibbon, and Hudgins

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

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that in 2006 the  
8 state of Washington made a commitment to ensure market access for  
9 alternative fuels. The legislature also finds that the aim of that  
10 commitment was to reduce the state's dependence on volatile global  
11 energy sources; reduce the amount of dollars spent on foreign oil and  
12 instead invest it in locally produced fuels; and move our state as One  
13 Washington towards energy independence. As a result, significant  
14 public and private investments were made to develop in-state feedstock  
15 production, oilseed crushing capacity, and biodiesel production and  
16 distribution infrastructure.

17 (2) It is the intent of the legislature to strengthen the existing  
18 renewable fuel standard to ensure Washington follows through on its  
19 commitments, to encourage the continued growth of agricultural

1 feedstock markets from oilseeds and food by-products, to create  
2 manufacturing jobs in both rural and urban Washington communities, and  
3 to make further strides toward energy independence.

4 **Sec. 2.** RCW 19.112.020 and 2010 c 96 s 1 are each amended to read  
5 as follows:

6 (1) This chapter shall be administered by the director or (~~his or~~  
7 ~~her~~) the director's authorized agent. (~~For the purpose of~~  
8 ~~administering this chapter, for motor fuel except biodiesel fuel,~~)

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

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

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

19 (iii) Any applicable federal environmental protection agency  
20 standards.

21 (b) If a conflict exists between federal environmental protection  
22 agency standards, ASTM standards, NIST standards, or state standards,  
23 for purposes of uniformity, federal environmental protection agency  
24 standards shall take precedence over ASTM and NIST standards. Any  
25 state standards adopted must be consistent with federal environmental  
26 protection agency standards and ASTM and NIST standards not in conflict  
27 with the federal environmental protection agency standards.

28 (~~(+2)~~) (3) The director may establish a fuel testing laboratory or  
29 may contract with a laboratory for testing.

30 (4) The director may (~~also~~) adopt rules on false and misleading  
31 advertising, labeling and posting of prices, and the standards for, and  
32 identity of, motor fuels. The director (~~shall~~) may require fuel  
33 pumps offering an ethanol blend to be identified by a label stating the  
34 percentage of ethanol and fuel pumps offering a biodiesel blend (~~of up~~  
35 ~~to and including five percent to be identified by a label that states~~  
36 ~~"may contain up to five percent biodiesel."~~ Biodiesel blends above

1 five percent shall be identified by a label stating the percentage of  
2 biodiesel being offered.

3 ~~(3) The rules adopted under RCW 19.112.140 shall also provide that~~  
4 ~~the diesel refiner is responsible for meeting the ASTM standards~~  
5 ~~required by chapter 338, Laws of 2006 when providing diesel fuel into~~  
6 ~~the distribution system)) to be identified by a label stating the~~  
7 ~~percentage of biodiesel.~~

8 **Sec. 3.** RCW 19.112.110 and 2009 c 132 s 2 are each amended to read  
9 as follows:

10 (1) ~~((Special fuel licensees under chapter 82.38 RCW, other than~~  
11 ~~international fuel tax agreement licensees, dyed special fuel users,~~  
12 ~~and special fuel distributors, shall provide evidence to the department~~  
13 ~~of licensing that at least two percent of the total annual diesel fuel~~  
14 ~~sold in Washington is biodiesel or renewable diesel fuel, following the~~  
15 ~~earlier of: (a) November 30, 2008; or (b) when a determination is made~~  
16 ~~by the director, published in the Washington State Register, that~~  
17 ~~feedstock grown in Washington state can satisfy a two percent~~  
18 ~~requirement.)) Beginning October 1, 2012, all diesel fuel sold or~~  
19 ~~offered for sale in Washington for use in motor vehicles upon the~~  
20 ~~highways of the state must contain at least five percent biodiesel fuel~~  
21 ~~or renewable diesel fuel by volume.~~

22 (2) ~~((Special fuel licensees under chapter 82.38 RCW, other than~~  
23 ~~international fuel tax agreement licensees, dyed special fuel users,~~  
24 ~~and special fuel distributors, shall provide evidence to the department~~  
25 ~~of licensing that at least five percent of total annual diesel fuel~~  
26 ~~sold in Washington is biodiesel or renewable diesel fuel, when the~~  
27 ~~director determines, and publishes this determination in the Washington~~  
28 ~~State Register, that both in-state oil seed crushing capacity and~~  
29 ~~feedstock grown in Washington state can satisfy a three percent~~  
30 ~~requirement.~~

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 adopt~~  
35 ~~rules, in coordination with each other, for enforcing and carrying out~~  
36 ~~the purposes of this section.)) After July 1, 2020, the director shall~~  
37 ~~review the requirements of this section and make a recommendation to~~

1 the legislature whether the minimum renewable fuel content requirement  
2 should be extended to other diesel fuel sold or offered for sale in  
3 Washington.

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

5 **Sec. 4.** RCW 19.112.060 and 2011 c 96 s 20 are each amended to read  
6 as follows:

7 (1)(a) Any person who knowingly violates any provision of this  
8 chapter or rules adopted under it is guilty of a misdemeanor and, upon  
9 conviction, shall be punished by a fine of not more than one thousand  
10 dollars or imprisonment for up to three hundred sixty-four days, or  
11 both.

12 (b) The director shall assess a civil penalty ranging from one  
13 hundred dollars to ten thousand dollars per occurrence, giving due  
14 consideration to the appropriateness of the penalty with respect to the  
15 gravity of the violation, and the history of previous violations.  
16 Civil penalties collected under this chapter shall be deposited into  
17 the motor vehicle fund.

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

20 (3)(a) The civil penalties in subsection (1)(b) of this section may  
21 not be assessed for violations of RCW 19.112.110 until the director of  
22 the department of enterprise services reports to the governor and the  
23 legislature, as required under RCW 43.19.646, that state fuel contract  
24 purchases by state agencies are meeting the requirements of RCW  
25 43.19.642.

26 (b) If state agency usage, as reported by the director of the  
27 department of enterprise services under RCW 43.19.646, falls below the  
28 minimum requirements of RCW 43.19.642, the civil penalties in  
29 subsection (1)(b) of this section may not be assessed for violations of  
30 RCW 19.112.110 until the director of the department of enterprise  
31 services reports to the governor and the legislature that state fuel  
32 contract purchases by state agencies are meeting the requirements of  
33 RCW 43.19.642.

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

36 The governor, by executive order, may suspend all or portions of

1 the minimum renewable fuel content requirements in RCW 19.112.110 or  
2 ((19.112.120, or)) 43.19.642, based on a determination that such  
3 requirements are temporarily technically or economically infeasible, or  
4 pose a significant risk to public safety.

5 **Sec. 6.** RCW 19.112.900 and 1990 c 102 s 11 are each amended to  
6 read as follows:

7 ((RCW 19.112.005 through 19.112.080 shall constitute a new chapter  
8 in Title 19 RCW and)) This chapter may be cited as the motor fuel  
9 quality act.

10 NEW SECTION. **Sec. 7.** A new section is added to chapter 19.112 RCW  
11 to read as follows:

12 (1) Each biodiesel producer in Washington must keep records  
13 documenting the quantity of biodiesel produced and the quantity of  
14 biodiesel produced from agricultural and nonagricultural feedstock  
15 grown or produced in Washington. Biodiesel production information must  
16 be provided to the department of agriculture on a form prescribed by  
17 the director.

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

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

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

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

26 **Sec. 8.** RCW 42.56.270 and 2011 1st sp.s. c 14 s 15 are each  
27 amended to read as follows:

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

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

34 (2) Financial information supplied by or on behalf of a person,  
35 firm, or corporation for the purpose of qualifying to submit a bid or

1 proposal for (a) a ferry system construction or repair contract as  
2 required by RCW 47.60.680 through 47.60.750 or (b) highway construction  
3 or improvement as required by RCW 47.28.070;

4 (3) Financial and commercial information and records supplied by  
5 private persons pertaining to export services provided under chapters  
6 43.163 and 53.31 RCW, and by persons pertaining to export projects  
7 under RCW 43.23.035;

8 (4) Financial and commercial information and records supplied by  
9 businesses or individuals during application for loans or program  
10 services provided by chapters 43.325, 43.163, 43.160, 43.330, and  
11 43.168 RCW, or during application for economic development loans or  
12 program services provided by any local agency;

13 (5) Financial information, business plans, examination reports, and  
14 any information produced or obtained in evaluating or examining a  
15 business and industrial development corporation organized or seeking  
16 certification under chapter 31.24 RCW;

17 (6) Financial and commercial information supplied to the state  
18 investment board by any person when the information relates to the  
19 investment of public trust or retirement funds and when disclosure  
20 would result in loss to such funds or in private loss to the providers  
21 of this information;

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

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

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

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

36 (b) Internal control documents, independent auditors' reports and  
37 financial statements, and supporting documents: (i) Of house-banked

1 social card game licensees required by the gambling commission pursuant  
2 to rules adopted under chapter 9.46 RCW; or (ii) submitted by tribes  
3 with an approved tribal/state compact for class III gaming;

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

11 (12)(a) When supplied to and in the records of the department of  
12 commerce:

13 (i) Financial and proprietary information collected from any person  
14 and provided to the department of commerce pursuant to RCW  
15 43.330.050(8); and

16 (ii) Financial or proprietary information collected from any person  
17 and provided to the department of commerce or the office of the  
18 governor in connection with the siting, recruitment, expansion,  
19 retention, or relocation of that person's business and until a siting  
20 decision is made, identifying information of any person supplying  
21 information under this subsection and the locations being considered  
22 for siting, relocation, or expansion of a business;

23 (b) When developed by the department of commerce based on  
24 information as described in (a)(i) of this subsection, any work product  
25 is not exempt from disclosure;

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

28 (d) If there is no written contact for a period of sixty days to  
29 the department of commerce from a person connected with siting,  
30 recruitment, expansion, retention, or relocation of that person's  
31 business, information described in (a)(ii) of this subsection will be  
32 available to the public under this chapter;

33 (13) Financial and proprietary information submitted to or obtained  
34 by the department of ecology or the authority created under chapter  
35 70.95N RCW to implement chapter 70.95N RCW;

36 (14) Financial, commercial, operations, and technical and research  
37 information and data submitted to or obtained by the life sciences  
38 discovery fund authority in applications for, or delivery of, grants

1 under chapter 43.350 RCW, to the extent that such information, if  
2 revealed, would reasonably be expected to result in private loss to the  
3 providers of this information;

4 ~~(15) ((Financial and commercial information provided as evidence to  
5 the department of licensing as required by RCW 19.112.110 or  
6 19.112.120, except information disclosed in aggregate form that does  
7 not permit the identification of information related to individual fuel  
8 licensees\*)) Biodiesel production and sales information collected under  
9 RCW 19.112.110 and section 7 of this act that can be identified to a  
10 particular business;~~

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

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

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

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

27 (19) Information gathered under chapter 19.85 RCW or RCW 34.05.328  
28 that can be identified to a particular business;

29 (20) Financial and commercial information submitted to or obtained  
30 by the University of Washington, other than information the university  
31 is required to disclose under RCW 28B.20.150, when the information  
32 relates to investments in private funds, to the extent that such  
33 information, if revealed, would reasonably be expected to result in  
34 loss to the University of Washington consolidated endowment fund or to  
35 result in private loss to the providers of this information; and

36 (21) Financial, commercial, operations, and technical and research  
37 information and data submitted to or obtained by innovate Washington in  
38 applications for, or delivery of, grants and loans under chapter 43.333



1 RCW, to the extent that such information, if revealed, would reasonably  
2 be expected to result in private loss to the providers of this  
3 information.

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

6 (1) RCW 19.112.120 (Motor vehicle fuel licensees--Required sales of  
7 denatured ethanol--Rules--Limitation of section) and 2007 c 309 s 2 &  
8 2006 c 338 s 3;

9 (2) RCW 19.112.130 (Information submitted under RCW 19.112.110 or  
10 19.112.120--Limitation on release) and 2006 c 338 s 4;

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

13 (4) RCW 19.112.150 (Biofuels advisory committee) and 2006 c 338 s  
14 9;

15 (5) RCW 19.112.170 (Determination of the supply of certain fuels--  
16 Notification--Declaration concerning the applicability of RCW  
17 19.112.110 or 19.112.120) and 2006 c 338 s 13;

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

20 (7) RCW 43.19.643 (Biodiesel fuel blends--Definitions) and 2003 c  
21 17 s 3.

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