

HOUSE BILL REPORT

ESHB 2757

As Passed House:
February 13, 2018

Title: An act relating to modernizing fuel content standards and references.

Brief Description: Modernizing fuel content standards and references.

Sponsors: House Committee on Technology & Economic Development (originally sponsored by Representatives Doglio, Tharinger, Walsh, Chapman, Fitzgibbon and Tarleton).

Brief History:

Committee Activity:

Technology & Economic Development: 1/30/18, 1/31/18 [DPS].

Floor Activity:

Passed House: 2/13/18, 54-44.

Brief Summary of Engrossed Substitute Bill

- Amends the state Renewable Fuel Standard (RFS) to require that all diesel fuel sold in the state by a special fuel licensee contain at least 2 percent biomass-based diesel fuel on an annual average basis beginning July 1, 2019.
- Requires that all diesel fuel sold in the state by a special fuel licensee contain at least 5 percent biomass-based diesel fuel on an annual average basis beginning July 1, 2021.
- Prohibits the in-state sale by a special fuel licensee of biomass-based diesel fuel that is derived from palm oil.
- Requires the Department of Agriculture to notify the Legislature by December 1, 2020, of the types of feedstocks being used to meet the RFS.
- Amends or repeals certain provisions of the Motor Fuel Quality Act.

HOUSE COMMITTEE ON TECHNOLOGY & ECONOMIC DEVELOPMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Morris, Chair; Kloba, Vice Chair; Tarleton, Vice Chair; Doglio, Fey, Hudgins, Santos, Slatter and Wylie.

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.

Minority Report: Do not pass. Signed by 7 members: Representatives Smith, Ranking Minority Member; Harmsworth, Manweller, McDonald, Nealey, Steele and Young.

Minority Report: Without recommendation. Signed by 1 member: Representative DeBolt, Assistant Ranking Minority Member.

Staff: Nikkole Hughes (786-7156).

Background:

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

The state Renewable Fuel Standard (RFS) was enacted in 2006 and requires that special fuel licensees provide evidence that at least 2 percent of diesel fuel sold annually in the state is biodiesel or renewable diesel. This percentage increases to 5 percent no sooner than 180 days after the WSDA determines that in-state feedstocks and oil-seed crushing capacity can meet a 3 percent standard.

In addition, motor vehicle fuel licensees must provide evidence that at least 2 percent of the total gasoline sold in the state is denatured ethanol. This ethanol requirement may be increased if the WSDA determines that:

- an increase would not jeopardize the state's continued attainment of federal Clean Air Act standards; and
- the state can economically support the production of higher ethanol blends.

State agencies are required to use a minimum of 20 percent biodiesel as compared to total volume of all diesel purchases made by the agencies for the operation of the agencies' diesel-powered vessels, vehicles, and construction equipment. However, during the 2015-2017 and 2017-2019 fiscal biennia, the Washington State Ferries is required to use a minimum of 5 percent biodiesel, as long as the price of a B5 biodiesel blend does not exceed the price of conventional diesel fuel by 5 percent or more.

Summary of Engrossed Substitute Bill:

Changes to the Renewable Fuel Standard.

Beginning July 1, 2019, all diesel fuel sold in Washington by a special fuel licensee must contain at least 2 percent biomass-based diesel fuel on an annual average basis. Each special fuel licensee must provide evidence to the Department of Licensing demonstrating attainment of this standard on an annual basis for all diesel fuel sold by the special fuel licensee.

Beginning July 1, 2021, all diesel fuel sold in Washington by a special fuel licensee must contain at least 5 percent biomass-based diesel fuel on an annual average basis. Each special fuel licensee must provide evidence to the Department of Licensing demonstrating

attainment of this standard on an annual basis for all diesel fuel sold by the special fuel licensee.

The Department of Licensing must adopt rules to implement the RFS, including authority for monthly and annual reporting and recordkeeping requirements for biomass-based diesel fuel, enforcement authority, and penalties in the event of noncompliance by a special fuel licensee with the requirements of the RFS. The Department of Licensing must adopt rules by December 31, 2018.

Beginning July 1, 2019, biomass-based diesel fuel that is derived from palm oil may not be sold in Washington by a special fuel licensee.

By December 1, 2020, the Department of Agriculture must notify the Legislature regarding the types of feedstocks being used to meet the requirements of the RFS, and may recommend, in consultation with the Department of Commerce, strategies to increase the production of in-state feedstocks to increase renewable fuel production.

"Biomass-based diesel fuel" has the same meaning as provided in 40 C.F.R. Sec. 80.1401.

Motor Fuel Standards.

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

Labeling.

Labeling requirements for biodiesel are removed. The WSDA may adopt rules on false and misleading advertising, labeling and posting of prices, and the identity of motor fuels.

Ethanol Requirement.

A provision requiring motor vehicle fuel licensees to provide evidence that at least 2 percent of gasoline sold in Washington is denatured ethanol is removed.

Biofuel Tax Preferences.

The definitions of "biofuel" and "biodiesel fuel" are amended for the purposes of certain sales and use tax preferences.

A sales and use tax exemption for hog fuel is amended to specify that eligible hog fuel must be used to produce electricity, steam, heat, or biofuel in Washington.

Other Provisions.

Several provisions are removed or repealed, including provisions to:

- authorize the WSDA to refuse, revoke, or suspend the registration of a motor fuel and to establish a motor fuel testing lab;

- make it unlawful to fail to register a motor fuel or submit incorrect, misleading, or false information regarding the registration of a motor fuel;
- establish an exemption from disclosure under the Public Records Act for financial and commercial information provided as evidence to the Department of Licensing for the registration of motor fuels;
- require state agencies using biodiesel fuel to file annual reports with the Department of Enterprise Services documenting the use of the fuel;
- establish a Biofuels Advisory Committee;
- authorize the Governor to suspend all or portions of the RFS; and
- require certain reports to the Legislature.

Appropriation: None.

Fiscal Note: Available.

Effective Date: 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 would update and amend the RFS. The intent of the original RFS was to reduce the state's dependence on foreign oil and to stimulate the creation of a new industry in Washington. However, the RFS was not enforceable. It was a mandate without any teeth. This bill seeks to rectify this problem by increasing the standard and making it more enforceable. Biodiesel facilities offer good paying jobs to those workers who might be displaced by the closure of other manufacturing facilities in today's changing job market. Biofuel standards have seen great success in encouraging the use of biofuel across the county. This bill would help biodiesel companies in the Pacific Northwest grow their businesses.

(Opposed) The current RFS contains several important elements that are being eliminated by this bill. The bill eliminates the opportunity to select between renewable diesel and biodiesel. Fuel providers need flexibility to meet customer needs and to provide a smooth flow of transportation fuels across the state. Rather than a universal content requirement, a volumetric standard at the individual licensee level is recommended. A 5 percent biodiesel mandate is not a price-sensitive strategy for businesses in the state. This bill would increase energy prices and make Washington businesses less competitive.

(Other) This bill makes technical changes to the Motor Fuel Quality Act that would bring the state's RFS up to date with current national standards. This bill would disrupt the trucking industry in the state. The hidden costs of biofuel make it more expensive to use. Biofuel has a lower energy output per mile driven, which forces the trucking industry to buy more fuel. Biofuel also acts as a solvent, which means that engines require more maintenance.

Persons Testifying: (In support) Representative Doglio, prime sponsor; Peter Moulton, Washington State Department of Commerce; Shelby Neal, National Biodiesel Board; Ian Hill, Sequential Biodiesel; and Kent Hartwig, Renewable Energy Group.

(Opposed) Greg Hanon, Washington State Petroleum Association; and Mary Catherine McAleer, Association of Washington Business.

(Other) Sherri Call, Washington Trucking Association; and Jerry Buendel, Washington State Department of Agriculture.

Persons Signed In To Testify But Not Testifying: None.