
SUBSTITUTE SENATE BILL 5478

State of Washington

62nd Legislature

2011 Regular Session

By Senate Environment, Water & Energy (originally sponsored by Senators Holmquist Newbry, Rockefeller, Hargrove, and Chase; by request of Department of Agriculture)

READ FIRST TIME 02/21/11.

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; 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; and
6 prescribing penalties.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that in 2006 the state
9 of Washington made a commitment to ensure market access for alternative
10 fuels. As a result, significant public and private investments were
11 made to develop in-state feedstock production, oilseed crushing
12 capacity, and biodiesel production and distribution infrastructure. It
13 is the intent of the legislature to strengthen the existing renewable
14 fuel standard to ensure Washington follows through on its commitments,
15 to encourage the continued growth of agricultural feedstock markets
16 from oilseeds and food by-products, to create manufacturing jobs in
17 both rural and urban Washington communities, and to make further
18 strides toward energy independence.

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

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

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

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

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

15 (iii) Any applicable federal environmental protection agency
16 standards.

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

24 (~~(+2)~~) (3) The director may establish a fuel testing laboratory or
25 may contract with a laboratory for testing.

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

36 (~~(3)~~) ~~The rules adopted under RCW 19.112.140 shall also provide~~
37 ~~that the diesel refiner is responsible for meeting the ASTM standards~~

1 required by chapter 338, Laws of 2006 when providing diesel fuel into
2 the distribution system.))

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

5 (1) (~~Special fuel licensees under chapter 82.38 RCW, other than~~
6 ~~international fuel tax agreement licensees, dyed special fuel users,~~
7 ~~and special fuel distributors, shall provide evidence to the department~~
8 ~~of licensing that at least two percent of the total annual diesel fuel~~
9 ~~sold in Washington is biodiesel or renewable diesel fuel, following the~~
10 ~~earlier of: (a) November 30, 2008; or (b) when a determination is made~~
11 ~~by the director, published in the Washington State Register, that~~
12 ~~feedstock grown in Washington state can satisfy a two percent~~
13 ~~requirement)) Beginning October 1, 2011, all diesel fuel sold or
14 offered for sale in Washington for use in motor vehicles upon the
15 highways of the state must contain at least two percent biodiesel fuel
16 or 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 for use in motor vehicles upon the
30 highways of the state must contain at least five percent biodiesel fuel
31 or renewable diesel fuel by volume.~~

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

35 (4) ~~The director and the director of licensing shall each adopt~~
36 ~~rules, in coordination with each other, for enforcing and carrying out~~
37 ~~the purposes of this section.)) After July 1, 2020, the director shall~~

1 review the requirements of this section and make a recommendation to
2 the legislature whether the minimum renewable fuel content requirement
3 should be extended to other diesel fuel sold or offered for sale in
4 Washington.

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

6 **Sec. 4.** RCW 19.112.060 and 2006 c 338 s 6 are each amended to read
7 as follows:

8 (1)(a) Any person who knowingly violates any provision of this
9 chapter or rules adopted under it is guilty of a misdemeanor and, upon
10 conviction, shall be punished by a fine of not more than one thousand
11 dollars or imprisonment for not more than one year, or 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 general administration reports to the governor and
23 the legislature, as required under RCW 43.19.646, that state fuel
24 contract purchases by state agencies are meeting the requirements of
25 RCW 43.19.642.

26 (b) If state agency usage, as reported by the director of the
27 department of general administration under RCW 43.19.646, falls below
28 the 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 general
31 administration reports to the governor and the legislature that state
32 fuel contract purchases by state agencies are meeting the requirements
33 of 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 2009 c 394 s 3 are each amended to read
27 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 (~~community, trade, and economic development~~) commerce:

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

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

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

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

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

36 (13) Financial and proprietary information submitted to or obtained
37 by the department of ecology or the authority created under chapter
38 70.95N RCW to implement chapter 70.95N RCW;

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

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

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

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

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

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

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

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

1 NEW SECTION. **Sec. 9.** The following acts or parts of acts are each
2 repealed:
3 (1) RCW 19.112.120 (Motor vehicle fuel licensees--Required sales of
4 denatured ethanol--Rules--Limitation of section) and 2007 c 309 s 2 &
5 2006 c 338 s 3;
6 (2) RCW 19.112.130 (Information submitted under RCW 19.112.110 or
7 19.112.120--Limitation on release) and 2006 c 338 s 4;
8 (3) RCW 19.112.140 (Standards for biodiesel fuel/fuel blended with
9 biodiesel fuel--Rules) and 2006 c 338 s 7;
10 (4) RCW 19.112.150 (Biofuels advisory committee) and 2006 c 338 s
11 9;
12 (5) RCW 19.112.170 (Determination of the supply of certain fuels--
13 Notification--Declaration concerning the applicability of RCW
14 19.112.110 or 19.112.120) and 2006 c 338 s 13;
15 (6) RCW 19.112.180 (Goals under RCW 19.112.170--Report--Executive
16 request legislation) and 2006 c 338 s 14; and
17 (7) RCW 43.19.643 (Biodiesel fuel blends--Definitions) and 2003 c
18 17 s 3.

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