

SENATE BILL NO. 516

INTRODUCED BY J. BLACK

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE USE OF BIODIESEL IN DYED DIESEL FUEL SOLD IN MONTANA; EXEMPTING DYED DIESEL FUEL SOLD TO OR USED BY A RAILROAD; REQUIRING THE DEPARTMENT OF LABOR AND INDUSTRY TO TRACK BIODIESEL PRODUCTION IN MONTANA; PROVIDING PENALTIES; AND PROVIDING A DELAYED EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title.** [Sections 1 through 8] may be cited as the "Biodiesel and Rural Economic Development Act".

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 8], the following definitions apply:

(1) "Biodiesel" has the meaning provided in 15-70-301.

(2) "Biodiesel blend" has the meaning provided in 15-70-301.

(3) "Department" means the department of labor and industry provided for in 2-15-1701.

(4) "Dyed diesel" means nontaxed, special fuel dyed by injector at a refinery or terminal for off-highway use, for uses permitted pursuant to rules adopted under 15-70-330(3)(b), or for use by the state fleet.

NEW SECTION. **Section 3. Minimum biodiesel content requirements for dyed diesel fuel -- penalties.** (1) Beginning on [the effective date of this act], within 60 days after the publication of the annual report required in [section 5], all dyed diesel fuel, except as provided in subsection (2) of this section, that is sold or offered for sale in Montana for use in internal combustion engines must contain at least 5% biodiesel by volume.

(2) The requirement pursuant to subsection (1) does not apply to dyed diesel fuel sold to or used by a railroad.

(3) Beginning on [the effective date of this act], within 60 days after the publication of the annual report required in [section 5], any person who knowingly sells or offers for sale in Montana dyed diesel fuel, except as provided in subsection (2) of this section, for use in internal combustion engines that does not contain at least

1 5% biodiesel by volume is guilty of a misdemeanor.

2 (4) The provisions of this section may be waived only as provided in [sections 6 and 7].

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4 **NEW SECTION. Section 4. State fleet to use biodiesel.** (1) Beginning on [the effective date of this
5 act], within 60 days after the publication of the annual report required in [section 5], dyed diesel fuel used by state
6 agencies for the operation of diesel-powered vehicles and equipment must be a biodiesel blend that is at least
7 5% biodiesel by volume.

8 (2) The provisions of this section may be waived only as provided in [sections 6 and 7].

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10 **NEW SECTION. Section 5. Annual report --- standards.** (1) Within 60 days after the end of each fiscal
11 year, the department shall make the following findings:

12 (a) the amount of biodiesel produced in the state and the amount derived from vegetable oil extracted
13 from Montana-grown crops;

14 (b) the total annual consumption of dyed diesel fuel, less the dyed diesel fuel consumed by railroads, in
15 the state;

16 (c) the number of biodiesel production facilities operating in Montana; and

17 (d) the average, pretax price of biodiesel blend that is 5% biodiesel by volume compared to the average
18 price of 100% petroleum-based, dyed diesel fuel. The pretax price for biodiesel blend does not include federal
19 or state credits or incentives for biodiesel.

20 (2) The department shall publish and make available to the public an annual report containing its findings
21 pursuant to subsection (1).

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23 **NEW SECTION. Section 6. Biodiesel -- production requirements.** (1) The requirements of [sections
24 3 and 4] apply if the department's annual report finds that:

25 (a) an adequate supply of biodiesel is produced in the state for blending state, dyed diesel fuel stocks
26 to contain at least 5% biodiesel by volume;

27 (b) a minimum of 50% of the biodiesel produced in the state is derived from vegetable oil extracted from
28 Montana-grown crops;

29 (c) a minimum of two biodiesel production facilities are operating in the state; and

30 (d) the average, pretax price of biodiesel blend that is 5% biodiesel by volume does not exceed the

1 average price of 100% petroleum-based dyed diesel fuel by more than 15%.

2 (2) If the United States secretary of agriculture declares a natural disaster in Montana counties producing
3 oilseed, the provisions of subsection (1)(b) do not apply.

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5 **NEW SECTION. Section 7. Temporary exemptions.** (1) The commissioner of labor and industry may
6 temporarily suspend the requirements of [sections 3 and 4] statewide, within a designated geographic area, or
7 for a particular type of vehicle or internal combustion engine after making a written finding that either of the
8 following conditions have occurred:

9 (a) the provisions contained in [section 6] cannot be met; or

10 (b) engine performance problems in Montana related to the use of a biodiesel blend that is 5% biodiesel
11 by volume have been independently verified by the department.

12 (2) The commissioner may appoint an advisory committee to assist in making a determination pursuant
13 to subsection (1)(a) or (1)(b). The committee must include:

14 (a) the commissioner or a designee from the department;

15 (b) a representative from the department of environmental quality;

16 (c) a representative from the department of transportation;

17 (d) a representative from the department of agriculture; and

18 (e) a representative from the wholesale fuel retail market.

19 (3) Any suspension created pursuant to subsection (1) expires on the first day of the next fiscal quarter
20 after it is issued. This section does not preclude the commissioner from suspending the requirements of [sections
21 3 and 4] for the fiscal quarter following a fiscal quarter in which a suspension is already in effect if the
22 commissioner has made another written finding that the conditions described in subsection (1) still exist.

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24 **NEW SECTION. Section 8. Labeling of fuel pumps with biodiesel fuel blends -- fuel requirements.**

25 (1) The department shall by rule require any fueling facility that sells or offers for sale biodiesel blend to
26 conspicuously label the pump that dispenses the biodiesel blend as to its biodiesel content.

27 (2) The biodiesel must be of a quality that will ensure that the biodiesel blend meets the standard for
28 biodiesel fuel contained in the American society for testing and materials (ASTM) D6751 standard specification
29 for biodiesel fuel (B100) blend stock for distillate fuels or any higher standard specifications adopted by the
30 American society for testing and materials for biodiesel fuel (B100) blend stock for distillate fuels.

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2 NEW SECTION. Section 9. Codification instruction. [Sections 1 through 8] are intended to be codified
3 as an integral part of Title 82, chapter 15, and the provisions of Title 82, chapter 15, apply to [sections 1 through
4 8].

6 NEW SECTION. **Section 10. Effective date -- contingency.** [This act] is effective 30 days after the
7 department of labor and industry certifies to the governor that enough biodiesel is produced in the state for
8 blending state, dyed diesel fuel stocks to contain at least 5% biodiesel by volume or July 1, 2008, whichever is
9 earlier.

10 (2) The department of labor and industry shall provide a copy of the certification provided for in subsection
11 (1) to the code commissioner.

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