

HOUSE BILL NO. 309  
INTRODUCED BY B. BERGREN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE USE OF BIODIESEL IN ALL DIESEL FUEL SOLD IN MONTANA; PROVIDING FOR MINIMUM AND MAXIMUM BIODIESEL BLEND CONTENT; PROVIDING FOR REPORTS ON AND REVISIONS TO THE MINIMUM BIODIESEL BLEND CONTENT; 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.** [Section 1 through 7] may and cited as the "Renewable Fuel, Energy Independence, and Rural Economic Development Act".

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 7] the following definitions apply:

- (1) "Biodiesel" has the meaning provided in 15-70-301.
- (2) "Department" means the department of labor and industry provided for in 2-15-1701.

NEW SECTION. **Section 3. Minimum biodiesel content requirements for diesel fuel -- penalties.** (1) Subject to [sections 4 and 6], beginning on [the effective date of this act], all diesel fuel sold or offered for sale in Montana for use in internal combustion engines must contain at least 2% biodiesel by volume.

(2) Beginning on [the effective date of this act], any person who knowingly sells or offers for sale in Montana diesel fuel for use in internal combustion engines that does not contain at least 2% biodiesel by volume is guilty of a misdemeanor.

NEW SECTION. **Section 4. Annual report -- revision of standards -- penalties.** (1) Within 90 days after the end of each fiscal year, the department shall publish and make available to the public an annual report on the implementation of [sections 1 through 7]. A copy of the report must be submitted to the economic affairs interim committee provided for in 5-5-223. The report must include but is not limited to the following:

- (a) the production capacity for crops used for making biodiesel in the state;
- (b) the refining capacity for biodiesel in the state;

(c) the total annual consumption of diesel fuel in the state; and

(d) a determination made by the department as to the maximum biodiesel content requirement that is economically and technically feasible and that is at or above the minimum biodiesel fuel requirement in effect for the previous fiscal year and below 21% biodiesel by volume.

(2) Within 90 days after the publication of each annual report required in subsection (1):

(a) all diesel fuel sold or offered for sale in Montana for use in internal combustion engines must contain the percentage blend of biodiesel by volume determined by the department in its annual report to be economically and technically feasible; and

(b) any person who knowingly sells or offers for sale in Montana diesel fuel for use in internal combustion engines that does not contain at least the percentage blend of biodiesel by volume determined by the department in its annual report to be economically and technically feasible is guilty of a misdemeanor.

(3) If the department publishes an annual report making a determination that the maximum biodiesel content requirement that is economically and technically feasible is less than the minimum biodiesel content required in the previous fiscal year, the previous fiscal year's minimum content requirement must remain in effect, except as provided for in [section 6].

**NEW SECTION. Section 5. Minimum biodiesel content for state fleet.** (1) Beginning [the effective date of this act], all state agencies shall use a minimum of 20% biodiesel as compared to total volume of all diesel purchases made by the agencies for the operation of the agencies' diesel-powered vehicles and equipment.

(2) All state agencies using biodiesel shall submit quarterly reports to the department documenting the use of biodiesel, including a description of any problems encountered and how those problems were resolved.

(3) The provisions of this section may be waived only as provided for in [section 6].

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

(a) the wholesale, pretax price of biodiesel exceeds the price of 100% petroleum-based diesel fuel by more than 15%;

(b) engine performance problems in Montana related to the use of a biodiesel blend have been independently verified by the department; or

(c) supplies of biodiesel sufficient for blending state diesel fuel stocks to the required biodiesel blend are not generally available.

(2) Any suspension created pursuant to subsection (1) expires on the first day of the next fiscal quarter after it is issued. This section does not preclude the commissioner from suspending the minimum biodiesel content requirements of [sections 1 through 7] for the following fiscal quarter in which a suspension is already in effect if the commissioner has made another written finding that the conditions described in subsection (1) still exist.

**NEW SECTION. Section 7. Labeling of fuel pumps with biodiesel fuel blends.** The department shall by rule require any fueling facility that sells or offers for sale biodiesel to conspicuously label the pump that dispenses the biodiesel as to its biodiesel content.

**NEW SECTION. Section 8. Codification instruction.** [Sections 1 through 7] are intended to be codified as an integral part of Title 82, chapter 15, and the provisions of Title 82, chapter 15, apply to [sections 1 through 7].

**NEW SECTION. Section 9. Effective date.** (1) [This act] is effective 30 days after the department of labor and industry certifies to the governor that enough refining capacity to provide the equivalent of 2% of the state's annual consumption of diesel fuel is produced at biodiesel refineries in the state or July 1, 2008, whichever is earlier.

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

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