

SENATE BILL NO. 432

INTRODUCED BY J. BRUEGGEMAN

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 CONTENT REQUIREMENTS; REQUIRING ANNUAL REPORTS; PROVIDING FOR 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.** [Sections 1 through 6] may be cited as the "Renewable Fuel and Energy Independence Act".

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 6], the following definitions apply:

- (1) "Biodiesel" has the meaning provided in 15-70-301.
- (2) "Department" means the department of transportation provided for in 2-15-2501.

NEW SECTION. **Section 3. Minimum biodiesel content requirements for diesel fuel -- penalties.**
(1) Subject to [sections 4 and 5] and subsection (3) of this section, when Montana has the capacity to produce an amount of biodiesel equal to:

- (a) 2% by volume of the amount of diesel fuel sold by volume in 2005, all diesel fuel sold or offered for sale in Montana for use in internal combustion engines must contain at least 2% biodiesel by volume;
- (b) 3% by volume of the amount of diesel fuel sold by volume in 2005, all diesel fuel sold or offered for sale in Montana for use in internal combustion engines must contain at least 3% biodiesel by volume;
- (c) 4% by volume of the amount of diesel fuel sold by volume in 2005, all diesel fuel sold or offered for sale in Montana for use in internal combustion engines must contain at least 4% biodiesel by volume; or
- (d) 5% by volume of the amount of diesel fuel sold by volume in 2005, all diesel fuel sold or offered for sale in Montana for use in internal combustion engines must contain at least 5% biodiesel by volume.

(2) Any person who knowingly sells or offers for sale in Montana diesel fuel for use in internal combustion engines that does not contain the minimum percentage of biodiesel by volume provided for in subsection (1) is

guilty of a misdemeanor.

(3) The biodiesel must be of a quality that will ensure that the diesel fuel containing biodiesel meets the standard for on-road diesel fuel contained in the American society for testing and materials (ASTM) D975 standard specification for diesel fuel oils.

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 6]. A copy of the report must be submitted to the revenue and transportation interim committee provided for in 5-5-227. 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 at or above the minimum biodiesel content requirement in effect for the previous fiscal year and below 6% 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; 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 is guilty of a misdemeanor.

(3) If the department publishes an annual report making a determination that the maximum biodiesel content requirement is less than the minimum biodiesel content requirement in effect for the previous fiscal year, the previous fiscal year's minimum biodiesel content requirement must remain in effect, except as provided for in [section 5].

NEW SECTION. Section 5. Temporary exemptions. (1) The director of the department may temporarily suspend the minimum biodiesel content requirements of [sections 1 through 6] 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 diesel fuel containing 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 fuel containing biodiesel have been independently verified by the department; or

(c) supplies of biodiesel sufficient for blending diesel fuel stocks in Montana to meet the required biodiesel content requirement 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 director from suspending the minimum biodiesel content requirements of [sections 1 through 6] for the following fiscal quarter in which a suspension is already in effect if the director has made another written finding that the conditions described in subsection (1) still exist.

NEW SECTION. Section 6. Labeling of fuel pumps with biodiesel fuel blends. The department of labor and industry provided for in 2-15-1701 shall by rule require any fueling facility that sells or offers for sale fuel containing biodiesel to conspicuously label the pump that dispenses the fuel as to its biodiesel content.

NEW SECTION. Section 7. Codification instruction. [Sections 1 through 6] 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 6].

NEW SECTION. Section 8. Effective date -- contingency. (1) [This act] is effective 30 days after the department of transportation 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 transportation shall provide a copy of the certification provided for in subsection (1) to the code commissioner.

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