

HOUSE AMENDMENTS TO HOUSE BILL 3463

By COMMITTEE ON ENVIRONMENT AND WATER

April 29

1 On page 1 of the printed bill, line 2, after the semicolon delete the rest of the line and insert
2 “creating new provisions; amending ORS 646.905, 646.921, 646.922, 646.923 and 646.957 and section
3 16, chapter 739, Oregon Laws”.

4 Delete lines 5 through 25 and insert:

5 “**SECTION 1.** ORS 646.921 is amended to read:

6 “646.921. (1) The State Department of Agriculture shall study and monitor biodiesel fuel pro-
7 duction, use and sales and certificates of analysis in this state.

8 “[*(2) When the production of biodiesel in this state from sources in Oregon, Washington, Idaho and*
9 *Montana reaches a level of at least 5 million gallons on an annualized basis for at least three months,*
10 *the department shall notify all retail dealers, nonretail dealers and wholesale dealers in this state, in*
11 *a notice that meets the requirements of subsection (5) of this section.*]

12 “**(2) At least two weeks before each of the dates specified in paragraphs (a) and (b) of this**
13 **subsection, the department shall notify all retail dealers, nonretail dealers and wholesale**
14 **dealers in this state that the capacity of biodiesel production facilities in Oregon has reached**
15 **a level of at least five million gallons on an annualized basis and that a retail dealer,**
16 **nonretail dealer or wholesale dealer may sell or offer for sale diesel fuel only as described in**
17 **ORS 646.922 (1) as follows:**

18 “(a) After August 1, 2009, in the counties of:

19 “(A) Clackamas;

20 “(B) Clatsop;

21 “(C) Columbia;

22 “(D) Marion;

23 “(E) Multnomah;

24 “(F) Polk;

25 “(G) Tillamook;

26 “(H) Washington; and

27 “(I) Yamhill; and

28 “(b) After October 1, 2009, in all other counties in this state not included in paragraph
29 (a) of this subsection.

30 “(3) When the [*production of biodiesel in this state from sources in Oregon, Washington, Idaho*
31 *and Montana*] **capacity of biodiesel production facilities in Oregon** reaches a level of at least 15
32 million gallons on an annualized basis [*for at least three months*], the department shall notify all re-
33 tail dealers, nonretail dealers and wholesale dealers in this state[, *in a notice that meets the re-*
34 *quirements of subsection (5) of this section*] **that the capacity of biodiesel production facilities in**
35 **Oregon has reached a level of at least 15 million gallons on an annualized basis and that a**

1 **retail dealer, nonretail dealer or wholesale dealer may sell or offer for sale diesel fuel only**
2 **as described in ORS 646.922 (2) after the date that is two months after the date of the notice**
3 **given by the department under this subsection.**

4 “(4) All retail dealers, nonretail dealers and wholesale dealers in Oregon are required to pro-
5 vide, upon the request of the department, a certificate of analysis for biodiesel received.

6 “[*(5) The notices required under this section shall inform retail dealers, nonretail dealers and*
7 *wholesale dealers that:*]

8 “[*(a) The production of biodiesel has reached the level described in subsection (2) or (3) of this*
9 *section, as appropriate; and*]

10 “[*(b) Three months after the date of the notice, a retail dealer, nonretail dealer or wholesale dealer*
11 *may sell or offer for sale diesel fuel only as described in ORS 646.922.]”.*

12 In line 27, delete “Two months after the date” and insert “Upon receipt”.

13 On page 2, after line 15, insert:

14 “**SECTION 3.** ORS 646.905 is amended to read:

15 “646.905. As used in ORS 646.910 to 646.923:

16 “(1) ‘Alcohol’ means a volatile flammable liquid having the general formula $C_nH_{(2n+1)}OH$ used
17 or sold for the purpose of blending or mixing with gasoline for use in propelling motor vehicles, and
18 commonly or commercially known or sold as an alcohol, and includes ethanol or methanol.

19 “(2) ‘Biodiesel’ means a motor vehicle fuel consisting of mono-alkyl esters of long chain fatty
20 acids derived from vegetable oils, animal fats or other nonpetroleum resources, not including palm
21 oil, designated as B100 and complying with ASTM D 6751.

22 “(3) ‘Certificate of analysis’ means:

23 “(a) A document verifying that B100 biodiesel has been analyzed and complies with, at a mini-
24 mum, the following ASTM D 6751 biodiesel fuel test methods and specifications:

25 “(A) Flash point (ASTM D 93);

26 “(B) Acid number (ASTM D 664);

27 “(C) Cloud point (ASTM D 2500);

28 “(D) Water and sediment (ASTM D 2709);

29 “(E) Visual appearance (ASTM D 4176);

30 “(F) Free glycerin (ASTM D 6854); and

31 “(G) Total glycerin (ASTM D 6854); and

32 “(b) Certification of feedstock origination describing the percent of the feedstock sourced out-
33 side of the states of Oregon, Washington, Idaho and Montana.

34 “(4) ‘Co-solvent’ means an alcohol other than methanol which is blended with either methanol
35 or ethanol or both to minimize phase separation in gasoline.

36 “(5) ‘Ethanol’ means ethyl alcohol, a flammable liquid having the formula C_2H_5OH used or sold
37 for the purpose of blending or mixing with gasoline for use in motor vehicles.

38 “(6) ‘Gasoline’ means any fuel sold for use in spark ignition engines whether leaded or unleaded.

39 “(7) ‘Methanol’ means methyl alcohol, a flammable liquid having the formula CH_3OH used or
40 sold for the purpose of blending or mixing with gasoline for use in motor vehicles.

41 “(8) ‘Motor vehicles’ means all vehicles, vessels, watercraft, engines, machines or mechanical
42 contrivances that are propelled by internal combustion engines or motors.

43 “(9) ‘Nonretail dealer’ means any person who owns, operates, controls or supervises an estab-
44 lishment at which motor vehicle fuel is dispensed through a card- or key-activated fuel dispensing
45 device to nonretail customers.

1 “[(10) ‘Other renewable diesel’ means a diesel fuel substitute, produced from nonfossil renewable
2 resources, that has an established ASTM standard, is approved by the United States Environmental
3 Protection Agency, meets specifications of the National Conference on Weights and Measures, and
4 complies with standards promulgated under ORS 646.957.]

5 “[(11)] (10) ‘Retail dealer’ means any person who owns, operates, controls or supervises an es-
6 tablishment at which gasoline is sold or offered for sale to the public.

7 “[(12)] (11) ‘Wholesale dealer’ means any person engaged in the sale of gasoline if the seller
8 knows or has reasonable cause to believe the buyer intends to resell the gasoline in the same or
9 an altered form to another.

10 “**SECTION 4.** ORS 646.923 is amended to read:

11 “646.923. (1) Each biodiesel [*or other renewable diesel*] producer, each operator of a biodiesel
12 bulk facility and each person who imports biodiesel [*or other renewable diesel*] into this state for sale
13 in this state shall keep for at least one year, at the person’s registered place of business, the cer-
14 tificate of analysis for each batch or production lot of B100 biodiesel sold or delivered in this state.

15 “(2) The Director of Agriculture, or the director’s authorized agent, upon reasonable oral or
16 written notice, may make such examinations of books, papers, records and equipment the director
17 requires to be kept by a biodiesel [*or other renewable diesel*] producer, facility operator or importer
18 as may be necessary to carry out the duties of the director under ORS 646.910 to 646.923.

19 “(3) The director, or the director’s authorized agent, may test biodiesel [*or other renewable*
20 *diesel*] for the purpose of inspecting the biodiesel [*or other renewable diesel*] of any producer, bulk
21 facility, business or other establishment that sells, offers for sale, distributes, transports, hauls, de-
22 livers or stores biodiesel [*or other renewable diesel*] that is subsequently sold or offered for sale, for
23 compliance with the motor fuel quality standards adopted pursuant to ORS 646.957.

24 “(4) For the purpose of ensuring the quality of B100 biodiesel, the director, or the director’s
25 authorized agent, may obtain, at no cost to the department and as often as deemed necessary, a
26 representative sample of B100 biodiesel from any producer, bulk facility, business or other estab-
27 lishment that sells, offers for sale, distributes, transports, hauls, delivers or stores biodiesel. The
28 State Department of Agriculture shall adopt rules establishing the number of samples to be tested.
29 The entire cost of transportation and testing of the samples shall be the responsibility of and in-
30 voiced directly to the business from which the sample was obtained.

31 “**SECTION 5.** ORS 646.957 is amended to read:

32 “646.957. (1) In accordance with any applicable provision of ORS chapter 183, the Director of
33 Agriculture, not later than December 1, 1997, shall adopt rules to carry out the provisions of ORS
34 646.947 to 646.963. Such rules may include, but are not limited to, motor vehicle fuel grade adver-
35 tising, pump grade labeling, testing procedures, quality standards and identification requirements for
36 motor vehicle fuels and ethanol[,] **and** biodiesel [*and other renewable diesel*], as those terms are de-
37 fined in ORS 646.905. Rules adopted by the director under this section shall be consistent, to the
38 extent the director considers appropriate, with the most recent standards adopted by the American
39 Society for Testing and Materials. As standards of the society are revised, the director shall revise
40 the rules in a manner consistent with the revisions unless the director determines that those revised
41 rules will significantly interfere with the director’s ability to carry out the provisions of ORS 646.947
42 to 646.963. Rules adopted pursuant to this section must adequately protect confidential business in-
43 formation and trade secrets that the director or the director’s authorized agent may discover when
44 inspecting books, papers and records pursuant to ORS 646.955.

45 “(2) Testing requirements, specifications and frequency of testing for each production lot of

1 biodiesel[,] or biodiesel blend [*or other renewable diesel*] produced in or brought into this state shall
2 be defined by the director by rule.

3 “**SECTION 6.** ORS 646.922, as amended by section 2 of this 2009 Act, is amended to read:

4 “646.922. (1) Upon receipt of the notice given under ORS 646.921 (2), a retail dealer, nonretail
5 dealer or wholesale dealer may not sell or offer for sale diesel fuel unless the diesel fuel contains
6 at least two percent biodiesel by volume **or other renewable diesel with at least two percent**
7 **renewable component by volume.**

8 “(2) Two months after the date of the notice given under ORS 646.921 (3), a retail dealer,
9 nonretail dealer or wholesale dealer may not sell or offer for sale diesel fuel unless the diesel fuel
10 contains at least five percent biodiesel by volume **or other renewable diesel with at least five**
11 **percent renewable component by volume.** Diesel fuel containing more than five percent biodiesel
12 by volume **or other renewable diesel with more than five percent renewable component by**
13 **volume** must be labeled as provided by the State Department of Agriculture by rule.

14 “(3) The department shall adopt standards for biodiesel **or other renewable diesel** sold in this
15 state. The department shall consult the specifications established for biodiesel **or other renewable**
16 **diesel** by ASTM International in forming its standards. The department may review specifications
17 adopted by ASTM International, or equivalent organizations, and revise the standards adopted pur-
18 suant to this subsection as necessary.

19 “(4) The minimum biodiesel fuel content **or renewable component in other renewable diesel**
20 requirements under subsections (1) and (2) of this section do not apply to diesel fuel sold or offered
21 for sale for use by railroad locomotives, marine engines or home heating.

22 “**SECTION 7.** ORS 646.905, as amended by section 3 of this 2009 Act, is amended to read:

23 “646.905. As used in ORS 646.910 to 646.923:

24 “(1) ‘Alcohol’ means a volatile flammable liquid having the general formula $C_nH_{(2n+1)}OH$ used
25 or sold for the purpose of blending or mixing with gasoline for use in propelling motor vehicles, and
26 commonly or commercially known or sold as an alcohol, and includes ethanol or methanol.

27 “(2) ‘Biodiesel’ means a motor vehicle fuel consisting of mono-alkyl esters of long chain fatty
28 acids derived from vegetable oils, animal fats or other nonpetroleum resources, not including palm
29 oil, designated as B100 and complying with ASTM D 6751.

30 “(3) ‘Certificate of analysis’ means:

31 “(a) A document verifying that B100 biodiesel has been analyzed and complies with, at a mini-
32 mum, the following ASTM D 6751 biodiesel fuel test methods and specifications:

33 “(A) Flash point (ASTM D 93);

34 “(B) Acid number (ASTM D 664);

35 “(C) Cloud point (ASTM D 2500);

36 “(D) Water and sediment (ASTM D 2709);

37 “(E) Visual appearance (ASTM D 4176);

38 “(F) Free glycerin (ASTM D 6854); and

39 “(G) Total glycerin (ASTM D 6854); and

40 “(b) Certification of feedstock origination describing the percent of the feedstock sourced out-
41 side of the states of Oregon, Washington, Idaho and Montana.

42 “(4) ‘Co-solvent’ means an alcohol other than methanol which is blended with either methanol
43 or ethanol or both to minimize phase separation in gasoline.

44 “(5) ‘Ethanol’ means ethyl alcohol, a flammable liquid having the formula C_2H_5OH used or sold
45 for the purpose of blending or mixing with gasoline for use in motor vehicles.

1 “(6) ‘Gasoline’ means any fuel sold for use in spark ignition engines whether leaded or unleaded.

2 “(7) ‘Methanol’ means methyl alcohol, a flammable liquid having the formula CH₃OH used or
3 sold for the purpose of blending or mixing with gasoline for use in motor vehicles.

4 “(8) ‘Motor vehicles’ means all vehicles, vessels, watercraft, engines, machines or mechanical
5 contrivances that are propelled by internal combustion engines or motors.

6 “(9) ‘Nonretail dealer’ means any person who owns, operates, controls or supervises an estab-
7 lishment at which motor vehicle fuel is dispensed through a card- or key-activated fuel dispensing
8 device to nonretail customers.

9 “(10) ‘**Other renewable diesel**’ means a diesel fuel substitute, produced from nonfossil
10 renewable resources, that has an established ASTM standard, is approved by the United
11 States Environmental Protection Agency, meets specifications of the National Conference
12 on Weights and Measures, and complies with standards promulgated under ORS 646.957.

13 “[10] (11) ‘Retail dealer’ means any person who owns, operates, controls or supervises an es-
14 tablishment at which gasoline is sold or offered for sale to the public.

15 “[11] (12) ‘Wholesale dealer’ means any person engaged in the sale of gasoline if the seller
16 knows or has reasonable cause to believe the buyer intends to resell the gasoline in the same or
17 an altered form to another.

18 “**SECTION 8.** ORS 646.923, as amended by section 4 of this 2009 Act, is amended to read:

19 “646.923. (1) Each biodiesel **or other renewable diesel** producer, each operator of a biodiesel
20 bulk facility and each person who imports biodiesel **or other renewable diesel** into this state for
21 sale in this state shall keep for at least one year, at the person’s registered place of business, the
22 certificate of analysis for each batch or production lot of B100 biodiesel sold or delivered in this
23 state.

24 “(2) The Director of Agriculture, or the director’s authorized agent, upon reasonable oral or
25 written notice, may make such examinations of books, papers, records and equipment the director
26 requires to be kept by a biodiesel **or other renewable diesel** producer, facility operator or importer
27 as may be necessary to carry out the duties of the director under ORS 646.910 to 646.923.

28 “(3) The director, or the director’s authorized agent, may test biodiesel **or other renewable**
29 **diesel** for the purpose of inspecting the biodiesel **or other renewable diesel** of any producer, bulk
30 facility, business or other establishment that sells, offers for sale, distributes, transports, hauls, de-
31 livers or stores biodiesel **or other renewable diesel** that is subsequently sold or offered for sale,
32 for compliance with the motor fuel quality standards adopted pursuant to ORS 646.957.

33 “(4) For the purpose of ensuring the quality of B100 biodiesel, the director, or the director’s
34 authorized agent, may obtain, at no cost to the department and as often as deemed necessary, a
35 representative sample of B100 biodiesel from any producer, bulk facility, business or other estab-
36 lishment that sells, offers for sale, distributes, transports, hauls, delivers or stores biodiesel. The
37 State Department of Agriculture shall adopt rules establishing the number of samples to be tested.
38 The entire cost of transportation and testing of the samples shall be the responsibility of and in-
39 voiced directly to the business from which the sample was obtained.

40 “**SECTION 9.** ORS 646.957, as amended by section 5 of this 2009 Act, is amended to read:

41 “646.957. (1) In accordance with any applicable provision of ORS chapter 183, the Director of
42 Agriculture, not later than December 1, 1997, shall adopt rules to carry out the provisions of ORS
43 646.947 to 646.963. Such rules may include, but are not limited to, motor vehicle fuel grade adver-
44 tising, pump grade labeling, testing procedures, quality standards and identification requirements for
45 motor vehicle fuels and ethanol, [and] biodiesel **and other renewable diesel**, as those terms are

1 defined in ORS 646.905. Rules adopted by the director under this section shall be consistent, to the
2 extent the director considers appropriate, with the most recent standards adopted by the American
3 Society for Testing and Materials. As standards of the society are revised, the director shall revise
4 the rules in a manner consistent with the revisions unless the director determines that those revised
5 rules will significantly interfere with the director's ability to carry out the provisions of ORS 646.947
6 to 646.963. Rules adopted pursuant to this section must adequately protect confidential business in-
7 formation and trade secrets that the director or the director's authorized agent may discover when
8 inspecting books, papers and records pursuant to ORS 646.955.

9 "(2) Testing requirements, specifications and frequency of testing for each production lot of
10 biodiesel, [or] biodiesel blend **or other renewable diesel** produced in or brought into this state shall
11 be defined by the director by rule."

12 In line 16, delete "3" and insert "10".

13 In line 17, after "646.922" insert "(2)".

14 In line 19, delete "(2)" and insert "(3)".

15 After line 19, insert:

16 "**SECTION 11. The amendments to ORS 646.905, 646.922, 646.923 and 646.957 by sections 6**
17 **to 9 of this 2009 Act become operative on January 2, 2012.**".

18 In line 20, delete "4" and insert "12".

19
