

Enrolled
House Bill 3693

Sponsored by COMMITTEE ON ENVIRONMENT AND WATER

CHAPTER

AN ACT

Relating to additives to biodiesel fuel; creating new provisions; amending ORS 646.921 and 646.922 and section 16, chapter 739, Oregon Laws 2007; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 646.921 is amended to read:

646.921. (1) The State Department of Agriculture shall study and monitor biodiesel fuel production, use and sales and certificates of analysis in this state.

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

[(a) After August 1, 2009, in the counties of:]

[(A) Clackamas;]

[(B) Clatsop;]

[(C) Columbia;]

[(D) Marion;]

[(E) Multnomah;]

[(F) Polk;]

[(G) Tillamook;]

[(H) Washington; and]

[(I) Yamhill; and]

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

[(3)] (2) When the capacity of biodiesel production facilities in Oregon reaches a level of at least 15 million gallons on an annualized basis, the department shall notify all retail dealers, nonretail dealers and wholesale dealers in this state that the capacity of biodiesel production facilities in Oregon has reached a level of at least 15 million gallons on an annualized basis and that a retail dealer, nonretail dealer or wholesale dealer may sell or offer for sale diesel fuel only as described in ORS 646.922 (2) after the date that is two months after the date of the notice given by the department under this subsection.

[(4)] (3) All retail dealers, nonretail dealers and wholesale dealers in Oregon are required to provide, upon the request of the department, a certificate of analysis for biodiesel received.

SECTION 2. ORS 646.922 is amended to read:

646.922. (1) *[Upon receipt of the notice given under ORS 646.921 (2) and after the dates specified in ORS 646.921 (2)(a) and (b),]* A retail dealer, nonretail dealer or wholesale dealer may not sell or offer for sale diesel fuel unless the diesel fuel contains at least two percent biodiesel by volume.

(2) Two months after the date of the notice given under ORS 646.921 [(3)] (2), a retail dealer, nonretail dealer or wholesale dealer may not sell or offer for sale diesel fuel unless the diesel fuel contains at least five percent biodiesel by volume. Diesel fuel containing more than five percent biodiesel by volume must be labeled as provided by the State Department of Agriculture by rule.

(3) A retail dealer, nonretail dealer or wholesale dealer may sell or offer for sale diesel fuel that otherwise meets the requirements of subsections (1) and (2) of this section and rules adopted pursuant to ORS 646.957 but to which there have been added substances to prevent congealing or gelling of diesel fuel containing biodiesel, without violating the requirements of subsections (1) and (2) of this section and rules adopted pursuant to ORS 646.957. This subsection applies only to diesel fuel sold or offered for sale during the period from October 1 of any year to February 28 of the following year.

[(3)] (4) The department shall adopt standards for biodiesel or other renewable diesel sold in this state. The department shall consult the specifications established for biodiesel or other renewable diesel by ASTM International in forming its standards. The department may review specifications adopted by ASTM International, or equivalent organizations, and revise the standards adopted pursuant to this subsection as necessary.

[(4)] (5) The minimum biodiesel fuel content requirements under subsections (1) and (2) of this section do not apply to diesel fuel sold or offered for sale for use by railroad locomotives, marine engines or home heating.

SECTION 3. ORS 646.922, as amended by section 3, chapter 752, Oregon Laws 2009, is amended to read:

646.922. (1) *[Upon receipt of the notice given under ORS 646.921 (2) and after the dates specified in ORS 646.921 (2)(a) and (b),]* A retail dealer, nonretail dealer or wholesale dealer may not sell or offer for sale diesel fuel unless the diesel fuel contains at least two percent biodiesel by volume or other renewable diesel with at least two percent renewable component by volume.

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

(3) A retail dealer, nonretail dealer or wholesale dealer may sell or offer for sale diesel fuel that otherwise meets the requirements of subsections (1) and (2) of this section and rules adopted pursuant to ORS 646.957 but to which there have been added substances to prevent congealing or gelling of diesel fuel containing biodiesel or other renewable diesel, without violating the requirements of subsections (1) and (2) of this section and rules adopted pursuant to ORS 646.957. This subsection applies only to diesel fuel sold or offered for sale during the period from October 1 of any year to February 28 of the following year.

[(3)] (4) The department shall adopt standards for biodiesel or other renewable diesel sold in this state. The department shall consult the specifications established for biodiesel or other renewable diesel by ASTM International in forming its standards. The department may review specifications adopted by ASTM International, or equivalent organizations, and revise the standards adopted pursuant to this subsection as necessary.

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

SECTION 4. Section 16, chapter 739, Oregon Laws 2007, as amended by section 4, chapter 752, Oregon Laws 2009, is amended to read:

Sec. 16. ORS 646.922 (2) and 646.923 become operative on a date that is two months following the date of the first notice required under ORS 646.921 [(3)] (2).

SECTION 5. ORS 646.922, as amended by section 2 of this 2010 Act, is amended to read:

646.922. (1) A retail dealer, nonretail dealer or wholesale dealer may not sell or offer for sale diesel fuel unless the diesel fuel contains at least two percent biodiesel by volume.

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

[(3) A retail dealer, nonretail dealer or wholesale dealer may sell or offer for sale diesel fuel that otherwise meets the requirements of subsections (1) and (2) of this section and rules adopted pursuant to ORS 646.957 but to which there have been added substances to prevent congealing or gelling of diesel fuel containing biodiesel, without violating the requirements of subsections (1) and (2) of this section and rules adopted pursuant to ORS 646.957. This subsection applies only to diesel fuel sold or offered for sale during the period from October 1 of any year to February 28 of the following year.]

[(4)] (3) The department shall adopt standards for biodiesel or other renewable diesel sold in this state. The department shall consult the specifications established for biodiesel or other renewable diesel by ASTM International in forming its standards. The department may review specifications adopted by ASTM International, or equivalent organizations, and revise the standards adopted pursuant to this subsection as necessary.

[(5)] (4) The minimum biodiesel fuel content requirements under subsections (1) and (2) of this section do not apply to diesel fuel sold or offered for sale for use by railroad locomotives, marine engines or home heating.

SECTION 6. ORS 646.922, as amended by section 3, chapter 752, Oregon Laws 2009, and section 3 of this 2010 Act, is amended to read:

646.922. (1) A retail dealer, nonretail dealer or wholesale dealer may not sell or offer for sale diesel fuel unless the diesel fuel contains at least two percent biodiesel by volume or other renewable diesel with at least two percent renewable component by volume.

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

[(3) A retail dealer, nonretail dealer or wholesale dealer may sell or offer for sale diesel fuel that otherwise meets the requirements of subsections (1) and (2) of this section and rules adopted pursuant to ORS 646.957 but to which there have been added substances to prevent congealing or gelling of diesel fuel containing biodiesel or other renewable diesel, without violating the requirements of subsections (1) and (2) of this section and rules adopted pursuant to ORS 646.957. This subsection applies only to diesel fuel sold or offered for sale during the period from October 1 of any year to February 28 of the following year.]

[(4)] (3) The department shall adopt standards for biodiesel or other renewable diesel sold in this state. The department shall consult the specifications established for biodiesel or other renewable diesel by ASTM International in forming its standards. The department may review specifications adopted by ASTM International, or equivalent organizations, and revise the standards adopted pursuant to this subsection as necessary.

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

SECTION 7. The amendments to ORS 646.922 by sections 5 and 6 of this 2010 Act become operative on March 1, 2011.

SECTION 8. This 2010 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect on its passage.

Passed by House February 16, 2010

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Chief Clerk of House

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Speaker of House

Passed by Senate February 20, 2010

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President of Senate

Received by Governor:

.....M,....., 2010

Approved:

.....M,....., 2010

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Governor

Filed in Office of Secretary of State:

.....M,....., 2010

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Secretary of State