

A-Engrossed
House Bill 3693

Ordered by the House February 12
Including House Amendments dated February 12

Sponsored by COMMITTEE ON ENVIRONMENT AND WATER

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Permits sale of diesel fuel containing additives to prevent congealing from *[November 1 to March 31]* **October 1 to February 28** without violating minimum biodiesel content requirements. **Sunsets March 1, 2011.**

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to additives to biodiesel fuel; creating new provisions; amending ORS 646.921 and 646.922
3 and section 16, chapter 739, Oregon Laws 2007; and declaring an emergency.

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

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

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

14 *[(A) Clackamas;]*

15 *[(B) Clatsop;]*

16 *[(C) Columbia;]*

17 *[(D) Marion;]*

18 *[(E) Multnomah;]*

19 *[(F) Polk;]*

20 *[(G) Tillamook;]*

21 *[(H) Washington; and]*

22 *[(I) Yamhill; and]*

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

25 *[(3)]* **(2)** When the capacity of biodiesel production facilities in Oregon reaches a level of at least
26 15 million gallons on an annualized basis, the department shall notify all retail dealers, nonretail
27 dealers and wholesale dealers in this state that the capacity of biodiesel production facilities in

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 Oregon has reached a level of at least 15 million gallons on an annualized basis and that a retail
2 dealer, nonretail dealer or wholesale dealer may sell or offer for sale diesel fuel only as described
3 in ORS 646.922 (2) after the date that is two months after the date of the notice given by the de-
4 partment under this subsection.

5 [(4)] (3) All retail dealers, nonretail dealers and wholesale dealers in Oregon are required to
6 provide, upon the request of the department, a certificate of analysis for biodiesel received.

7 **SECTION 2.** ORS 646.922 is amended to read:

8 646.922. (1) [Upon receipt of the notice given under ORS 646.921 (2) and after the dates specified
9 in ORS 646.921 (2)(a) and (b),] A retail dealer, nonretail dealer or wholesale dealer may not sell or
10 offer for sale diesel fuel unless the diesel fuel contains at least two percent biodiesel by volume.

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

15 (3) **A retail dealer, nonretail dealer or wholesale dealer may sell or offer for sale diesel
16 fuel that otherwise meets the requirements of subsections (1) and (2) of this section and
17 rules adopted pursuant to ORS 646.957 but to which there have been added substances to
18 prevent congealing or gelling of diesel fuel containing biodiesel, without violating the re-
19 quirements of subsections (1) and (2) of this section and rules adopted pursuant to ORS
20 646.957. This subsection applies only to diesel fuel sold or offered for sale during the period
21 from October 1 of any year to February 28 of the following year.**

22 [(3)] (4) The department shall adopt standards for biodiesel or other renewable diesel sold in this
23 state. The department shall consult the specifications established for biodiesel or other renewable
24 diesel by ASTM International in forming its standards. The department may review specifications
25 adopted by ASTM International, or equivalent organizations, and revise the standards adopted pur-
26 suant to this subsection as necessary.

27 [(4)] (5) The minimum biodiesel fuel content requirements under subsections (1) and (2) of this
28 section do not apply to diesel fuel sold or offered for sale for use by railroad locomotives, marine
29 engines or home heating.

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

32 646.922. (1) [Upon receipt of the notice given under ORS 646.921 (2) and after the dates specified
33 in ORS 646.921 (2)(a) and (b),] A retail dealer, nonretail dealer or wholesale dealer may not sell or
34 offer for sale diesel fuel unless the diesel fuel contains at least two percent biodiesel by volume or
35 other renewable diesel with at least two percent renewable component by volume.

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

42 (3) **A retail dealer, nonretail dealer or wholesale dealer may sell or offer for sale diesel
43 fuel that otherwise meets the requirements of subsections (1) and (2) of this section and
44 rules adopted pursuant to ORS 646.957 but to which there have been added substances to
45 prevent congealing or gelling of diesel fuel containing biodiesel or other renewable diesel,**

1 **without violating the requirements of subsections (1) and (2) of this section and rules adopted**
 2 **pursuant to ORS 646.957. This subsection applies only to diesel fuel sold or offered for sale**
 3 **during the period from October 1 of any year to February 28 of the following year.**

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

9 [(4)] (5) The minimum biodiesel fuel content or renewable component in other renewable diesel
 10 requirements under subsections (1) and (2) of this section do not apply to diesel fuel sold or offered
 11 for sale for use by railroad locomotives, marine engines or home heating.

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

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

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

17 646.922. (1) A retail dealer, nonretail dealer or wholesale dealer may not sell or offer for sale
 18 diesel fuel unless the diesel fuel contains at least two percent biodiesel by volume.

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

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

29 [(4)] (3) The department shall adopt standards for biodiesel or other renewable diesel sold in this
 30 state. The department shall consult the specifications established for biodiesel or other renewable
 31 diesel by ASTM International in forming its standards. The department may review specifications
 32 adopted by ASTM International, or equivalent organizations, and revise the standards adopted pur-
 33 suant to this subsection as necessary.

34 [(5)] (4) The minimum biodiesel fuel content requirements under subsections (1) and (2) of this
 35 section do not apply to diesel fuel sold or offered for sale for use by railroad locomotives, marine
 36 engines or home heating.

37 **SECTION 6.** ORS 646.922, as amended by section 3, chapter 752, Oregon Laws 2009, and section
 38 3 of this 2010 Act, is amended to read:

39 646.922. (1) A retail dealer, nonretail dealer or wholesale dealer may not sell or offer for sale
 40 diesel fuel unless the diesel fuel contains at least two percent biodiesel by volume or other
 41 renewable diesel with at least two percent renewable component by volume.

42 (2) Two months after the date of the notice given under ORS 646.921 (2), a retail dealer,
 43 nonretail dealer or wholesale dealer may not sell or offer for sale diesel fuel unless the diesel fuel
 44 contains at least five percent biodiesel by volume or other renewable diesel with at least five per-
 45 cent renewable component by volume. Diesel fuel containing more than five percent biodiesel by

1 volume or other renewable diesel with more than five percent renewable component by volume must
2 be labeled as provided by the State Department of Agriculture by rule.

3 *[(3) A retail dealer, nonretail dealer or wholesale dealer may sell or offer for sale diesel fuel that*
4 *otherwise meets the requirements of subsections (1) and (2) of this section and rules adopted pursuant*
5 *to ORS 646.957 but to which there have been added substances to prevent congealing or gelling of*
6 *diesel fuel containing biodiesel or other renewable diesel, without violating the requirements of sub-*
7 *sections (1) and (2) of this section and rules adopted pursuant to ORS 646.957. This subsection applies*
8 *only to diesel fuel sold or offered for sale during the period from October 1 of any year to February*
9 *28 of the following year.]*

10 [(4)] (3) The department shall adopt standards for biodiesel or other renewable diesel sold in this
11 state. The department shall consult the specifications established for biodiesel or other renewable
12 diesel by ASTM International in forming its standards. The department may review specifications
13 adopted by ASTM International, or equivalent organizations, and revise the standards adopted pur-
14 suant to this subsection as necessary.

15 [(5)] (4) The minimum biodiesel fuel content or renewable component in other renewable diesel
16 requirements under subsections (1) and (2) of this section do not apply to diesel fuel sold or offered
17 for sale for use by railroad locomotives, marine engines or home heating.

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

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

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