

By the Committee on Agriculture; and Senator Bennett

575-02799-11

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1                   A bill to be entitled  
2           An act relating to biodiesel; amending s. 206.01,  
3           F.S.; defining the term "renewable feedstocks";  
4           amending s. 206.02, F.S.; exempting certain biodiesel  
5           manufacturers from bonding requirements; amending s.  
6           206.874, F.S.; exempting certain biodiesel  
7           manufacturers from specific taxes on diesel fuel;  
8           amending s. 206.9925, F.S.; redefining the term  
9           "pollutants" to exclude certain biodiesel; amending s.  
10          526.202, F.S.; providing legislative findings  
11          regarding the sale of diesel containing biodiesel;  
12          amending s. 526.203, F.S.; defining the terms  
13          "biodiesel" and "diesel fuel"; establishing standards  
14          for the amount of biodiesel that must be contained in  
15          diesel fuel; requiring dealers and wholesalers to  
16          provide certified fuel analyses upon the department's  
17          request; providing an exemption from regulation;  
18          requiring reports to the Department of Revenue;  
19          amending s. 526.205, F.S.; providing for certain  
20          persons to apply for extensions to comply with the  
21          requirements of the act; providing an effective date.

22  
23   Be It Enacted by the Legislature of the State of Florida:

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25           Section 1. Subsection (31) is added to section 206.01,  
26   Florida Statutes, to read:

27           206.01 Definitions.—As used in this chapter:

28           (31) "Renewable feedstocks" mean crops and animal products  
29           that may be used to produce fuel or energy.

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30 Section 2. Subsection (5) of section 206.02, Florida  
31 Statutes, is amended to read:

32 206.02 Application for license; temporary license; terminal  
33 suppliers, importers, exporters, blenders, biodiesel  
34 manufacturers, and wholesalers.—

35 (5) Each biodiesel manufacturer that processes at least 50  
36 percent of its annual B100 biodiesel production from renewable  
37 feedstocks originating in this state must meet the reporting,  
38 ~~bonding,~~ and licensing requirements prescribed for wholesalers  
39 by this chapter. All other biodiesel manufacturers must comply  
40 with the reporting, bonding, and licensing requirements for  
41 wholesalers in this chapter.

42 Section 3. Subsection (7) of section 206.874, Florida  
43 Statutes, is amended to read:

44 206.874 Exemptions.—

45 (7) Biodiesel fuel manufactured by a public or private  
46 secondary school that produces less than 1,000 gallons annually  
47 for the sole use at the school, by its employees, or its  
48 students, or biodiesel fuel manufactured by a biodiesel  
49 manufacturer that produces at least 50 percent of its annual  
50 B100 biodiesel from renewable feedstocks originating in this  
51 state, is exempt from the tax imposed by this part. A public or  
52 private secondary school that produces less than 1,000 gallons a  
53 year of biodiesel is exempt from the registration requirements  
54 of this chapter.

55 Section 4. Subsection (5) of section 206.9925, Florida  
56 Statutes, is amended to read:

57 206.9925 Definitions.—As used in this part:

58 (5) "Pollutants" includes any petroleum product as defined

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59 in subsection (4) as well as pesticides, ammonia, and chlorine;  
60 lead-acid batteries, including, but not limited to, batteries  
61 that are a component part of other tangible personal property;  
62 and solvents as defined in subsection (6), but the term excludes  
63 liquefied petroleum gas, medicinal oils, and waxes. Products  
64 intended for application to the human body or for use in human  
65 personal hygiene or for human ingestion are not pollutants,  
66 regardless of their contents. B100 or B99 biodiesel manufactured  
67 in this state is not a pollutant if at least 50 percent of the  
68 manufacturer's annual production is from renewable feedstocks  
69 originating in this state. For the purpose of the tax imposed  
70 under s. 206.9935(1), "pollutants" also includes crude oil.

71 Section 5. Section 526.202, Florida Statutes, is amended to  
72 read:

73 526.202 Legislative findings.—The Legislature finds it is  
74 vital to the public interest and to the state's economy to  
75 establish a market and the necessary infrastructure for  
76 renewable fuels in this state by requiring that all gasoline  
77 offered for sale in this state include a percentage of  
78 agriculturally derived, denatured ethanol and that all diesel  
79 offered for sale in this state include a specified percentage of  
80 biodiesel. The Legislature further finds that the use of  
81 renewable fuel reduces greenhouse gas emissions and dependence  
82 on imports of foreign oil, improves the health and quality of  
83 life for Floridians, and stimulates economic development and the  
84 creation of a sustainable industry that combines agricultural  
85 production with state-of-the-art technology.

86 Section 6. Section 526.203, Florida Statutes, is amended to  
87 read:

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88 526.203 Renewable fuel standard.—

89 (1) DEFINITIONS.—As used in this act:

90 (a) "Biodiesel" has the same meaning as provided in s.  
91 212.08(7)(ccc).

92 (b) ~~(a)~~ "Blender," "importer," "terminal supplier," and  
93 "wholesaler" are defined as provided in s. 206.01.

94 (c) ~~(b)~~ "Blended gasoline" means a mixture of 90 to 91  
95 percent gasoline and 9 to 10 percent fuel ethanol, by volume,  
96 that meets the specifications as adopted by the department. The  
97 fuel ethanol portion may be derived from any agricultural  
98 source.

99 (d) "Diesel fuel" has the same meaning as provided in s.  
100 206.86.

101 (e) ~~(e)~~ "Fuel ethanol" means an anhydrous denatured alcohol  
102 produced by the conversion of carbohydrates that meets the  
103 specifications as adopted by the department.

104 (f) ~~(d)~~ "Unblended gasoline" means gasoline that has not  
105 been blended with fuel ethanol and that meets the specifications  
106 as adopted by the department.

107 (2) FUEL STANDARD.—~~Beginning December 31, 2010,~~

108 (a) All gasoline sold or offered for sale in Florida by a  
109 terminal supplier, importer, blender, or wholesaler shall be  
110 blended gasoline.

111 (b)1. Beginning December 31, 2011, all diesel fuel sold by  
112 dealers or wholesalers in this state must contain at least 2  
113 percent biodiesel.

114 2. However, when the annualized biodiesel production  
115 capacity of production facilities in this state reaches 233  
116 million gallons, which is approximately 8 percent of the annual

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117 diesel consumption in the state, the Department of Agriculture  
118 and Consumer Services shall notify all dealers and wholesalers  
119 that the annual biodiesel capacity has reached a minimum level  
120 and that they must begin selling diesel fuel that contains a  
121 minimum of 5 percent biodiesel no later than 2 months after the  
122 date of such notice.

123 (c) Dealers and wholesalers, upon the request of the  
124 department, shall provide a certificate of analysis of any  
125 biodiesel received.

126 (3) EXEMPTIONS.—The requirements of this act do not apply  
127 to the following:

128 (a) Fuel used in aircraft.

129 (b) Fuel sold for use in gasoline-powered boats and similar  
130 watercraft.

131 (c) Fuel sold to a blender.

132 (d) Fuel sold for use in collector vehicles or vehicles  
133 eligible to be licensed as collector vehicles, off-road  
134 vehicles, motorcycles, or small engines.

135 (e) Fuel unable to comply due to requirements of the United  
136 States Environmental Protection Agency.

137 (f) Fuel transferred between terminals.

138 (g) Fuel exported from the state in accordance with s.  
139 206.052.

140 (h) Fuel qualifying for any exemption in accordance with  
141 chapter 206.

142 (i) Fuel for a railroad locomotive.

143 (j) Fuel for equipment, including vehicle or vessel,  
144 covered by a warranty that would be voided, if explicitly stated  
145 in writing by the vehicle or vessel manufacturer, if the

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146 equipment were to be operated using fuel meeting the  
147 requirements of subsection (2).

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149 All records of sale of unblended gasoline shall include the  
150 following statement: "Unblended gasoline may be sold only for  
151 the purposes authorized under s. 526.203(3), F.S."

152 (4) REPORT.—Pursuant to s. 206.43, each terminal supplier,  
153 importer, blender, and wholesaler shall include in its report to  
154 the Department of Revenue the number of gallons of blended and  
155 unblended gasoline, diesel, and biodiesel sold. The Department  
156 of Revenue shall provide a monthly summary report to the  
157 department.

158 Section 7. Section 526.205, Florida Statutes, is amended to  
159 read:

160 526.205 Enforcement; extensions.—

161 (1) Unless a waiver or suspension pursuant to s. 526.204  
162 applies, or an extension has been granted pursuant to subsection  
163 (3), it shall be unlawful for a terminal supplier, importer,  
164 blender, or wholesaler to sell or distribute, or offer for sale  
165 or distribution, any gasoline or diesel which fails to meet the  
166 requirements of this act.

167 (2) Upon a determination by the department of a violation  
168 of this act, the department shall enter an order imposing one or  
169 more of the following penalties:

170 (a) Issuance of a warning letter.

171 (b) Imposition of an administrative fine of not more than  
172 \$1,000 per violation for a first-time offender. For a second-  
173 time or repeat offender, or any person who is shown to have  
174 willfully and intentionally violated any provision of this act,

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175 the administrative fine shall not exceed \$5,000 per violation.  
176 When imposing any fine under this section, the department shall  
177 consider the monetary benefit to the violator as a result of  
178 noncompliance, whether the violation was committed willfully,  
179 and the compliance record of the violator. All funds recovered  
180 by the department shall be deposited into the General Inspection  
181 Trust Fund.

182 (3) Any terminal supplier, importer, blender, or wholesaler  
183 may apply to the department by September 30, 2011 ~~2010~~, for an  
184 extension of time to comply with the requirements of this act  
185 relating to biodiesel. The application for an extension must  
186 demonstrate that the applicant has made a good faith effort to  
187 comply with the requirements but has been unable to do so for  
188 reasons beyond the applicant's control, such as delays in  
189 receiving governmental permits. The department shall review each  
190 application and make a determination as to whether the failure  
191 to comply was beyond the control of the applicant. If the  
192 department determines that the applicant made a good faith  
193 effort to comply, but was unable to do so for reasons beyond the  
194 applicant's control, the department shall grant an extension of  
195 time determined necessary for the applicant to comply.

196 Section 8. This act shall take effect July 1, 2011.