

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Environmental Preservation and Conservation

BILL: SB 320

INTRODUCER: Senator Evers

SUBJECT: Florida Renewable Fuel Standard Act

DATE: April 8, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	Favorable
2.	Hinton	Uchino	EP	Pre-meeting
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

SB 320 repeals the Florida Renewable Fuel Standard Act, allowing a terminal supplier, importer, blender, or wholesaler to sell unblended gasoline for any use or purpose, not just those currently listed as exemptions to the act.

The bill also amends s. 206.43(2), F.S., to delete a requirement that a terminal supplier, importer, exporter, blender, and wholesaler report monthly to the Department of Revenue the number of gallons of blended and unblended gasoline sold.

SB 320 repeals the following sections of the Florida Statutes: 526.201, 526.202, 526.203, 526.204, 526.205, 526.206, and 526.207. It also substantially amends s. 206.43 of the Florida Statutes.

II. Present Situation:

Florida Renewable Fuel Standard Act

Sections 526.201-526.207, F. S., constitute the Florida Renewable Fuel Standard Act, adopted in 2008. The standard establishes a general requirement that all gasoline sold or offered for sale in Florida by a terminal supplier, importer, blender, or wholesaler be blended gasoline.¹ “Blended gasoline” is defined as a mixture of 90 to 91 percent gasoline and 9 to 10 percent fuel ethanol or other alternative fuel which meets the specifications adopted by the Department of Agriculture

¹ Section 526.203(2), F.S.

and Consumer Services (DACS).² The fuel ethanol or other alternative fuel portion may be derived from any agricultural source.

The following uses are exempted from the blended fuel requirement:

- Fuel used in aircraft;
- Fuel sold for use in bats and similar watercraft;
- Fuel sold to a blender;
- Fuel sold for use in collector vehicles or vehicles eligible to be licensed as collector vehicles, off-road vehicles, motorcycles, or small engines;
- Fuel unable to comply due to requirements of the U.S. Environmental Protection Agency (EPA);
- Fuel transferred between terminals;
- Fuel exported from the state in accordance with s. 206.052, F.S.;
- Fuel qualifying for any exemption in accordance with ch. 206, F.S.;
- Fuel for a railroad locomotive; and
- Fuel for equipment, including vehicle or vessel, covered by a warranty that would be voided, if explicitly stated in writing by the vehicle or vessel manufacturer, if the equipment were to be operated using fuel meeting the blended fuel requirements.³

Additionally, the standard does not prohibit a retail dealer from selling unblended gasoline if it is used for any of the exempted uses listed above, and requires the DACS to compile a list of retail fuel stations that sell or offer to sell unblended gasoline and provide this information on its website to inform consumers of the options available for unblended gasoline.⁴

Federal Renewable Fuel Standard

The federal Energy Policy Act of 2005 amended the Clean Air Act to establish a Renewable Fuel Standard program. The Renewable Fuel Standard requires the EPA to promulgate regulations to ensure that gasoline sold or introduced into commerce in the United States (except in noncontiguous states or territories), on an annual average basis, contains the required, applicable volume of renewable fuel.⁵ The required volume of the four types of motor vehicle fuels (renewable fuels, advanced biofuels, cellulosic biofuels, and biomass-derived diesel) that must be produced each year is stated in a schedule that lists the minimum amount, in billions of gallons, beginning in 2006 and ending in 2022, that must be produced. The amounts increase each year. The different types of fuels are defined as:

- “Renewable fuel” means “fuel that is produced from renewable biomass and that is used to replace or reduce the quantity of fossil fuel present in a transportation fuel.”
- “Advanced biofuels” means renewable fuel, other than ethanol derived from corn starch, that has lifecycle greenhouse gas emissions, as determined by the EPA, that are at least 50 percent less than baseline lifecycle greenhouse gas emissions. The types of fuels eligible for consideration as “advanced biofuels” may include any of the following:
 - Ethanol derived from cellulose, hemicellulose, or lignin;

² Section 526.203(1)(c), F.S.

³ Section 526.203(3), F.S.

⁴ Section 526.203(5), F.S.

⁵ 42 U.S.C. s. 7545(o) (2).

- Ethanol derived from sugar or starch (other than corn starch);
- Ethanol derived from waste material, including crop residue, other vegetative waste material, animal waste, and food waste and yard waste;
- Biomass-based diesel;
- Biogas (including landfill gas and sewage waste treatment gas) produced through the conversion of organic matter from renewable biomass;
- Butanol or other alcohols produced through the conversion of organic matter from renewable biomass; and
- Other fuel derived from cellulosic biomass.
- “Cellulosic biofuels” means renewable fuel derived from any cellulose, hemicellulose, or lignin that is derived from renewable biomass and that has lifecycle greenhouse gas emissions, as determined by the EPA, that are at least 60 percent less than the baseline lifecycle greenhouse gas emissions.
- “Biomass-based diesel” means renewable fuel that is derived from such things as animal wastes, including poultry fats and other waste materials, and municipal solid waste and sludges.⁶

The federal Renewable Fuel Standard does not create any obligation or standard for an individual state, nor are calculations to determine the standard’s annual requirements or compliance with those requirements calculated on a state-by-state basis.⁷ Instead, the standard creates a requirement on “obligated parties,” defined as:

any refiner that produces gasoline or diesel fuel within the 48 contiguous states or Hawaii, or any importer that imports gasoline or diesel fuel into the 48 contiguous states or Hawaii during a compliance period. A party that simply blends renewable fuel into gasoline or diesel fuel, as defined in §80.1407(c) or (e), is not an obligated party.⁸

The standard requires obligated parties to periodically prove ownership of a volume of renewable fuels as determined by their Renewable Volume Obligation (RVO).⁹ An obligated party’s RVO is determined by the equation $RVO_i = (RFStd_i \times GVi) + Di_{i-1}$, where:

RVO_i = The obligated party’s Renewable Volume Obligation for calendar year i, in gallons of renewable fuel;

RFStd_i = The renewable fuel standard for calendar year i, a percentage determined by EPA pursuant to Title 40 CFR s. 80.1105;

GV_i = The non-renewable gasoline volume which is produced or imported by the obligated party in calendar year i, in gallons;

Di_{i-1} = Renewable fuel deficit carryover from the previous year, per Title 40 CFR s. 80.1127(b), in gallons.¹⁰

⁶ 42 U.S.C. s. 13220(f)(1).

⁷ Email from Matthew Arsenault, Grant Manager, DACS Office of Energy, to Kelley Burk, Deputy Director, DACS Office of Energy (Jan. 24, 2013) (on file with the Senate Committee on Environmental Preservation and Conservation).

⁸ 40 CFR s. 80.1406 (a)(1).

⁹ *Supra* note 7.

¹⁰ *Id.*

For example, assume the EPA determines the percentage of each type of renewable fuel that must be in the entire market in order to achieve the volume required by the standard for that year and determines that the total renewable fuel requirement is 5.59 percent. If a refinery produces 500,000 gallons of gasoline, its RVO would be 27,950 gallons. This means that it would have to prove ownership of 27,950 Renewable Identification Numbers (RINs) (assuming it does not have a deficit carryover from the previous year). Because the standard is a mandate on refiners to blend the fuel before it is taken to retail stores, all states receive the blended fuel.¹¹

III. Effect of Proposed Changes:

Section 1 repeals ss. 526.201-526.207, F. S., comprising the Florida Renewable Fuel Standard Act. This will allow a terminal supplier, importer, blender, or wholesaler to sell unblended gasoline for any use or purpose, not just those currently listed as exemptions to the act.

Section 2 amends s. 206.43(2), F.S., to delete a requirement that a terminal supplier, importer, exporter, blender, and wholesaler report monthly to the Department of Revenue the number of gallons of blended and unblended gasoline sold.

Section 3 provides an effective date of July 1, 2013.

Other Potential Implications:

The repeal of the Florida requirements on sellers of gasoline will leave the federal requirements on producers untouched and in effect. The net effect appears to be that although Florida sellers will be permitted to sell unblended fuel without restrictions, it may be or may become difficult to obtain significant amounts of unblended gasoline with the federal law still in effect.¹²

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹¹ *Id.*

¹² See, e.g., Alic, Jen, *Ethanol Mandate: Jumping the Gun in a Big Way*, <http://oilprice.com/Alternative-Energy/Biofuels/Ethanol-Mandate-Jumping-the-Gun-in-a-Big-Way.html> (last visited Apr. 7, 2013).

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

It is likely that individuals wishing to purchase unblended fuel will have more opportunities to purchase it in the state. However, since federal law mandates the inclusion of increasing amounts of renewable fuel to be blended into transportation fuel through 2022, retailers wishing to sell unblended fuel may find it increasingly difficult as blended fuel becomes more prevalent. The effect is indeterminate.

According to the DACS, which administers Florida's liquid fuels statutes, the bill could have negative effects on the bio-fuel industry, including bio-refineries and producers of feedstocks used in the development of biofuels. There could be negative effects on communities with active or soon-to-be active bio-refineries. According to the Indian River County Economic Development Council, INEOS bio-energy plant will provide 53 full time jobs with an average wage of \$58,981 and a total capital investment of \$54.3 million. Algenol Biofuels hired more than 100 individuals in Lee County and is expected to increase its staff in the future. On the other hand, given that their products should qualify under the federal standard as advanced or cellulosic biofuels, there may be sufficient national demand to negate the projected impact. However, if demand decreases in Florida, these biofuel producers may have to ship excess biofuel outside the state, which may reduce their desire for further investment in Florida.

C. Government Sector Impact:

According to the DACS, the bill will have no government sector fiscal impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
