

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 87th General Assembly  
3 Regular Session, 2009  
4

As Engrossed: H3/19/09

# A Bill

HOUSE BILL 1790

5 By: Representative T. Rogers  
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## For An Act To Be Entitled

9 AN ACT TO DEVELOP THE BIODIESEL INDUSTRY IN  
10 ARKANSAS BY ESTABLISHING THE PERCENTAGE OF  
11 BIODIESEL FUEL TO BE MIXED WITH DIESEL FUEL FOR  
12 RETAIL SALE IN ARKANSAS; AND FOR OTHER PURPOSES.  
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### Subtitle

14 TO DEVELOP THE BIODIESEL INDUSTRY IN  
15 ARKANSAS BY ESTABLISHING THE PERCENTAGE  
16 OF BIODIESEL FUEL TO BE MIXED WITH  
17 DIESEL FUEL FOR RETAIL SALE IN ARKANSAS.  
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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23 SECTION 1. Arkansas Code Title 15, Chapter 13, is amended to add an  
24 additional subchapter to read as follows:

25 15-13-401. Definitions.

26 As used in this subchapter: "biodiesel fuel" means a renewable,  
27 biodegradable, monoalkyl ester combustible liquid fuel derived from  
28 agricultural plant oils or animal fats that meets American Society for  
29 Testing and Materials Specification Standard D6751-08 for Biodiesel Fuel  
30 (B100) Blend Stock for Middle Distillate Fuels.

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32 15-13-402. Biodiesel fuel standard.

33 (a)(1) By January 1, 2010, and unless otherwise provided in this  
34 subchapter, diesel fuel sold at a public retail sales facility within this  
35 state shall contain at least five percent (5%) biodiesel fuel by volume.

36 (2) The biodiesel fuel standard under subsection (a)(1) of this



1 section shall remain in effect unless the Secretary of the Arkansas  
2 Agriculture Department informs the Director of the Department of Finance and  
3 Administration that there is a need to temporarily reduce the standard under  
4 an exception provided under § 15-13-404.

5 (b) In addition to the standard under subsection (a)(1) of this  
6 section, biodiesel fuel produced for sale in this state is required to meet  
7 the specifications set forth in American Society for Testing and Materials  
8 Specification Standard D6751-08 for Biodiesel Fuel (B100) Blend Stock for  
9 Middle Distillate Fuels, as it existed on January 1, 2009.

10 (c) The Arkansas Bureau of Standards shall ensure that biodiesel fuel  
11 produced for sale in this state satisfies the requirements under:

12 (1) Subsections (a) and (b) of this section; and

13 (2) The specifications that petroleum fuel is required to meet  
14 under the American Society for Testing and Materials Specification Standards,  
15 as they existed on January 1, 2009.

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17 15-13-403. Duties of the Secretary of the Arkansas Agriculture  
18 Department.

19 (a) To assure orderly implementation of the biodiesel fuel standard,  
20 the Secretary of Agriculture shall:

21 (1)(A) At least each calendar quarter verify the in-state  
22 biodiesel fuel production capacity at each facility to assess whether there  
23 is sufficient production capacity to satisfy consumer needs under the  
24 biodiesel fuel standard.

25 (B) The secretary may require an Arkansas biodiesel fuel  
26 producer to submit regular reports about the producer's production capacity  
27 at each facility owned or operated by the biodiesel producer on a form  
28 developed by the secretary.

29 (2)(A) By January 1, 2010, and periodically thereafter,  
30 determine the:

31 (i) Wholesale price of No. 2 diesel fuel at various  
32 pipeline and refinery terminals in the region; and

33 (ii) Price of biodiesel fuel after credits and  
34 incentives are subtracted from the price at biodiesel fuel plants in the  
35 region.

36 (b) The secretary may adjust the biodiesel fuel standard in accordance

1 with the exception procedure under § 15-4-404.

2  
3 15-13-404. Exception to biodiesel fuel standard.

4 (a)(1) The Secretary of the Arkansas Agriculture Department may grant  
5 an exception to the biodiesel fuel standard if:

6 (A) The in-state production capacity of biodiesel fuel  
7 falls to a level that makes compliance with the biodiesel fuel standard  
8 unreasonable;

9 (B) A competitive economic hardship exists; or

10 (C) The in-state price for biodiesel fuel rises to a level  
11 that makes compliance with the biodiesel fuel standard economically  
12 unfeasible; or

13 (2)(A) For good cause shown under subdivision (a)(1) of this  
14 section, the secretary may order a reduction of the fuel standard to a level  
15 of two percent (2%) biodiesel fuel content by volume for a period of thirty  
16 (30) days.

17 (B) During the thirty-day period, the secretary shall  
18 request a progress report from the state's biodiesel fuel producers.

19 (C) If good cause continues to exist or subsequent  
20 circumstances present another basis for a good cause extension, the secretary  
21 may either:

22 (i) Extend the reduction under subdivision (2)(A) of  
23 this section for another thirty-day period; or

24 (ii) Waive the requirement for any biodiesel fuel  
25 content for a thirty-day period.

26 (3) The secretary shall not grant an exception from the  
27 biodiesel fuel standard under subdivision (a)(1) or (2) of this section for  
28 an aggregate time that exceeds ninety (90) days.

29 (b)(1) An Arkansas fuel retailer may initiate a proceeding for an  
30 exception from the biodiesel fuel standard proceeding by filing a petition  
31 with the secretary that includes without limitation documentation to  
32 demonstrate that:

33 (A) Compliance with the biodiesel fuel standard creates or  
34 will create an unreasonable hardship on him or her; and

35 (B) The fuel retailer has made reasonable attempts to  
36 mitigate or resolve the hardship.

1           (2) The secretary may grant an exception if there is sufficient  
2 evidence that the fuel retailer is experiencing or will experience an  
3 unreasonable hardship because of an inability to obtain an adequate amount of  
4 biodiesel fuel due to production, quality, or price issues that are specific  
5 to the fuel retailer's business circumstances.

6           (3)(A) If the secretary grants an exception to the fuel  
7 retailer, the exception shall not exceed one hundred eighty (180) days.

8           (B) However, subdivision (b)(3)(A) of this section does  
9 not preclude the secretary from considering a subsequent petition from the  
10 same fuel retailer for an exception from the biodiesel fuel standard.

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12           15-13-405. Duty of refinery or terminal.

13           (a) At the time diesel fuel is sold or transferred from a refinery or  
14 terminal that is located in this state, the refinery or terminal shall  
15 provide a bill of lading or shipping manifest to the person receiving the  
16 diesel fuel.

17           (b) For a biodiesel-blended fuel, the bill of lading or shipping  
18 manifest shall disclose the biodiesel fuel content by stating the:

19           (1) Percentage of biodiesel fuel to the petroleum diesel based-  
20 stock;

21           (2) Number of gallons of biodiesel fuel compared to the number  
22 of gallons of the petroleum diesel fuel based-stock; or

23           (3) An American Society for Testing and Materials "Bxx"  
24 designation in which "xx" denotes the volume percentage of biodiesel fuel  
25 included in the blended product.

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27           15-13-406. Report to governor.

28           (a) By January 30 of each year, the Secretary of the Arkansas  
29 Agriculture Department shall provide the Governor with a report about the  
30 implementation of this subchapter.

31           (b) The report shall include without limitation information about the:

32           (1) Price and supply of biodiesel fuel in the state; and

33           (2) Impact of the biodiesel fuel standard on the development of:

34           (A) Biodiesel fuel production capacity in the state; and

35           (B) Use of feedstock grown or raised in the state for  
36 biodiesel fuel production.

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15-13-407. Rules

The Arkansas Agriculture Department shall promulgate rules to implement and administer this subchapter.”

SECTION 2. Arkansas Code § 4-108-205, concerning the authority of the State Petroleum Products Division of the Arkansas Bureau of Standards of the State Plant Board, is amended to add an additional subsection to read as follows:

(c) The board is also authorized to:

(1) Monitor compliance with the biodiesel fuel standard under § 15-13-402; and

(2) Examine biodiesel fuel produced in this state or imported to assure its compliance with applicable materials standards, including American Society for Testing and Materials Specification Standard D6751-08.

SECTION 3. Arkansas Code § 19-6-809(c), concerning the use of funds under the Arkansas Alternative Fuels Development Fund, is amended to read as follows:

(c) The fund shall be used by the Arkansas Agriculture Department to provide grants and incentives to support renewable fuels producers, renewable fuels feedstock processors, alternative fuels producers, feedstock processors, and alternative fuels distributors in Arkansas as provided under the Arkansas Alternative Fuels Development Act, § 15-13-101 et seq., or as otherwise provided by law.

/s/ T. Rogers