

# Hall of the House of Representatives

87th General Assembly - Regular Session, 2009

## Amendment Form

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### Subtitle of House Bill No. 1790

"TO ENHANCE THE DEVELOPMENT OF AND USE OF ALTERNATIVE FUELS IN THE  
STATE OF ARKANSAS."

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### Amendment No. 1 to House Bill No. 1790.

Amend House Bill No. 1790 as originally introduced:

Delete the title in its entirety and substitute:

"AN ACT TO DEVELOP THE BIODIESEL INDUSTRY IN ARKANSAS BY ESTABLISHING THE  
PERCENTAGE OF BIODIESEL FUEL TO BE MIXED WITH DIESEL FUEL FOR RETAIL SALE IN  
ARKANSAS; AND FOR OTHER PURPOSES."

AND

Delete the subtitle in its entirety and substitute:

"TO DEVELOP THE BIODIESEL INDUSTRY IN  
ARKANSAS BY ESTABLISHING THE PERCENTAGE  
OF BIODIESEL FUEL TO BE MIXED WITH  
DIESEL FUEL FOR RETAIL SALE IN ARKANSAS."

AND

Delete everything after the enacting clause and substitute the following:

"SECTION 1. Arkansas Code Title 15, Chapter 13, is amended to add an  
additional subchapter to read as follows:

"15-13-401. Definitions.

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

15-13-402. Biodiesel fuel standard.

(a)(1) By January 1, 2010, and unless otherwise provided in this  
subchapter, diesel fuel sold at a public retail sales facility within this



state shall contain at least five percent (5%) biodiesel fuel by volume.

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

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

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

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

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

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

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

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

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

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

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

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

(b) The secretary may adjust the biodiesel fuel standard in accordance with the exception procedure under § 15-4-404.

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

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

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

(B) A competitive economic hardship exists; or

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

(2)(A) For good cause shown under subdivision (a)(1) of this section, the secretary may order a reduction of the fuel standard to a level

of two percent (2%) biodiesel fuel content by volume for a period of thirty (30) days.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### 15-13-406. Report to governor.

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

(b) The report shall include without limitation information about the:  
(1) Price and supply of biodiesel fuel in the state; and  
(2) Impact of the biodiesel fuel standard on the development of:  
(A) Biodiesel fuel production capacity in the state; and  
(B) Use of feedstock grown or raised in the state for  
biodiesel fuel production.

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."

**The Amendment was read** \_\_\_\_\_

**By: Representative T. Rogers**

**GLG/RCK - 03-17-2009 11:58**

**GLG153**

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**Chief Clerk**