

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.

INTERIM STUDY PROPOSAL 2009-032

State of Arkansas

As Engrossed: H3/19/09

87th General Assembly

**A Bill**

Regular Session, 2009

HOUSE BILL 1790

By: Representative T. Rogers

Filed with: Interim Joint Committee on Energy  
pursuant to A.C.A. §10-3-217.

**For An Act To Be Entitled**

*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.*

**Subtitle**

*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.*

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

*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*



1 subchapter, diesel fuel sold at a public retail sales facility within this  
2 state shall contain at least five percent (5%) biodiesel fuel by volume.

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

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

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

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

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

19  
20 15-13-403. Duties of the Secretary of the Arkansas Agriculture  
21 Department.

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

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

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

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

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

36 (ii) Price of biodiesel fuel after credits and

1 incentives are subtracted from the price at biodiesel fuel plants in the  
2 region.

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

5  
6 15-13-404. Exception to biodiesel fuel standard.

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

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

12 (B) A competitive economic hardship exists; or

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

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

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

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

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

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

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

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

36 (A) Compliance with the biodiesel fuel standard creates or

1 will create an unreasonable hardship on him or her; and

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

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

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

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

14  
15 15-13-405. Duty of refinery or terminal.

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

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

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

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

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

29  
30 15-13-406. Report to governor.

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

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

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

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

