

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 901 Session of 2009

INTRODUCED BY SCARNATI AND M. WHITE, JUNE 4, 2009

AS REPORTED FROM COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS, HOUSE OF REPRESENTATIVES, AS AMENDED, SEPTEMBER 17, 2009

AN ACT

1 Amending the act of July 10, 2008 (P.L.1109, No.78), entitled
2 "An act providing for the study and mandated content of
3 biofuels," further providing FOR DEFINITIONS, for biodiesel
4 content in diesel fuel sold for on-road use AND FOR AGENCY
5 RESPONSIBILITIES; AND IMPOSING PENALTIES.



6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Section 3(f) of the act of July 10, 2008
9 (P.L.1109, No.78), known as the Biofuel Development and In State
10 Production Incentive Act, is amended to read:



11 Section 3. Biodiesel content in diesel fuel sold for on road
12 use.

13 SECTION 1. SECTION 2 OF THE ACT OF JULY 10, 2008 (P.L.1109,
14 NO.78), KNOWN AS THE BIOFUEL DEVELOPMENT AND IN-STATE PRODUCTION
15 INCENTIVE ACT, IS AMENDED BY ADDING DEFINITIONS TO READ:



16 SECTION 2. DEFINITIONS.

17 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
18 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
19 CONTEXT CLEARLY INDICATES OTHERWISE:

1 "AMERICAN SOCIETY FOR TESTING AND MATERIALS INTERNATIONAL" OR  
2 "ASTM." A PRIVATE ORGANIZATION THAT UTILIZES COMMITTEES OF  
3 INDUSTRY REPRESENTATIVES AND REGULATORS TO DEVELOP PRODUCT  
4 QUALITY STANDARDS AND TEST METHODS TO BE USED BY INDUSTRIES,  
5 REGULATORY AGENCIES AND PURCHASING AGENTS.

6 "ANNUALIZED BASIS." THE SUM OF THREE CONSECUTIVE MONTHS OF  
7 IN-STATE PRODUCTION MULTIPLIED BY FOUR.

8 "ASTM SPECIFICATION." A STANDARD QUALITY SPECIFICATION  
9 DEVELOPED AND PUBLISHED BY THE AMERICAN SOCIETY FOR TESTING AND  
10 MATERIALS INTERNATIONAL. EACH SPECIFICATION INCLUDES REFERENCES  
11 TO STANDARD TEST METHODS, ALSO DEVELOPED AND PUBLISHED BY ASTM.

12 \* \* \*

13 "BIODIESEL BLEND." A BLEND OF DIESEL FUEL AND BIODIESEL FUEL  
14 TO BE SOLD OR OFFERED FOR SALE TO ULTIMATE CONSUMERS IN THIS  
15 COMMONWEALTH FOR USE IN ON-ROAD COMPRESSION IGNITION ENGINES.

16 \* \* \*

17 "CONSUMER." A PERSON THAT PURCHASES AUTOMOTIVE FUEL FOR  
18 PURPOSES OTHER THAN RESALE.

19 \* \* \*

20 "DIESEL FUEL." PETROLEUM DIESEL FUEL THAT COMPLIES WITH ASTM  
21 D975 OR ITS SUCCESSOR STANDARD.

22 "DISTRIBUTOR." A PERSON THAT MANUFACTURES, REFINES, RECEIVES  
23 FOR STORAGE, DISTRIBUTES, SELLS OR USES PETROLEUM PRODUCTS,  
24 INCLUDING DIESEL FUEL, BIODIESEL AND BIODIESEL BLEND, IN THIS  
25 COMMONWEALTH FOR SUBSEQUENT DISTRIBUTION TO ANOTHER PERSON OTHER  
26 THAN THE CONSUMER.

27 "IN-LINE INJECTION BLENDING." BLENDING BIODIESEL WITH DIESEL  
28 FUEL THROUGH THE USE OF A DISPENSING DEVICE WHICH INCLUDES  
29 DEPARTMENT OF AGRICULTURE-APPROVED AND NATIONAL INSTITUTE OF  
30 STANDARD AND TECHNOLOGY-APPROVED METERS ON BOTH THE BIODIESEL

1 AND DIESEL FUEL SUPPLY AND THE ABILITY TO DETECT, ALARM AND  
2 DISCONTINUE LOADING BIODIESEL BLENDS THAT FALL OUTSIDE THE  
3 DESIRED BLEND RATIO BY MORE THAN 0.5%.

4 "LOAD RACK TERMINALS." A LOCATION WHERE THE COMMERCIAL  
5 TRANSFER OF PETROLEUM PRODUCTS, INCLUDING DIESEL FUEL, BIODIESEL  
6 AND BIODIESEL BLEND, AT THE WHOLESALE LEVEL IS CONDUCTED  
7 UTILIZING METERS EMPLOYED IN THE MEASUREMENT OF PRODUCT  
8 DELIVERED TO A SELLER BY A BUYER.

9 "MANUFACTURE." TO PRODUCE, MIX, BLEND, REPACKAGE OR FURTHER  
10 PROCESS.

11 \* \* \*

12 "PERSON." AN INDIVIDUAL, CORPORATION, PARTNERSHIP, STOCK  
13 COMPANY, SOCIETY, ASSOCIATION, BUSINESS UNIT OR AGENT OR  
14 EMPLOYEE THEREOF.

15 "PRODUCER." A PERSON THAT PURCHASES COMPONENT ELEMENTS AND  
16 BLENDS THEM TO PRODUCE AUTOMOTIVE FUEL, INCLUDING BIODIESEL  
17 BLEND.

18 "REFINERY" OR "TERMINAL." A PETROLEUM REFINERY, PIPELINE  
19 TERMINAL, RIVER TERMINAL, LOAD RACK TERMINAL, STORAGE FACILITY,  
20 PRODUCER FACILITY OR OTHER POINT OF ORIGIN WHERE PETROLEUM  
21 PRODUCTS, INCLUDING DIESEL FUEL, BIODIESEL AND BIODIESEL BLEND,  
22 ARE MANUFACTURED, BLENDED OR IMPORTED BY RAIL, TRUCK, BARGE OR  
23 PIPE AND HELD, STORED, TRANSFERRED, OFFERED FOR DISTRIBUTION,  
24 DISTRIBUTED, OFFERED FOR SALE OR SOLD.

25 \* \* \*

26 "RETAILER." A PERSON THAT SELLS AUTOMOTIVE FUEL, INCLUDING  
27 DIESEL FUEL, BIODIESEL AND BIODIESEL BLEND, TO THE CONSUMER.

28 "SALE," "SELL," "OFFER FOR SALE" OR "SOLD." TO OFFER FOR  
29 SALE, CONTRACT, BARTER, EXCHANGE, DISTRIBUTE OR TRANSFER TITLE.

30 "UNCLASSIFIED IMPORTER." A PERSON THAT IMPORTS OR CAUSES TO

1 BE IMPORTED DIESEL FUEL, BIODIESEL OR BIODIESEL BLEND FOR USE,  
2 DISTRIBUTION OR SALE IN THIS COMMONWEALTH, BUT THAT DOES NOT  
3 QUALIFY AS A DISTRIBUTOR.

4 SECTION 2. SECTION 3(A) AND (F) OF THE ACT ARE AMENDED TO  
5 READ:

6 SECTION 3. BIODIESEL CONTENT IN DIESEL FUEL SOLD FOR ON-ROAD  
7 USE.

8 (A) VOLUME STANDARDS.--THE FOLLOWING STANDARDS SHALL APPLY:

9 (1) ALL DIESEL FUEL SOLD OR OFFERED FOR SALE TO ULTIMATE  
10 CONSUMERS IN THIS COMMONWEALTH FOR USE IN ON-ROAD COMPRESSION  
11 IGNITION ENGINES MUST [CONTAIN] BE BLENDED WITH BIODIESEL SO  
12 AS TO ACHIEVE A BIODIESEL BLEND OF AT LEAST 2% BIODIESEL BY  
13 VOLUME ONE YEAR AFTER THE IN-STATE PRODUCTION VOLUME OF  
14 40,000,000 GALLONS OF BIODIESEL HAS BEEN REACHED AND  
15 SUSTAINED FOR THREE MONTHS ON AN ANNUALIZED BASIS AS  
16 DETERMINED BY THE DEPARTMENT. THE BIODIESEL BLEND SHALL  
17 COMPLY WITH ASTM SPECIFICATION D975 OR ITS SUCCESSOR  
18 STANDARD.

19 (2) ALL DIESEL FUEL SOLD OR OFFERED FOR SALE TO ULTIMATE  
20 CONSUMERS IN THIS COMMONWEALTH FOR USE IN ON-ROAD COMPRESSION  
21 IGNITION ENGINES MUST [CONTAIN] BE BLENDED WITH BIODIESEL SO  
22 AS TO ACHIEVE A BIODIESEL BLEND OF AT LEAST 5% BIODIESEL BY  
23 VOLUME ONE YEAR AFTER THE IN-STATE PRODUCTION VOLUME OF  
24 100,000,000 GALLONS OF BIODIESEL HAS BEEN REACHED AND  
25 SUSTAINED FOR THREE MONTHS ON AN ANNUALIZED BASIS AS  
26 DETERMINED BY THE DEPARTMENT. THE BIODIESEL BLEND SHALL  
27 COMPLY WITH ASTM SPECIFICATION D975 OR ITS SUCCESSOR  
28 STANDARD.

29 (3) ALL DIESEL FUEL SOLD OR OFFERED FOR SALE TO ULTIMATE  
30 CONSUMERS IN THIS COMMONWEALTH FOR USE IN ON-ROAD COMPRESSION

1       IGNITION ENGINES MUST [CONTAIN] BE BLENDED WITH BIODIESEL SO  
2       AS TO ACHIEVE A BIODIESEL BLEND OF AT LEAST 10% BIODIESEL BY  
3       VOLUME ONE YEAR AFTER THE IN-STATE PRODUCTION VOLUME OF  
4       200,000,000 GALLONS OF BIODIESEL HAS BEEN REACHED AND  
5       SUSTAINED FOR THREE MONTHS ON AN ANNUALIZED BASIS AS  
6       DETERMINED BY THE DEPARTMENT. THE BIODIESEL BLEND SHALL  
7       COMPLY WITH ASTM SPECIFICATION D7467 OR ITS SUCCESSOR  
8       STANDARD.

9           (4) ALL DIESEL FUEL SOLD OR OFFERED FOR SALE TO ULTIMATE  
10       CONSUMERS IN THIS COMMONWEALTH FOR USE IN ON-ROAD COMPRESSION  
11       IGNITION ENGINES MUST [CONTAIN] BE BLENDED WITH BIODIESEL SO  
12       AS TO ACHIEVE A BIODIESEL BLEND OF AT LEAST 20% BIODIESEL BY  
13       VOLUME ONE YEAR AFTER THE IN-STATE PRODUCTION VOLUME OF  
14       400,000,000 GALLONS OF BIODIESEL HAS BEEN REACHED AND  
15       SUSTAINED FOR THREE MONTHS ON AN ANNUALIZED BASIS AS  
16       DETERMINED BY THE DEPARTMENT. THE BIODIESEL BLEND SHALL  
17       COMPLY WITH ASTM SPECIFICATION D7467 OR ITS SUCCESSOR  
18       STANDARD.

19       \* \* \*

20       (f) [Exception] Exceptions.--The requirements of this  
21       section shall not apply to [aviation]:

22           (1) Aviation fuel, home heating fuel or where prohibited  
23       by law.

24           (2) Diesel fuel produced from 100% Pennsylvania GRADE ←  
25       crude oil by a small refiner, as defined by 40 CFR 80.1101(g)  
26       (relating to small refinery), through December 31, 2010.

27       SECTION 3. SECTION 5 OF THE ACT IS AMENDED BY ADDING ←  
28       SUBSECTIONS TO READ:

29       SECTION 5. AGENCY RESPONSIBILITIES.

30       \* \* \*

1 (E) ENFORCEMENT.--

2 (1) THE DEPARTMENT IS CHARGED WITH THE GENERAL  
3 ENFORCEMENT OF THIS ACT. THE DEPARTMENT MAY EMPLOY ALL PROPER  
4 MEANS FOR THE ENFORCEMENT OF THIS ACT, INCLUDING ISSUING  
5 NOTICES AND ORDERS, FILING VIOLATIONS FOR CRIMINAL  
6 PROSECUTION, SEEKING INJUNCTIVE RELIEF, IMPOSING CIVIL  
7 PENALTIES AND ENTERING INTO CONSENT AGREEMENTS.

8 (2) ANY PERSON THAT TRANSFERS, OFFERS FOR SALE OR SELLS  
9 BIODIESEL OR BIODIESEL BLEND IN THIS COMMONWEALTH FOR USE IN  
10 ON-ROAD COMPRESSION IGNITION ENGINES SHALL REGISTER WITH THE  
11 DEPARTMENT. IF A PERSON HAS MULTIPLE LOCATIONS WHERE THE  
12 PERSON CONDUCTS SUCH ACTIVITIES, EACH LOCATION SHALL BE  
13 SEPARATELY REGISTERED, BUT MAY BE SUBMITTED IN A SINGLE  
14 ELECTRONIC FORM. THIS PARAGRAPH INCLUDES IN-STATE AND OUT-OF-  
15 STATE PERSONS, SUCH AS REFINERIES, TERMINALS, DISTRIBUTORS,  
16 PRODUCERS, RETAILERS AND UNCLASSIFIED IMPORTERS, THAT  
17 TRANSFER, SELL OR OFFER FOR SALE BIODIESEL AND BIODIESEL  
18 BLEND PRODUCTS FOR ULTIMATE ON-ROAD USE BY CONSUMERS IN THIS  
19 COMMONWEALTH.

20 (3) (I) ANY TIME BIODIESEL BLEND IS SOLD OR TRANSFERRED  
21 FROM A REFINERY, TERMINAL, SHIPPER OR ANY PERSON, FOR  
22 SALE TO ULTIMATE CONSUMERS IN THIS COMMONWEALTH, EITHER  
23 DIRECTLY OR THROUGH A RETAILER OR OTHER PERSON, A BILL OF  
24 LADING OR SHIPPING MANIFEST SHALL BE PROVIDED TO THE  
25 PERSON THAT RECEIVES THE BIODIESEL BLEND. THE SHIPPING  
26 MANIFEST OR BILL OF LADING SHALL ACCOMPANY THE BIODIESEL  
27 BLEND TO THE RETAILER. FOR DIRECT CONSUMER SALES OF  
28 BIODIESEL BLEND BY A TERMINAL OR REFINERY, SUCH BILLS OF  
29 LADING OR SHIPPING MANIFEST SHALL BE RETAINED AT THE  
30 POINT OF SALE. A COPY OF SUCH RECORDS SHALL BE RETAINED

1 BY THE REFINERY, TERMINAL, DISTRIBUTOR, PRODUCER,  
2 UNCLASSIFIED IMPORTER OR PERSON RESPONSIBLE FOR A PERIOD  
3 OF ONE YEAR FROM DELIVERY OF THE BIODIESEL BLEND PRODUCT  
4 OR FOR A LONGER PERIOD OF TIME IF PART OF AN ENFORCEMENT  
5 ACTION.

6 (II) FOR BIODIESEL BLEND, THE BILL OF LADING OR  
7 SHIPPING MANIFEST SHALL CONTAIN AND DISCLOSE THE  
8 FOLLOWING INFORMATION:

9 (A) THE PENNSYLVANIA REGISTRATION NUMBER, NAME  
10 AND LOCATION OF THE TERMINAL, REFINERY, DISTRIBUTOR,  
11 PRODUCER, UNCLASSIFIED IMPORTER OR PERSON THAT  
12 CREATED THE BIODIESEL BLEND.

13 (B) THE BIODIESEL CONTENT, STATING VOLUME  
14 PERCENTAGE, BASED UPON GALLONS OF BIODIESEL PER  
15 GALLONS OF DIESEL FUEL BASE-STOCK, OR AN ASTM "BXX"  
16 DESIGNATION WHERE "XX" DENOTES THE VOLUME PERCENTAGE  
17 BIODIESEL INCLUDED IN THE BLENDED PRODUCT.

18 (C) THE ASTM SPECIFICATION OF THE BIODIESEL USED  
19 IN THE BIODIESEL BLEND.

20 (D) THE GRADE AND ASTM SPECIFICATION OF THE  
21 DIESEL FUEL.

22 (E) THE ASTM SPECIFICATION OF THE BIODIESEL  
23 BLEND.

24 (F) THE TOTAL GALLONS OF BIODIESEL BLEND SOLD,  
25 SHIPPED OR TRANSFERRED.

26 (G) A CERTIFICATION SIGNED BY THE REFINERY,  
27 TERMINAL, DISTRIBUTOR, PRODUCER, UNCLASSIFIED  
28 IMPORTER OR OTHER PERSON, THAT CREATED THE BIODIESEL  
29 BLEND STATING THE INFORMATION CONTAINED IN THE BILL  
30 OF LADING OR SHIPPING MANIFEST IS TRUE AND CORRECT

1           SUBJECT TO THE PENALTIES OF 18 PA.C.S. § 4904

2           (RELATING TO UNSWORN FALSIFICATION TO AUTHORITIES).

3           (III) RETAILERS OFFERING A BIODIESEL BLEND PRODUCT

4           FOR ULTIMATE SALE TO CONSUMERS IN THIS COMMONWEALTH FOR

5           USE IN ON-ROAD COMPRESSION IGNITION ENGINES SHALL ASSURE

6           THEY RECEIVE AND RETAIN FOR THEIR RECORDS A COPY OF THE

7           BILLS OF LADING AND SHIPPING MANIFESTS REQUIRED BY

8           SUBPARAGRAPHS (I) AND (II). THESE RECORDS SHALL BE

9           RETAINED FOR A PERIOD OF ONE YEAR FROM RECEIPT OF THE

10          BIODIESEL BLEND PRODUCT OR FOR A LONGER PERIOD OF TIME IF

11          PART OF AN ENFORCEMENT ACTION EITHER AT THE FACILITY

12          WHERE THE PRODUCT IS SOLD OR AT THE CORPORATE

13          HEADQUARTERS, SO LONG AS THE BILLS OF LADING AND SHIPPING

14          MANIFESTS REMAIN AT THE FACILITY WHERE THE PRODUCT IS

15          SOLD UNTIL SUCH TIME AS THAT PRODUCT IS SOLD OR IS NO

16          LONGER PRESENT AT THE FACILITY. NOTWITHSTANDING THE

17          PROVISIONS OF THIS SUBSECTION, NO RETAILER SHALL BE FOUND

18          IN VIOLATION OF THIS ACT FOR FAILURE TO MAKE THE RECORDS

19          REQUIRED BY SUBPARAGRAPHS (I) AND (II) IMMEDIATELY

20          AVAILABLE TO THE DEPARTMENT UPON INSPECTION OF THE

21          FACILITY WHERE THE PRODUCT IS SOLD, PROVIDED THAT THE

22          RECORDS ARE SUBMITTED TO THE DEPARTMENT WITHIN TWO

23          BUSINESS DAYS.

24          (IV) ANY TIME BIODIESEL IS SOLD OR TRANSFERRED FROM

25          ANY PERSON TO BE SOLD OR OFFERED FOR SALE TO ULTIMATE

26          CONSUMERS IN THIS COMMONWEALTH FOR USE IN ON-ROAD

27          COMPRESSION IGNITION ENGINES AS PART OF A BIODIESEL

28          BLEND, A CERTIFICATION SHALL BE PROVIDED TO THE PERSON

29          THAT RECEIVES THE BIODIESEL. THE CERTIFICATION SHALL

30          ACCOMPANY THE BIODIESEL TO THE PERSON THAT BLENDS THE

1 BIODIESEL WITH DIESEL FUEL AND SHALL ACCOMPANY THE  
2 BIODIESEL BLEND INTO WHICH THE BIODIESEL HAS BEEN  
3 INCORPORATED TO THE RETAILER. THE CERTIFICATION SHALL BE  
4 SIGNED BY THE PERSON SELLING OR TRANSFERRING THE  
5 BIODIESEL AND STATE THAT THE BIODIESEL IS COMPLIANT WITH  
6 THE DEFINITION AND QUALITY STANDARDS FOR BIODIESEL UNDER  
7 THIS ACT, INCLUDING ASTM D-6751-02, OR ITS SUCCESSOR  
8 STANDARD, AND BE MADE SUBJECT TO THE PENALTIES OF 18  
9 PA.C.S. § 4904. A COPY OF THE CERTIFICATION SHALL BE  
10 RETAINED BY THE PERSON SELLING OR TRANSFERRING THE  
11 BIODIESEL, THE PERSON BLENDING THE BIODIESEL WITH DIESEL  
12 FUEL AND BY THE RETAILER FOR A PERIOD OF ONE YEAR FROM  
13 DELIVERY OF THE BIODIESEL OR BIODIESEL BLEND, AS  
14 APPLICABLE, OR FOR A LONGER PERIOD OF TIME IF PART OF AN  
15 ENFORCEMENT ACTION. WITH REGARD TO A RETAILER, A COPY OF  
16 THE CERTIFICATION MAY BE RETAINED AT THE CORPORATE  
17 HEADQUARTERS SO LONG AS THE CERTIFICATION REMAINS AT THE  
18 FACILITY WHERE THE PRODUCT IS SOLD UNTIL SUCH TIME AS  
19 THAT PRODUCT IS SOLD OR IS NO LONGER PRESENT AT THE  
20 FACILITY. NOTWITHSTANDING THE PROVISIONS OF THIS  
21 SUBSECTION, NO RETAILER SHALL BE FOUND IN VIOLATION OF  
22 THIS ACT FOR FAILURE TO MAKE THE RECORDS REQUIRED BY  
23 SUBPARAGRAPHS (I) AND (II) IMMEDIATELY AVAILABLE TO THE  
24 DEPARTMENT UPON INSPECTION OF THE FACILITY WHERE THE  
25 PRODUCT IS SOLD, PROVIDED THAT THE RECORDS ARE SUBMITTED  
26 TO THE DEPARTMENT WITHIN TWO BUSINESS DAYS.

27 (4) THE DEPARTMENT SHALL HAVE THE FOLLOWING AUTHORITY:

28 (I) TO CONDUCT UNANNOUNCED RANDOM INSPECTIONS OF ANY  
29 PERSON OR ESTABLISHMENT LOCATED IN THIS COMMONWEALTH THAT  
30 STORES, HOLDS, BLENDS, SELLS OR OFFERS FOR SALE DIESEL

1 FUEL, BIODIESEL OR BIODIESEL BLEND. INSPECTIONS SHALL  
2 INCLUDE THE PREMISES, TANKS, STORAGE FACILITIES,  
3 TRANSPORTATION AND STORAGE VEHICLES, DISPENSING DEVICES  
4 AND ANY OTHER PLACE WHERE DIESEL FUEL, BIODIESEL OR  
5 BIODIESEL BLEND IS STORED, HELD, BLENDED, SOLD OR OFFERED  
6 FOR SALE.

7 (II) TO TAKE SAMPLES OF AND TEST THE DIESEL FUEL,  
8 BIODIESEL AND BIODIESEL BLEND BEING STORED, HELD,  
9 BLENDED, SOLD OR OFFERED FOR SALE.

10 (III) TO AUDIT THE BOOKS AND RECORDS, INCLUDING  
11 COPYING, PERTAINING TO THE DIESEL FUEL, BIODIESEL OR  
12 BIODIESEL BLEND BEING STORED, HELD, SOLD OR OFFERED FOR  
13 SALE, AND ITS COMPONENT PARTS, INCLUDING:

14 (A) DELIVERY INVOICES, BILLS OF LADING AND  
15 SHIPPING MANIFESTS.

16 (B) SALES INVOICES, BILLS OF LADING AND SHIPPING  
17 MANIFESTS.

18 (C) INVENTORY RECORDS.

19 (D) CONTRACTS AND AGREEMENTS BETWEEN SUPPLIERS,  
20 BUYERS AND SELLERS.

21 (5) THE DEPARTMENT IS AUTHORIZED TO ACCESS, DURING  
22 REGULAR BUSINESS HOURS, THE PREMISES, INCLUDING THE TANKS,  
23 STORAGE FACILITIES, TRANSPORTATION AND STORAGE VEHICLES,  
24 DISPENSING DEVICES AND ANY OTHER PLACE WHERE DIESEL FUEL,  
25 BIODIESEL OR BIODIESEL BLEND IS STORED, HELD, BLENDED, SOLD  
26 OR OFFERED FOR SALE, AND THE RECORDS OF ANY ESTABLISHMENT,  
27 LOCATED IN THIS COMMONWEALTH, WHERE DIESEL FUEL, BIODIESEL OR  
28 BIODIESEL BLEND IS STORED, HELD, PROCESSED, DISTRIBUTED,  
29 OFFERED OR EXPOSED FOR SALE OR SOLD IN THIS COMMONWEALTH FOR  
30 THE PURPOSE OF INVESTIGATION AND ENFORCEMENT OF THIS ACT,

1 INCLUDING AUDITING RECORDS AND TAKING SAMPLES OF DIESEL FUEL,  
2 BIODIESEL OR BIODIESEL BLEND FROM TANKS, STORAGE FACILITIES,  
3 TRANSPORTATION AND STORAGE VEHICLES, DISPENSING DEVICES AND  
4 ANY OTHER PLACE WHERE DIESEL FUEL, BIODIESEL OR BIODIESEL  
5 BLEND IS STORED, HELD, BLENDED, SOLD OR OFFERED FOR SALE. A  
6 PERSON THAT WILLFULLY AND INTENTIONALLY INTERFERES WITH AN  
7 EMPLOYEE OF THE DEPARTMENT IN THE PERFORMANCE OF DUTIES OR  
8 ACTIVITIES AUTHORIZED UNDER THIS ACT COMMITS A MISDEMEANOR OF  
9 THE THIRD DEGREE.

10 (6) THE DEPARTMENT SHALL HAVE THE AUTHORITY TO ISSUE  
11 STOP-SALE ORDERS WITH RESPECT TO ALL BIODIESEL AND BIODIESEL  
12 BLEND STORED, HELD, BLENDED, SOLD OR OFFERED FOR SALE TO  
13 ULTIMATE CONSUMERS IN THIS COMMONWEALTH FOR USE IN ON-ROAD  
14 COMPRESSION IGNITION ENGINES WHERE THE DEPARTMENT DETERMINES,  
15 AFTER SAMPLING AND ANALYSIS, THAT THE BIODIESEL OR BIODIESEL  
16 BLEND DOES NOT COMPLY WITH THE STANDARDS ESTABLISHED BY THIS  
17 ACT OR THE REGULATIONS PROMULGATED UNDER THIS ACT AND WOULD  
18 BE DETRIMENTAL TO THE OPERATION OF ON-ROAD COMPRESSION  
19 IGNITION ENGINES IF USED FOR ITS INTENDED USE. THE DEPARTMENT  
20 SHALL RELEASE THE NONCOMPLIANT BIODIESEL OR BIODIESEL BLEND  
21 FOR SALE ONLY WHEN THE DEPARTMENT DETERMINES THE BIODIESEL OR  
22 BIODIESEL BLEND IS EITHER BROUGHT INTO COMPLIANCE WITH THIS  
23 ACT OR REGULATIONS PROMULGATED UNDER THIS ACT OR IT WOULD NO  
24 LONGER BE DETRIMENTAL TO THE OPERATION OF ON-ROAD COMPRESSION  
25 IGNITION ENGINES IF USED FOR ITS INTENDED USE. ALL SUCH  
26 BIODIESEL OR BIODIESEL BLEND MUST BE PROPERLY LABELED AS TO  
27 ITS NONCOMPLIANT CHARACTERISTICS IF RELEASED AND PERMITTED TO  
28 BE SOLD WITHOUT BEING BROUGHT INTO COMPLIANCE WITH THIS ACT  
29 OR REGULATIONS PROMULGATED UNDER THIS ACT. A PERSON WHO  
30 KNOWINGLY SELLS OR OFFERS FOR SALE BIODIESEL OR BIODIESEL

1 BLEND SUBJECT TO A STOP-SALE ORDER IN THIS COMMONWEALTH FOR  
2 USE BY ULTIMATE CONSUMERS IN ON-ROAD COMPRESSION IGNITION  
3 ENGINES COMMITS A MISDEMEANOR OF THE THIRD DEGREE.

4 (F) PENALTIES.--

5 (1) (I) THE DEPARTMENT MAY ASSESS A CIVIL PENALTY OF  
6 NOT LESS THAN \$100 NOR MORE THAN \$1,000 PER DAY FOR EACH  
7 KNOWING VIOLATION OF THIS ACT OR A REGULATION PROMULGATED  
8 UNDER THIS ACT.

9 (II) THE DEPARTMENT SHALL PROVIDE WRITTEN NOTICE OF  
10 THE PENALTY AMOUNT AS WELL AS THE GENERAL FACTUAL AND  
11 LEGAL BASIS FOR THE PENALTY AND SHALL ADVISE THE AFFECTED  
12 PERSON THAT, WITHIN 15 DAYS OF RECEIPT OF THE NOTICE, THE  
13 PERSON MAY FILE WITH THE SECRETARY OF AGRICULTURE A  
14 WRITTEN REQUEST FOR AN ADMINISTRATIVE HEARING. UNLESS A  
15 TIMELY REQUEST HAS BEEN FILED, THE WRITTEN NOTICE SHALL  
16 BECOME FINAL. IF A WRITTEN REQUEST FOR A HEARING IS  
17 TIMELY FILED, THE HEARING ON THE PENALTY ASSESSMENT SHALL  
18 BE HELD IN ACCORDANCE WITH THE PROVISIONS OF 2 PA.C.S.  
19 CHS. 5 SUBCH. A (RELATING TO PRACTICE AND PROCEDURE OF  
20 COMMONWEALTH AGENCIES) AND 7 SUBCH. A (RELATING TO  
21 JUDICIAL REVIEW OF COMMONWEALTH AGENCY ACTION).

22 (III) IN CASES OF INABILITY TO COLLECT THE CIVIL  
23 PENALTY OR FAILURE OF ANY PERSON TO PAY ALL OR A PORTION  
24 OF THE PENALTY, THE DEPARTMENT MAY REFER THE MATTER TO  
25 THE OFFICE OF GENERAL COUNSEL OR THE OFFICE OF ATTORNEY  
26 GENERAL, WHICH SHALL INSTITUTE AN ACTION IN THE  
27 APPROPRIATE COURT TO RECOVER THE PENALTY.

28 (2) A PERSON WHO KNOWINGLY VIOLATES A PROVISION OF THIS  
29 ACT OR A RULE OR REGULATION ADOPTED OR ORDER ISSUED UNDER  
30 THIS ACT:

1           (I) UNLESS OTHERWISE SPECIFIED IN THIS ACT, FOR THE  
2           FIRST OFFENSE, COMMITS A SUMMARY OFFENSE AND SHALL, UPON  
3           CONVICTION, BE SENTENCED TO PAY A FINE OF NOT LESS THAN  
4           \$100 NOR MORE THAN \$500 PLUS COSTS OF PROSECUTION OR TO  
5           IMPRISONMENT FOR NOT MORE THAN 90 DAYS, OR BOTH.

6           (II) FOR A SUBSEQUENT OFFENSE AT A REGISTERED  
7           LOCATION THAT OCCURS WITHIN TWO YEARS OF SENTENCING FOR  
8           THE PRIOR VIOLATION, COMMITS A MISDEMEANOR OF THE THIRD  
9           DEGREE AND SHALL, UPON CONVICTION, BE SENTENCED TO PAY A  
10           FINE OF NOT LESS THAN \$500 NOR MORE THAN \$1,000 PLUS  
11           COSTS OF PROSECUTION OR TO IMPRISONMENT OF NOT MORE THAN  
12           ONE YEAR, OR BOTH.

13           (3) A PERSON CREATING A BIODIESEL BLEND BY MEANS OTHER  
14           THAN IN-LINE INJECTION BLENDING OR ANOTHER BLENDING PROCESS  
15           APPROVED BY THE DEPARTMENT AS A SUBSTANTIAL EQUIVALENT,  
16           EITHER THROUGH REGULATIONS PROMULGATED UNDER THIS ACT OR UPON  
17           APPLICATION TO THE DEPARTMENT FOR APPROVAL PURSUANT TO THIS  
18           SUBSECTION, SHALL BE FOUND IN VIOLATION OF THIS ACT'S  
19           BIODIESEL PERCENTAGE REQUIREMENTS FOR CREATING A BIODIESEL  
20           BLEND THAT DOES NOT CONFORM TO THIS ACT'S BIODIESEL  
21           PERCENTAGE REQUIREMENTS WITHOUT PROOF OF HAVING KNOWINGLY  
22           VIOLATED THIS ACT.

23           (4) IN ADDITION TO ANY OTHER REMEDIES SET FORTH UNDER  
24           THIS ACT, A VIOLATION OF THIS ACT OR A REGULATION PROMULGATED  
25           UNDER THIS ACT SHALL BE ABATABLE IN THE MANNER PROVIDED BY  
26           LAW OR EQUITY. IN CASES WHERE THE CIRCUMSTANCES REQUIRE IT, A  
27           MANDATORY PRELIMINARY INJUNCTION, SPECIAL INJUNCTION OR  
28           TEMPORARY RESTRAINING ORDER MAY BE ISSUED UPON THE TERMS  
29           PRESCRIBED BY THE COURT, PROVIDED NOTICE OF THE APPLICATION  
30           HAS BEEN GIVEN TO THE RESPONDENT IN ACCORDANCE WITH THE RULES

1 OF EQUITY PRACTICE. IN ANY PROCEEDING, THE COURT SHALL ISSUE  
2 A PROHIBITORY OR MANDATORY INJUNCTION IF IT FINDS THAT THE  
3 RESPONDENT IS ENGAGING IN UNLAWFUL CONDUCT AS DEFINED UNDER  
4 THIS ACT OR IS ENGAGING IN CONDUCT WHICH IS CAUSING IMMEDIATE  
5 AND IRREPARABLE HARM TO THE PUBLIC. IN ADDITION TO THE  
6 INJUNCTION, THE COURT, IN THE EQUITY PROCEEDING, MAY ASSESS  
7 CIVIL PENALTIES IN ACCORDANCE WITH THIS SECTION.

8 Section 2 4. This act shall take effect in 60 days.

