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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1306 Session of  
2017

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INTRODUCED BY HARKINS, McNEILL, CONKLIN, D. COSTA AND PASHINSKI,  
MAY 1, 2017

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REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
MAY 1, 2017

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AN ACT

1 Amending the act of July 10, 2008 (P.L.1009, No.78), entitled  
2 "An act providing for the study and mandated content of  
3 biofuels," further providing for definitions; providing for  
4 biodiesel content in heating oil fuel sold; and further  
5 providing for blending, registration and other requirements,  
6 for department authority and responsibility and for  
7 infrastructure reports.

8 The General Assembly of the Commonwealth of Pennsylvania  
9 hereby enacts as follows:

10 Section 1. The definitions of "approved biodiesel blending  
11 method" and "biodiesel blend" in section 2 of the act of July  
12 10, 2008 (P.L.1009, No.78), known as the Biofuel Development and  
13 In-State Production Incentive Act, are amended to read:

14 Section 2. Definitions.

15 The following words and phrases when used in this act shall  
16 have the meanings given to them in this section unless the  
17 context clearly indicates otherwise:

18 \* \* \*

19 "Approved biodiesel blending method." A method whereby  
20 diesel fuel or heating oil is blended with biodiesel under the

1 following conditions:

2 (1) The method utilizes meters approved by the  
3 Department of Agriculture to individually measure the volume  
4 of each fuel.

5 (2) The method achieves and maintains a consistent blend  
6 throughout the entire volume being blended.

7 (3) The method achieves and maintains the blend  
8 percentage within a margin of ten percent of the total volume  
9 of biodiesel required to make the desired blending  
10 percentage.

11 (4) The blending occurs at a facility capable of  
12 maintaining the biodiesel at a minimum of ten degrees  
13 Fahrenheit above the cloud point of the biodiesel.

14 \* \* \*

15 "Biodiesel blend." As follows:

16 (1) A blend of diesel fuel and biodiesel in a percentage  
17 blend to be sold or offered for sale to ultimate consumers in  
18 this Commonwealth for use in on-road compression ignition  
19 engines.

20 (2) A blend of heating oil and biodiesel in a percentage  
21 blend to be sold or offered for sale to ultimate consumers in  
22 this Commonwealth for heating.

23 \* \* \*

24 Section 2. The act is amended by adding a section to read:

25 Section 3.1. Biodiesel content in heating oil fuel sold.

26 (a) Volume standards.--The following standards shall apply:

27 (1) All heating oil sold or offered for sale to ultimate  
28 consumers in this Commonwealth must be blended with biodiesel  
29 so as to achieve a biodiesel blend of at least 2% biodiesel  
30 by volume one year after the in-State production volume of

1 40,000,000 gallons of biodiesel has been reached and  
2 sustained for three months on an annualized basis as  
3 determined by the department. Biodiesel blend of less than 6%  
4 biodiesel shall comply with ASTM specification D975 or its  
5 successor standard. Biodiesel blend of 6% or more through 20%  
6 biodiesel shall comply with ASTM specification D7467 or its  
7 successor standard. Biodiesel blend of more than 20%  
8 biodiesel shall comply with standards adopted by the  
9 department through regulation until an ASTM standard is  
10 applicable.

11 (2) All heating oil sold or offered for sale to ultimate  
12 consumers in this Commonwealth must be blended with biodiesel  
13 so as to achieve a biodiesel blend of at least 5% biodiesel  
14 by volume one year after the in-State production volume of  
15 100,000,000 gallons of biodiesel has been reached and  
16 sustained for three months on an annualized basis as  
17 determined by the department. Biodiesel blend of less than 6%  
18 biodiesel shall comply with ASTM specification D975 or its  
19 successor standard. Biodiesel blend of 6% or more through 20%  
20 biodiesel shall comply with ASTM specification D7467 or its  
21 successor standard. Biodiesel blend of more than 20%  
22 biodiesel shall comply with standards adopted by the  
23 department through regulation until an ASTM standard is  
24 applicable.

25 (3) All heating oil sold or offered for sale to ultimate  
26 consumers in this Commonwealth must be blended with biodiesel  
27 so as to achieve a biodiesel blend of at least 10% biodiesel  
28 by volume one year after the in-State production volume of  
29 200,000,000 gallons of biodiesel has been reached and  
30 sustained for three months on an annualized basis as

1 determined by the department. Biodiesel blend of 10% or more  
2 through 20% biodiesel shall comply with ASTM specification  
3 D7467 or its successor standard. Biodiesel blend of more than  
4 20% biodiesel shall comply with standards adopted by the  
5 department through regulation until an ASTM standard is  
6 applicable.

7 (4) All heating oil sold or offered for sale to ultimate  
8 consumers in this Commonwealth must be blended with biodiesel  
9 so as to achieve a biodiesel blend of at least 20% biodiesel  
10 by volume one year after the in-State production volume of  
11 400,000,000 gallons of biodiesel has been reached and  
12 sustained for three months on an annualized basis as  
13 determined by the department. Biodiesel blend of 20%  
14 biodiesel shall comply with ASTM specification D7467 or its  
15 successor standard. Biodiesel blend of more than 20%  
16 biodiesel shall comply with standards adopted by the  
17 department through regulation until an ASTM standard is  
18 applicable.

19 (b) Applicability of standards.--The volume standards  
20 mandated in subsection (a) (3) and (4) shall be effective only if  
21 the department, in cooperation with the Department of  
22 Transportation and the Department of Environmental Protection,  
23 makes a determination that manufacturers of heating oil furnaces  
24 that are sold in this Commonwealth have indicated publicly that  
25 they will not void or withdraw furnace warranties due to the use  
26 of biodiesel blends at the percentages contained in the  
27 corresponding paragraph under subsection (a). This determination  
28 shall be published in the Pennsylvania Bulletin and transmitted  
29 to the Majority Leader and the Minority Leader of the Senate and  
30 the Majority Leader and the Minority Leader of the House of

1 Representatives.

2 (c) Exceptions.--The requirements of this section shall not  
3 apply to:

4 (1) Aviation fuel or where prohibited by law.

5 (2) Fuel stored at a nuclear power plant.

6 Section 3. Sections 4.1(a), (b), (c)(2)(ii) and (d)(2), 5(d)  
7 and (e)(1) and 6(d) of the act are amended to read:

8 Section 4.1. Blending, registration and other requirements.

9 (a) Blending requirements.--The following requirements shall  
10 apply:

11 (1) Biodiesel blend shall be created using an approved  
12 biodiesel blending method.

13 (2) Biodiesel blend created in this Commonwealth for  
14 transfer, offer for sale or sale in this Commonwealth shall  
15 be created using an approved biodiesel blending method at  
16 such time when and place where the diesel fuel or heating oil  
17 is loaded out of the petroleum load rack terminal.

18 (3) Biodiesel blend created outside of and imported into  
19 this Commonwealth shall not be transferred, offered for sale  
20 or sold in this Commonwealth unless it has been created using  
21 an approved biodiesel blending method.

22 (4) Diesel fuel and heating oil imported into this  
23 Commonwealth shall be blended with biodiesel to create  
24 biodiesel blend by an approved biodiesel blending method  
25 before the diesel fuel or heating oil may be sold or offered  
26 for sale or use within this Commonwealth.

27 (b) Registration requirements.--Any person that offers for  
28 sale, sells or otherwise transfers title in this Commonwealth to  
29 biodiesel blend or biodiesel for use by consumers in on-road  
30 compression ignition engines or for heating shall register

1 annually with the department. Each location in this Commonwealth  
2 where the person conducts the activity shall be separately  
3 registered, but may be submitted in a single form. This  
4 subsection shall apply to in-State and out-of-State persons. The  
5 application for registration shall be on a form prescribed by  
6 the department and may be accepted electronically by the  
7 department.

8 (c) Bill of lading.--

9 \* \* \*

10 (2) The bill of lading or shipping manifest required  
11 under paragraph (1) shall:

12 \* \* \*

13 (ii) Contain the following information:

14 (A) The name and location of the person that  
15 created the biodiesel blend and, if the biodiesel  
16 blend was created in this Commonwealth, the  
17 registration number assigned by the department to the  
18 subject location.

19 (B) The biodiesel content, stated as volume  
20 percentage, based upon an ASTM "Bxx" designation  
21 where "xx" denotes the volume percentage biodiesel  
22 included in the blended product.

23 (C) The ASTM specification of the biodiesel used  
24 in the biodiesel blend.

25 (D) The grade of the diesel fuel and ASTM  
26 specification of the diesel fuel or heating oil.

27 (E) The ASTM specification of the biodiesel  
28 blend.

29 (F) The total gallons of biodiesel blend sold,  
30 offered for sale or title to which is otherwise being

1 transferred.

2 \* \* \*

3 (d) Certification.--

4 \* \* \*

5 (2) A copy of the certification required under paragraph  
6 (1) shall be provided to any person that receives the  
7 biodiesel and the person that blends the biodiesel with the  
8 diesel fuel or heating oil to create the biodiesel blend. The  
9 person providing the certification and each person that  
10 receives a copy of the certification shall retain a copy of  
11 the certification for a period of one year from the delivery  
12 of the biodiesel or for a longer period of time, if part of  
13 an enforcement action initiated during the one-year period.

14 Section 5. Department authority and responsibility.

15 \* \* \*

16 (d) Reduction.--The department, in consultation with the  
17 Department of Environmental Protection, may suspend or modify to  
18 reduce the mandated contents required by section 3, 3.1 or 4 if  
19 the department determines that doing so is warranted by factors,  
20 including, but not limited to, substantially increased costs to  
21 consumers or insufficient quantity or distribution of biodiesel  
22 or cellulosic ethanol.

23 (e) Authority.--

24 (1) The department shall have the following authority:

25 (i) To access during regular business hours and to  
26 conduct unannounced random inspections of any facility  
27 located in this Commonwealth that stores, holds, blends,  
28 sells, offers for sale or otherwise transfers title to  
29 diesel fuel, heating oil, biodiesel or biodiesel blend.  
30 Inspections shall include the premises of the facility,

1 tanks, storage facilities, transportation and storage  
2 vehicles, dispensing devices and any other place where  
3 diesel fuel, heating oil, biodiesel or biodiesel blend is  
4 stored, held, blended, sold, offered for sale or title to  
5 which is otherwise transferred.

6 (ii) To take samples of and test the diesel fuel,  
7 heating oil, biodiesel and biodiesel blend being stored,  
8 held, blended, sold, offered for sale or title to which  
9 is otherwise being transferred.

10 (iii) To audit and copy the books and records  
11 pertaining to the diesel fuel, heating oil, biodiesel or  
12 biodiesel blend being stored, held, sold, offered for  
13 sale or title to which is otherwise being transferred,  
14 and its component parts, including:

15 (A) Delivery invoices, sales invoices, bills of  
16 lading and shipping manifests.

17 (B) Inventory records.

18 (C) Relevant contracts and agreements.

19 (iv) To issue stop-sale orders with respect to all  
20 biodiesel blend and biodiesel stored, held, blended, sold  
21 or title to which is otherwise transferred or offered for  
22 sale to consumers in this Commonwealth for use in on-road  
23 compression ignition engines or for heating if the  
24 department determines, after sampling and analysis, that  
25 the biodiesel blend or biodiesel does not comply with the  
26 standards established under this act or the regulations  
27 promulgated under this act and would be detrimental to  
28 the operation of on-road compression ignition engines or  
29 heating systems, if used [for its] as intended [use]. The  
30 department may release the noncompliant biodiesel blend

1 or biodiesel for sale only when the department determines  
2 the biodiesel blend or biodiesel is either brought into  
3 compliance with this act or regulations promulgated under  
4 this act or it would no longer be detrimental to the  
5 operation of on-road compression ignition engines or  
6 heating systems, if used [for its] as intended [use]. All  
7 such biodiesel blend or biodiesel must be properly  
8 labeled as to its noncompliant characteristics if  
9 released and permitted to be sold without being brought  
10 into compliance with this act or regulations promulgated  
11 under this act. A person that knowingly sells, offers for  
12 sale or otherwise transfers title to biodiesel blend or  
13 biodiesel in this Commonwealth subject to a stop-sale  
14 order for use by consumers [in on-road compression  
15 ignition engines] commits a misdemeanor of the third  
16 degree.

17 \* \* \*

18 Section 6. Infrastructure reports.

19 \* \* \*

20 (d) Insufficient infrastructure.--If any infrastructure  
21 report determines that there is insufficient infrastructure in  
22 place to meet any of the mandated volume standard requirements  
23 contained in section 3, 3.1 or 4, that mandated content  
24 requirement shall be delayed at least six months or until the  
25 department and the Department of Transportation certify that  
26 sufficient infrastructure is in place through the issuance of a  
27 new infrastructure report, whichever is later.

28 Section 4. This act shall take effect in 60 days.