

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 901 Session of 2009

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

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, OCTOBER 6, 2010

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 AMENDING THE ACT OF JULY 10, 2008 (P.L.1009, NO.78), ENTITLED ←
7 "AN ACT PROVIDING FOR THE STUDY AND MANDATED CONTENT OF
8 BIOFUELS," FURTHER PROVIDING FOR DEFINITIONS, FOR BIODIESEL
9 CONTENT IN DIESEL FUEL SOLD FOR ON-ROAD USE AND FOR
10 CELLULOSIC ETHANOL CONTENT IN GASOLINE; PROVIDING FOR
11 BLENDING, REGISTRATION AND OTHER REQUIREMENTS; FURTHER
12 PROVIDING FOR DEPARTMENT AUTHORITY AND RESPONSIBILITY;
13 PROVIDING FOR FEES; ESTABLISHING THE BIOFUEL DEVELOPMENT
14 ACCOUNT; AND IMPOSING PENALTIES.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

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

20 ~~Section 3. Biodiesel content in diesel fuel sold for on road~~
21 ~~use.~~

22 ~~SECTION 1. SECTION 2 OF THE ACT OF JULY 10, 2008 (P.L.1109,~~ ←
23 ~~NO.78), KNOWN AS THE BIOFUEL DEVELOPMENT AND IN STATE PRODUCTION~~

1 ~~INCENTIVE ACT, IS AMENDED BY ADDING DEFINITIONS TO READ:~~

2 ~~SECTION 2. DEFINITIONS.~~

3 ~~THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL~~
4 ~~HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE~~
5 ~~CONTEXT CLEARLY INDICATES OTHERWISE:~~

6 ~~"AMERICAN SOCIETY FOR TESTING AND MATERIALS INTERNATIONAL" OR~~
7 ~~"ASTM." A PRIVATE ORGANIZATION THAT UTILIZES COMMITTEES OF~~
8 ~~INDUSTRY REPRESENTATIVES AND REGULATORS TO DEVELOP PRODUCT~~
9 ~~QUALITY STANDARDS AND TEST METHODS TO BE USED BY INDUSTRIES,~~
10 ~~REGULATORY AGENCIES AND PURCHASING AGENTS.~~

11 ~~"ANNUALIZED BASIS." THE SUM OF THREE CONSECUTIVE MONTHS OF~~
12 ~~IN STATE PRODUCTION MULTIPLIED BY FOUR.~~

13 ~~"ASTM SPECIFICATION." A STANDARD QUALITY SPECIFICATION~~
14 ~~DEVELOPED AND PUBLISHED BY THE AMERICAN SOCIETY FOR TESTING AND~~
15 ~~MATERIALS INTERNATIONAL. EACH SPECIFICATION INCLUDES REFERENCES~~
16 ~~TO STANDARD TEST METHODS, ALSO DEVELOPED AND PUBLISHED BY ASTM.~~

17 ~~* * *~~

18 ~~"BIODIESEL BLEND." A BLEND OF DIESEL FUEL AND BIODIESEL FUEL~~
19 ~~TO BE SOLD OR OFFERED FOR SALE TO ULTIMATE CONSUMERS IN THIS~~
20 ~~COMMONWEALTH FOR USE IN ON ROAD COMPRESSION IGNITION ENGINES.~~

21 ~~* * *~~

22 ~~"CONSUMER." A PERSON THAT PURCHASES AUTOMOTIVE FUEL FOR~~
23 ~~PURPOSES OTHER THAN RESALE.~~

24 ~~* * *~~

25 ~~"DIESEL FUEL." PETROLEUM DIESEL FUEL THAT COMPLIES WITH ASTM~~
26 ~~D975 OR ITS SUCCESSOR STANDARD.~~

27 ~~"DISTRIBUTOR." A PERSON THAT MANUFACTURES, REFINES, RECEIVES~~
28 ~~FOR STORAGE, DISTRIBUTES, SELLS OR USES PETROLEUM PRODUCTS,~~
29 ~~INCLUDING DIESEL FUEL, BIODIESEL AND BIODIESEL BLEND, IN THIS~~
30 ~~COMMONWEALTH FOR SUBSEQUENT DISTRIBUTION TO ANOTHER PERSON OTHER~~

1 ~~THAN THE CONSUMER.~~

2 ~~"IN LINE INJECTION BLENDING." BLENDING BIODIESEL WITH DIESEL~~
3 ~~FUEL THROUGH THE USE OF A DISPENSING DEVICE WHICH INCLUDES~~
4 ~~DEPARTMENT OF AGRICULTURE APPROVED AND NATIONAL INSTITUTE OF~~
5 ~~STANDARD AND TECHNOLOGY APPROVED METERS ON BOTH THE BIODIESEL~~
6 ~~AND DIESEL FUEL SUPPLY AND THE ABILITY TO DETECT, ALARM AND~~
7 ~~DISCONTINUE LOADING BIODIESEL BLENDS THAT FALL OUTSIDE THE~~
8 ~~DESIRED BLEND RATIO BY MORE THAN 0.5%.~~

9 ~~"LOAD RACK TERMINALS." A LOCATION WHERE THE COMMERCIAL~~
10 ~~TRANSFER OF PETROLEUM PRODUCTS, INCLUDING DIESEL FUEL, BIODIESEL~~
11 ~~AND BIODIESEL BLEND, AT THE WHOLESALE LEVEL IS CONDUCTED~~
12 ~~UTILIZING METERS EMPLOYED IN THE MEASUREMENT OF PRODUCT~~
13 ~~DELIVERED TO A SELLER BY A BUYER.~~

14 ~~"MANUFACTURE." TO PRODUCE, MIX, BLEND, REPACKAGE OR FURTHER~~
15 ~~PROCESS.~~

16 * * *

17 ~~"PERSON." AN INDIVIDUAL, CORPORATION, PARTNERSHIP, STOCK~~
18 ~~COMPANY, SOCIETY, ASSOCIATION, BUSINESS UNIT OR AGENT OR~~
19 ~~EMPLOYEE THEREOF.~~

20 ~~"PRODUCER." A PERSON THAT PURCHASES COMPONENT ELEMENTS AND~~
21 ~~BLENDS THEM TO PRODUCE AUTOMOTIVE FUEL, INCLUDING BIODIESEL~~
22 ~~BLEND.~~

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

30 * * *

1 ~~"RETAILER." A PERSON THAT SELLS AUTOMOTIVE FUEL, INCLUDING~~
2 ~~DIESEL FUEL, BIODIESEL AND BIODIESEL BLEND, TO THE CONSUMER.~~

3 ~~"SALE," "SELL," "OFFER FOR SALE" OR "SOLD." TO OFFER FOR~~
4 ~~SALE, CONTRACT, BARTER, EXCHANGE, DISTRIBUTE OR TRANSFER TITLE.~~

5 ~~"UNCLASSIFIED IMPORTER." A PERSON THAT IMPORTS OR CAUSES TO~~
6 ~~BE IMPORTED DIESEL FUEL, BIODIESEL OR BIODIESEL BLEND FOR USE,~~
7 ~~DISTRIBUTION OR SALE IN THIS COMMONWEALTH, BUT THAT DOES NOT~~
8 ~~QUALIFY AS A DISTRIBUTOR.~~

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

11 SECTION 3. BIODIESEL CONTENT IN DIESEL FUEL SOLD FOR ON ROAD
12 USE.

13 (A) VOLUME STANDARDS. THE FOLLOWING STANDARDS SHALL APPLY:

14 (1) ALL DIESEL FUEL SOLD OR OFFERED FOR SALE TO ULTIMATE
15 CONSUMERS IN THIS COMMONWEALTH FOR USE IN ON ROAD COMPRESSION
16 IGNITION ENGINES MUST [CONTAIN] BE BLENDED WITH BIODIESEL SO
17 AS TO ACHIEVE A BIODIESEL BLEND OF AT LEAST 2% BIODIESEL BY
18 VOLUME ONE YEAR AFTER THE IN STATE PRODUCTION VOLUME OF
19 40,000,000 GALLONS OF BIODIESEL HAS BEEN REACHED AND
20 SUSTAINED FOR THREE MONTHS ON AN ANNUALIZED BASIS AS
21 DETERMINED BY THE DEPARTMENT. THE BIODIESEL BLEND SHALL
22 COMPLY WITH ASTM SPECIFICATION D975 OR ITS SUCCESSOR
23 STANDARD.

24 (2) ALL DIESEL FUEL SOLD OR OFFERED FOR SALE TO ULTIMATE
25 CONSUMERS IN THIS COMMONWEALTH FOR USE IN ON ROAD COMPRESSION
26 IGNITION ENGINES MUST [CONTAIN] BE BLENDED WITH BIODIESEL SO
27 AS TO ACHIEVE A BIODIESEL BLEND OF AT LEAST 5% BIODIESEL BY
28 VOLUME ONE YEAR AFTER THE IN STATE PRODUCTION VOLUME OF
29 100,000,000 GALLONS OF BIODIESEL HAS BEEN REACHED AND
30 SUSTAINED FOR THREE MONTHS ON AN ANNUALIZED BASIS AS

1 ~~DETERMINED BY THE DEPARTMENT. THE BIODIESEL BLEND SHALL~~
2 ~~COMPLY WITH ASTM SPECIFICATION D975 OR ITS SUCCESSOR~~
3 ~~STANDARD.~~

4 ~~(3) ALL DIESEL FUEL SOLD OR OFFERED FOR SALE TO ULTIMATE~~
5 ~~CONSUMERS IN THIS COMMONWEALTH FOR USE IN ON ROAD COMPRESSION~~
6 ~~IGNITION ENGINES MUST [CONTAIN] BE BLENDED WITH BIODIESEL SO~~
7 ~~AS TO ACHIEVE A BIODIESEL BLEND OF AT LEAST 10% BIODIESEL BY~~
8 ~~VOLUME ONE YEAR AFTER THE IN STATE PRODUCTION VOLUME OF~~
9 ~~200,000,000 GALLONS OF BIODIESEL HAS BEEN REACHED AND~~
10 ~~SUSTAINED FOR THREE MONTHS ON AN ANNUALIZED BASIS AS~~
11 ~~DETERMINED BY THE DEPARTMENT. THE BIODIESEL BLEND SHALL~~
12 ~~COMPLY WITH ASTM SPECIFICATION D7467 OR ITS SUCCESSOR~~
13 ~~STANDARD.~~

14 ~~(4) ALL DIESEL FUEL SOLD OR OFFERED FOR SALE TO ULTIMATE~~
15 ~~CONSUMERS IN THIS COMMONWEALTH FOR USE IN ON ROAD COMPRESSION~~
16 ~~IGNITION ENGINES MUST [CONTAIN] BE BLENDED WITH BIODIESEL SO~~
17 ~~AS TO ACHIEVE A BIODIESEL BLEND OF AT LEAST 20% BIODIESEL BY~~
18 ~~VOLUME ONE YEAR AFTER THE IN STATE PRODUCTION VOLUME OF~~
19 ~~400,000,000 GALLONS OF BIODIESEL HAS BEEN REACHED AND~~
20 ~~SUSTAINED FOR THREE MONTHS ON AN ANNUALIZED BASIS AS~~
21 ~~DETERMINED BY THE DEPARTMENT. THE BIODIESEL BLEND SHALL~~
22 ~~COMPLY WITH ASTM SPECIFICATION D7467 OR ITS SUCCESSOR~~
23 ~~STANDARD.~~

24 * * *

25 ~~(f) [Exception] Exceptions. The requirements of this~~
26 ~~section shall not apply to [aviation].~~

27 ~~(1) Aviation fuel, home heating fuel or where prohibited~~
28 ~~by law.~~

29 ~~(2) Diesel fuel produced from 100% Pennsylvania GRADE~~
30 ~~crude oil by a small refiner, as defined by 40 CFR 80.1101(g)~~



1 ~~(relating to small refinery), through December 31, 2010.~~

2 SECTION 3. SECTION 5 OF THE ACT IS AMENDED BY ADDING
3 SUBSECTIONS TO READ:

4 SECTION 5. AGENCY RESPONSIBILITIES.

5 * * *

6 ~~(E) ENFORCEMENT.~~

7 ~~(1) THE DEPARTMENT IS CHARGED WITH THE GENERAL~~
8 ~~ENFORCEMENT OF THIS ACT. THE DEPARTMENT MAY EMPLOY ALL PROPER~~
9 ~~MEANS FOR THE ENFORCEMENT OF THIS ACT, INCLUDING ISSUING~~
10 ~~NOTICES AND ORDERS, FILING VIOLATIONS FOR CRIMINAL~~
11 ~~PROSECUTION, SEEKING INJUNCTIVE RELIEF, IMPOSING CIVIL~~
12 ~~PENALTIES AND ENTERING INTO CONSENT AGREEMENTS.~~

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

25 ~~(3) (1) ANY TIME BIODIESEL BLEND IS SOLD OR TRANSFERRED~~
26 ~~FROM A REFINERY, TERMINAL, SHIPPER OR ANY PERSON, FOR~~
27 ~~SALE TO ULTIMATE CONSUMERS IN THIS COMMONWEALTH, EITHER~~
28 ~~DIRECTLY OR THROUGH A RETAILER OR OTHER PERSON, A BILL OF~~
29 ~~LADING OR SHIPPING MANIFEST SHALL BE PROVIDED TO THE~~
30 ~~PERSON THAT RECEIVES THE BIODIESEL BLEND. THE SHIPPING~~

1 ~~MANIFEST OR BILL OF LADING SHALL ACCOMPANY THE BIODIESEL~~
2 ~~BLEND TO THE RETAILER. FOR DIRECT CONSUMER SALES OF~~
3 ~~BIODIESEL BLEND BY A TERMINAL OR REFINERY, SUCH BILLS OF~~
4 ~~LADING OR SHIPPING MANIFEST SHALL BE RETAINED AT THE~~
5 ~~POINT OF SALE. A COPY OF SUCH RECORDS SHALL BE RETAINED~~
6 ~~BY THE REFINERY, TERMINAL, DISTRIBUTOR, PRODUCER,~~
7 ~~UNCLASSIFIED IMPORTER OR PERSON RESPONSIBLE FOR A PERIOD~~
8 ~~OF ONE YEAR FROM DELIVERY OF THE BIODIESEL BLEND PRODUCT~~
9 ~~OR FOR A LONGER PERIOD OF TIME IF PART OF AN ENFORCEMENT~~
10 ~~ACTION.~~

11 ~~(II) FOR BIODIESEL BLEND, THE BILL OF LADING OR~~
12 ~~SHIPPING MANIFEST SHALL CONTAIN AND DISCLOSE THE~~
13 ~~FOLLOWING INFORMATION:~~

14 ~~(A) THE PENNSYLVANIA REGISTRATION NUMBER, NAME~~
15 ~~AND LOCATION OF THE TERMINAL, REFINERY, DISTRIBUTOR,~~
16 ~~PRODUCER, UNCLASSIFIED IMPORTER OR PERSON THAT~~
17 ~~CREATED THE BIODIESEL BLEND.~~

18 ~~(B) THE BIODIESEL CONTENT, STATING VOLUME~~
19 ~~PERCENTAGE, BASED UPON GALLONS OF BIODIESEL PER~~
20 ~~GALLONS OF DIESEL FUEL BASE STOCK, OR AN ASTM "BXX"~~
21 ~~DESIGNATION WHERE "XX" DENOTES THE VOLUME PERCENTAGE~~
22 ~~BIODIESEL INCLUDED IN THE BLENDED PRODUCT.~~

23 ~~(C) THE ASTM SPECIFICATION OF THE BIODIESEL USED~~
24 ~~IN THE BIODIESEL BLEND.~~

25 ~~(D) THE GRADE AND ASTM SPECIFICATION OF THE~~
26 ~~DIESEL FUEL.~~

27 ~~(E) THE ASTM SPECIFICATION OF THE BIODIESEL~~
28 ~~BLEND.~~

29 ~~(F) THE TOTAL GALLONS OF BIODIESEL BLEND SOLD,~~
30 ~~SHIPPED OR TRANSFERRED.~~

1 ~~(G) A CERTIFICATION SIGNED BY THE REFINERY,~~
2 ~~TERMINAL, DISTRIBUTOR, PRODUCER, UNCLASSIFIED~~
3 ~~IMPORTER OR OTHER PERSON, THAT CREATED THE BIODIESEL~~
4 ~~BLEND STATING THE INFORMATION CONTAINED IN THE BILL~~
5 ~~OF LADING OR SHIPPING MANIFEST IS TRUE AND CORRECT~~
6 ~~SUBJECT TO THE PENALTIES OF 18 PA.C.S. § 4904~~
7 ~~(RELATING TO UNSWORN FALSIFICATION TO AUTHORITIES).~~

8 ~~(III) RETAILERS OFFERING A BIODIESEL BLEND PRODUCT~~
9 ~~FOR ULTIMATE SALE TO CONSUMERS IN THIS COMMONWEALTH FOR~~
10 ~~USE IN ON ROAD COMPRESSION IGNITION ENGINES SHALL ASSURE~~
11 ~~THEY RECEIVE AND RETAIN FOR THEIR RECORDS A COPY OF THE~~
12 ~~BILLS OF LADING AND SHIPPING MANIFESTS REQUIRED BY~~
13 ~~SUBPARAGRAPHS (I) AND (II). THESE RECORDS SHALL BE~~
14 ~~RETAINED FOR A PERIOD OF ONE YEAR FROM RECEIPT OF THE~~
15 ~~BIODIESEL BLEND PRODUCT OR FOR A LONGER PERIOD OF TIME IF~~
16 ~~PART OF AN ENFORCEMENT ACTION EITHER AT THE FACILITY~~
17 ~~WHERE THE PRODUCT IS SOLD OR AT THE CORPORATE~~
18 ~~HEADQUARTERS, SO LONG AS THE BILLS OF LADING AND SHIPPING~~
19 ~~MANIFESTS REMAIN AT THE FACILITY WHERE THE PRODUCT IS~~
20 ~~SOLD UNTIL SUCH TIME AS THAT PRODUCT IS SOLD OR IS NO~~
21 ~~LONGER PRESENT AT THE FACILITY. NOTWITHSTANDING THE~~
22 ~~PROVISIONS OF THIS SUBSECTION, NO RETAILER SHALL BE FOUND~~
23 ~~IN VIOLATION OF THIS ACT FOR FAILURE TO MAKE THE RECORDS~~
24 ~~REQUIRED BY SUBPARAGRAPHS (I) AND (II) IMMEDIATELY~~
25 ~~AVAILABLE TO THE DEPARTMENT UPON INSPECTION OF THE~~
26 ~~FACILITY WHERE THE PRODUCT IS SOLD, PROVIDED THAT THE~~
27 ~~RECORDS ARE SUBMITTED TO THE DEPARTMENT WITHIN TWO~~
28 ~~BUSINESS DAYS.~~

29 ~~(IV) ANY TIME BIODIESEL IS SOLD OR TRANSFERRED FROM~~
30 ~~ANY PERSON TO BE SOLD OR OFFERED FOR SALE TO ULTIMATE~~

~~CONSUMERS IN THIS COMMONWEALTH FOR USE IN ON ROAD
COMPRESSION IGNITION ENGINES AS PART OF A BIODIESEL
BLEND, A CERTIFICATION SHALL BE PROVIDED TO THE PERSON
THAT RECEIVES THE BIODIESEL. THE CERTIFICATION SHALL
ACCOMPANY THE BIODIESEL TO THE PERSON THAT BLENDS THE
BIODIESEL WITH DIESEL FUEL AND SHALL ACCOMPANY THE
BIODIESEL BLEND INTO WHICH THE BIODIESEL HAS BEEN
INCORPORATED TO THE RETAILER. THE CERTIFICATION SHALL BE
SIGNED BY THE PERSON SELLING OR TRANSFERRING THE
BIODIESEL AND STATE THAT THE BIODIESEL IS COMPLIANT WITH
THE DEFINITION AND QUALITY STANDARDS FOR BIODIESEL UNDER
THIS ACT, INCLUDING ASTM D 6751 02, OR ITS SUCCESSOR
STANDARD, AND BE MADE SUBJECT TO THE PENALTIES OF 18
PA.C.S. § 4904. A COPY OF THE CERTIFICATION SHALL BE
RETAINED BY THE PERSON SELLING OR TRANSFERRING THE
BIODIESEL, THE PERSON BLENDING THE BIODIESEL WITH DIESEL
FUEL AND BY THE RETAILER FOR A PERIOD OF ONE YEAR FROM
DELIVERY OF THE BIODIESEL OR BIODIESEL BLEND, AS
APPLICABLE, OR FOR A LONGER PERIOD OF TIME IF PART OF AN
ENFORCEMENT ACTION. WITH REGARD TO A RETAILER, A COPY OF
THE CERTIFICATION MAY BE RETAINED AT THE CORPORATE
HEADQUARTERS SO LONG AS THE CERTIFICATION REMAINS AT THE
FACILITY WHERE THE PRODUCT IS SOLD UNTIL SUCH TIME AS
THAT PRODUCT IS SOLD OR IS NO LONGER PRESENT AT THE
FACILITY. NOTWITHSTANDING THE PROVISIONS OF THIS
SUBSECTION, NO RETAILER SHALL BE FOUND IN VIOLATION OF
THIS ACT FOR FAILURE TO MAKE THE RECORDS REQUIRED BY
SUBPARAGRAPHS (I) AND (II) IMMEDIATELY AVAILABLE TO THE
DEPARTMENT UPON INSPECTION OF THE FACILITY WHERE THE
PRODUCT IS SOLD, PROVIDED THAT THE RECORDS ARE SUBMITTED~~

1 ~~TO THE DEPARTMENT WITHIN TWO BUSINESS DAYS.~~

2 ~~(4) THE DEPARTMENT SHALL HAVE THE FOLLOWING AUTHORITY:~~

3 ~~(I) TO CONDUCT UNANNOUNCED RANDOM INSPECTIONS OF ANY~~
4 ~~PERSON OR ESTABLISHMENT LOCATED IN THIS COMMONWEALTH THAT~~
5 ~~STORES, HOLDS, BLENDS, SELLS OR OFFERS FOR SALE DIESEL~~
6 ~~FUEL, BIODIESEL OR BIODIESEL BLEND. INSPECTIONS SHALL~~
7 ~~INCLUDE THE PREMISES, TANKS, STORAGE FACILITIES,~~
8 ~~TRANSPORTATION AND STORAGE VEHICLES, DISPENSING DEVICES~~
9 ~~AND ANY OTHER PLACE WHERE DIESEL FUEL, BIODIESEL OR~~
10 ~~BIODIESEL BLEND IS STORED, HELD, BLENDED, SOLD OR OFFERED~~
11 ~~FOR SALE.~~

12 ~~(II) TO TAKE SAMPLES OF AND TEST THE DIESEL FUEL,~~
13 ~~BIODIESEL AND BIODIESEL BLEND BEING STORED, HELD,~~
14 ~~BLENDED, SOLD OR OFFERED FOR SALE.~~

15 ~~(III) TO AUDIT THE BOOKS AND RECORDS, INCLUDING~~
16 ~~COPYING, PERTAINING TO THE DIESEL FUEL, BIODIESEL OR~~
17 ~~BIODIESEL BLEND BEING STORED, HELD, SOLD OR OFFERED FOR~~
18 ~~SALE, AND ITS COMPONENT PARTS, INCLUDING:~~

19 ~~(A) DELIVERY INVOICES, BILLS OF LADING AND~~
20 ~~SHIPPING MANIFESTS.~~

21 ~~(B) SALES INVOICES, BILLS OF LADING AND SHIPPING~~
22 ~~MANIFESTS.~~

23 ~~(C) INVENTORY RECORDS.~~

24 ~~(D) CONTRACTS AND AGREEMENTS BETWEEN SUPPLIERS,~~
25 ~~BUYERS AND SELLERS.~~

26 ~~(5) THE DEPARTMENT IS AUTHORIZED TO ACCESS, DURING~~
27 ~~REGULAR BUSINESS HOURS, THE PREMISES, INCLUDING THE TANKS,~~
28 ~~STORAGE FACILITIES, TRANSPORTATION AND STORAGE VEHICLES,~~
29 ~~DISPENSING DEVICES AND ANY OTHER PLACE WHERE DIESEL FUEL,~~
30 ~~BIODIESEL OR BIODIESEL BLEND IS STORED, HELD, BLENDED, SOLD~~

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

15 ~~(6) THE DEPARTMENT SHALL HAVE THE AUTHORITY TO ISSUE~~
16 ~~STOP SALE ORDERS WITH RESPECT TO ALL BIODIESEL AND BIODIESEL~~
17 ~~BLEND STORED, HELD, BLENDED, SOLD OR OFFERED FOR SALE TO~~
18 ~~ULTIMATE CONSUMERS IN THIS COMMONWEALTH FOR USE IN ON ROAD~~
19 ~~COMPRESSION IGNITION ENGINES WHERE THE DEPARTMENT DETERMINES,~~
20 ~~AFTER SAMPLING AND ANALYSIS, THAT THE BIODIESEL OR BIODIESEL~~
21 ~~BLEND DOES NOT COMPLY WITH THE STANDARDS ESTABLISHED BY THIS~~
22 ~~ACT OR THE REGULATIONS PROMULGATED UNDER THIS ACT AND WOULD~~
23 ~~BE DETRIMENTAL TO THE OPERATION OF ON ROAD COMPRESSION~~
24 ~~IGNITION ENGINES IF USED FOR ITS INTENDED USE. THE DEPARTMENT~~
25 ~~SHALL RELEASE THE NONCOMPLIANT BIODIESEL OR BIODIESEL BLEND~~
26 ~~FOR SALE ONLY WHEN THE DEPARTMENT DETERMINES THE BIODIESEL OR~~
27 ~~BIODIESEL BLEND IS EITHER BROUGHT INTO COMPLIANCE WITH THIS~~
28 ~~ACT OR REGULATIONS PROMULGATED UNDER THIS ACT OR IT WOULD NO~~
29 ~~LONGER BE DETRIMENTAL TO THE OPERATION OF ON ROAD COMPRESSION~~
30 ~~IGNITION ENGINES IF USED FOR ITS INTENDED USE. ALL SUCH~~

1 ~~BIODIESEL OR BIODIESEL BLEND MUST BE PROPERLY LABELED AS TO~~
2 ~~ITS NONCOMPLIANT CHARACTERISTICS IF RELEASED AND PERMITTED TO~~
3 ~~BE SOLD WITHOUT BEING BROUGHT INTO COMPLIANCE WITH THIS ACT~~
4 ~~OR REGULATIONS PROMULGATED UNDER THIS ACT. A PERSON WHO~~
5 ~~KNOWINGLY SELLS OR OFFERS FOR SALE BIODIESEL OR BIODIESEL~~
6 ~~BLEND SUBJECT TO A STOP SALE ORDER IN THIS COMMONWEALTH FOR~~
7 ~~USE BY ULTIMATE CONSUMERS IN ON ROAD COMPRESSION IGNITION~~
8 ~~ENGINES COMMITS A MISDEMEANOR OF THE THIRD DEGREE.~~

9 ~~(F) PENALTIES.~~

10 ~~(1) (I) THE DEPARTMENT MAY ASSESS A CIVIL PENALTY OF~~
11 ~~NOT LESS THAN \$100 NOR MORE THAN \$1,000 PER DAY FOR EACH~~
12 ~~KNOWING VIOLATION OF THIS ACT OR A REGULATION PROMULGATED~~
13 ~~UNDER THIS ACT.~~

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

27 ~~(III) IN CASES OF INABILITY TO COLLECT THE CIVIL~~
28 ~~PENALTY OR FAILURE OF ANY PERSON TO PAY ALL OR A PORTION~~
29 ~~OF THE PENALTY, THE DEPARTMENT MAY REFER THE MATTER TO~~
30 ~~THE OFFICE OF GENERAL COUNSEL OR THE OFFICE OF ATTORNEY~~

~~GENERAL, WHICH SHALL INSTITUTE AN ACTION IN THE
APPROPRIATE COURT TO RECOVER THE PENALTY.~~

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

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

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

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

~~(4) IN ADDITION TO ANY OTHER REMEDIES SET FORTH UNDER
THIS ACT, A VIOLATION OF THIS ACT OR A REGULATION PROMULGATED
UNDER THIS ACT SHALL BE ABATABLE IN THE MANNER PROVIDED BY~~

~~LAW OR EQUITY. IN CASES WHERE THE CIRCUMSTANCES REQUIRE IT, A
MANDATORY PRELIMINARY INJUNCTION, SPECIAL INJUNCTION OR
TEMPORARY RESTRAINING ORDER MAY BE ISSUED UPON THE TERMS
PRESCRIBED BY THE COURT, PROVIDED NOTICE OF THE APPLICATION
HAS BEEN GIVEN TO THE RESPONDENT IN ACCORDANCE WITH THE RULES
OF EQUITY PRACTICE. IN ANY PROCEEDING, THE COURT SHALL ISSUE
A PROHIBITORY OR MANDATORY INJUNCTION IF IT FINDS THAT THE
RESPONDENT IS ENGAGING IN UNLAWFUL CONDUCT AS DEFINED UNDER
THIS ACT OR IS ENGAGING IN CONDUCT WHICH IS CAUSING IMMEDIATE
AND IRREPARABLE HARM TO THE PUBLIC. IN ADDITION TO THE
INJUNCTION, THE COURT, IN THE EQUITY PROCEEDING, MAY ASSESS
CIVIL PENALTIES IN ACCORDANCE WITH THIS SECTION.~~

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

SECTION 1. SECTION 2 OF THE ACT OF JULY 10, 2008 (P.L.1009,
NO.78), KNOWN AS THE BIOFUEL DEVELOPMENT AND IN-STATE PRODUCTION
INCENTIVE ACT, IS AMENDED BY ADDING DEFINITIONS TO READ: ←

SECTION 2. DEFINITIONS.

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

"AMERICAN SOCIETY FOR TESTING AND MATERIALS INTERNATIONAL" OR
"ASTM." A MEMBER-BASED INTERNATIONAL STANDARDS ORGANIZATION
THAT DEVELOPS AND PUBLISHES VOLUNTARY CONSENSUS TECHNICAL
STANDARDS AND TEST METHODS FOR A VARIETY OF MATERIALS AND
PRODUCTS, INCLUDING AUTOMOTIVE FUEL AND OTHER PETROLEUM
PRODUCTS, OR ANY SUCCESSOR ORGANIZATION.

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

"APPROVED BIODIESEL BLENDING METHOD." A METHOD WHEREBY
DIESEL FUEL IS BLENDED WITH BIODIESEL UNDER THE FOLLOWING

1 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 ONE-HALF OF ONE PERCENT OF THE
9 TOTAL VOLUME OF BIODIESEL REQUIRED TO MAKE THE DESIRED
10 BLENDING 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 "ASTM SPECIFICATION." A STANDARD QUALITY SPECIFICATION
15 DEVELOPED AND PUBLISHED BY THE AMERICAN SOCIETY FOR TESTING AND
16 MATERIALS INTERNATIONAL.

17 * * *

18 "BIODIESEL BLEND." A BLEND OF DIESEL FUEL AND BIODIESEL IN A
19 PERCENTAGE BLEND TO BE SOLD OR OFFERED FOR SALE TO CONSUMERS IN
20 THIS COMMONWEALTH FOR USE IN ON-ROAD COMPRESSION IGNITION
21 ENGINES.

22 * * *

23 "CONSUMER." A NATURAL PERSON WHO PURCHASES FUEL PRODUCTS FOR
24 PURPOSES OTHER THAN RESALE.

25 * * *

26 "DIESEL FUEL." PETROLEUM DIESEL FUEL THAT COMPLIES WITH ASTM
27 D975 OR ITS SUCCESSOR STANDARD.

28 * * *

29 "PERSON." A NATURAL PERSON, CORPORATION, PARTNERSHIP,
30 LIMITED LIABILITY COMPANY, BUSINESS TRUST, ASSOCIATION, ESTATE

1 OR FOUNDATION.

2 * * *

3 "RETAILER." A PERSON THAT SELLS, OFFERS FOR SALE OR
4 OTHERWISE TRANSFERS TITLE TO FUEL PRODUCTS, INCLUDING DIESEL
5 FUEL, BIODIESEL AND BIODIESEL BLEND, TO A CONSUMER.

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

8 SECTION 3. BIODIESEL CONTENT IN DIESEL FUEL SOLD FOR ON-ROAD
9 USE.

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

11 (1) ALL DIESEL FUEL SOLD OR OFFERED FOR SALE TO
12 [ULTIMATE] CONSUMERS IN THIS COMMONWEALTH FOR USE IN ON-ROAD
13 COMPRESSION IGNITION ENGINES MUST [CONTAIN] BE BLENDED WITH
14 BIODIESEL SO AS TO ACHIEVE A BIODIESEL BLEND OF AT LEAST 2%
15 BIODIESEL BY VOLUME ONE YEAR AFTER THE IN-STATE PRODUCTION
16 VOLUME OF 40,000,000 GALLONS OF BIODIESEL HAS BEEN REACHED
17 AND SUSTAINED FOR THREE MONTHS ON AN ANNUALIZED BASIS AS
18 DETERMINED BY THE DEPARTMENT. BIODIESEL BLEND OF LESS THAN 6%
19 BIODIESEL SHALL COMPLY WITH ASTM SPECIFICATION D975 OR ITS
20 SUCCESSOR STANDARD. BIODIESEL BLEND OF 6% OR MORE THROUGH 20%
21 BIODIESEL SHALL COMPLY WITH ASTM SPECIFICATION D7467 OR ITS
22 SUCCESSOR STANDARD. BIODIESEL BLEND OF MORE THAN 20%
23 BIODIESEL SHALL COMPLY WITH STANDARDS ADOPTED BY THE
24 DEPARTMENT THROUGH REGULATION UNTIL AN ASTM STANDARD IS
25 APPLICABLE.

26 (2) ALL DIESEL FUEL SOLD OR OFFERED FOR SALE TO
27 [ULTIMATE] CONSUMERS IN THIS COMMONWEALTH FOR USE IN ON-ROAD
28 COMPRESSION IGNITION ENGINES MUST [CONTAIN] BE BLENDED WITH
29 BIODIESEL SO AS TO ACHIEVE A BIODIESEL BLEND OF AT LEAST 5%
30 BIODIESEL BY VOLUME ONE YEAR AFTER THE IN-STATE PRODUCTION

1 VOLUME OF 100,000,000 GALLONS OF BIODIESEL HAS BEEN REACHED
2 AND 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 (3) ALL DIESEL FUEL SOLD OR OFFERED FOR SALE TO
12 [ULTIMATE] CONSUMERS IN THIS COMMONWEALTH FOR USE IN ON-ROAD
13 COMPRESSION IGNITION ENGINES MUST [CONTAIN] BE BLENDED WITH
14 BIODIESEL SO AS TO ACHIEVE A BIODIESEL BLEND OF AT LEAST 10%
15 BIODIESEL BY VOLUME ONE YEAR AFTER THE IN-STATE PRODUCTION
16 VOLUME OF 200,000,000 GALLONS OF BIODIESEL HAS BEEN REACHED
17 AND SUSTAINED FOR THREE MONTHS ON AN ANNUALIZED BASIS AS
18 DETERMINED BY THE DEPARTMENT. BIODIESEL BLEND OF 10% OR MORE
19 THROUGH 20% BIODIESEL SHALL COMPLY WITH ASTM SPECIFICATION
20 D7467 OR ITS SUCCESSOR STANDARD. BIODIESEL BLEND OF MORE THAN
21 20% BIODIESEL SHALL COMPLY WITH STANDARDS ADOPTED BY THE
22 DEPARTMENT THROUGH REGULATION UNTIL AN ASTM STANDARD IS
23 APPLICABLE.

24 (4) ALL DIESEL FUEL SOLD OR OFFERED FOR SALE TO
25 [ULTIMATE] CONSUMERS IN THIS COMMONWEALTH FOR USE IN ON-ROAD
26 COMPRESSION IGNITION ENGINES MUST [CONTAIN] BE BLENDED WITH
27 BIODIESEL SO AS TO ACHIEVE A BIODIESEL BLEND OF AT LEAST 20%
28 BIODIESEL BY VOLUME ONE YEAR AFTER THE IN-STATE PRODUCTION
29 VOLUME OF 400,000,000 GALLONS OF BIODIESEL HAS BEEN REACHED
30 AND SUSTAINED FOR THREE MONTHS ON AN ANNUALIZED BASIS AS

1 DETERMINED BY THE DEPARTMENT. BIODIESEL BLEND OF 20%
2 BIODIESEL SHALL COMPLY WITH ASTM SPECIFICATION D7467 OR ITS
3 SUCCESSOR STANDARD. BIODIESEL BLEND OF MORE THAN 20%
4 BIODIESEL SHALL COMPLY WITH STANDARDS ADOPTED BY THE
5 DEPARTMENT THROUGH REGULATION UNTIL AN ASTM STANDARD IS
6 APPLICABLE.

7 * * *

8 (F) [EXCEPTION] EXCEPTIONS.--THE REQUIREMENTS OF THIS
9 SECTION SHALL NOT APPLY TO [AVIATION]:

10 (1) AVIATION FUEL, HOME HEATING FUEL OR WHERE PROHIBITED
11 BY LAW.

12 (2) DIESEL FUEL PRODUCED FROM 100% PENNSYLVANIA GRADE
13 CRUDE OIL BY A SMALL REFINER, AS DEFINED BY 40 CFR 80.1101(G)
14 (RELATING TO DEFINITIONS). THIS PARAGRAPH SHALL EXPIRE
15 JANUARY 1, 2011.

16 (3) FUEL STORED AT A NUCLEAR POWER PLANT.

17 (4) THE BLEND PERCENTAGE REQUIREMENTS OF SUBSECTION (A)
18 (2), (3) AND (4) SHALL NOT APPLY TO DIESEL FUEL PRODUCED FROM
19 100% PENNSYLVANIA GRADE CRUDE OIL BY A SMALL REFINER, AS
20 DEFINED BY 40 CFR 80.1101(G).

21 SECTION 4. CELLULOSIC ETHANOL CONTENT IN GASOLINE.

22 (A) CELLULOSIC ETHANOL CONTENT REQUIRED.--ALL GASOLINE SOLD
23 OR OFFERED FOR SALE TO [ULTIMATE] CONSUMERS IN THIS COMMONWEALTH
24 MUST CONTAIN AT LEAST 10% CELLULOSIC ETHANOL BY VOLUME AS
25 DETERMINED BY AN APPROPRIATE ENVIRONMENTAL PROTECTION AGENCY OR
26 AMERICAN SOCIETY FOR TESTING MATERIALS STANDARD METHOD OF
27 ANALYSIS ONE YEAR AFTER THE IN-STATE PRODUCTION VOLUME OF
28 350,000,000 GALLONS OF CELLULOSIC ETHANOL HAS BEEN REACHED AND
29 SUSTAINED FOR THREE MONTHS ON AN ANNUALIZED BASIS AS DETERMINED
30 BY THE DEPARTMENT.

1 * * *

2 SECTION 3. THE ACT IS AMENDED BY ADDING A SECTION TO READ:
3 SECTION 4.1. BLENDING, REGISTRATION AND OTHER REQUIREMENTS.

4 (A) BLENDING REQUIREMENTS.--BIODIESEL BLEND SHALL BE CREATED
5 USING AN APPROVED BIODIESEL BLENDING METHOD.

6 (B) REGISTRATION REQUIREMENTS.--ANY PERSON THAT OFFERS FOR
7 SALE, SELLS OR OTHERWISE TRANSFERS TITLE IN THIS COMMONWEALTH TO
8 BIODIESEL BLEND OR BIODIESEL FOR USE BY CONSUMERS IN ON-ROAD
9 COMPRESSION IGNITION ENGINES SHALL REGISTER ANNUALLY WITH THE
10 DEPARTMENT. EACH LOCATION IN THIS COMMONWEALTH WHERE THE PERSON
11 CONDUCTS THE ACTIVITY SHALL BE SEPARATELY REGISTERED, BUT MAY BE
12 SUBMITTED IN A SINGLE FORM. THIS SUBSECTION SHALL APPLY TO IN-
13 STATE AND OUT-OF-STATE PERSONS. THE APPLICATION FOR REGISTRATION
14 SHALL BE ON A FORM PRESCRIBED BY THE DEPARTMENT AND MAY BE
15 ACCEPTED ELECTRONICALLY BY THE DEPARTMENT.

16 (C) BILL OF LADING.--

17 (1) EACH TIME BIODIESEL BLEND IS SOLD, OFFERED FOR SALE
18 OR TITLE TO WHICH IS OTHERWISE TRANSFERRED FOR ULTIMATE SALE
19 TO CONSUMERS IN THIS COMMONWEALTH, A BILL OF LADING OR
20 SHIPPING MANIFEST MEETING THE REQUIREMENTS OF PARAGRAPH (2)
21 SHALL BE PROVIDED TO THE PERSON THAT RECEIVES THE BIODIESEL
22 BLEND. FOR SALES OF BIODIESEL BLEND MADE DIRECTLY TO
23 CONSUMERS BY THE PERSON THAT CREATED IT, THE BILL OF LADING
24 OR SHIPPING MANIFEST SHALL BE RETAINED AT THE POINT OF SALE
25 FOR A PERIOD OF ONE YEAR FROM DELIVERY OF THE BIODIESEL BLEND
26 OR FOR A LONGER PERIOD OF TIME, IF THE BILL OF LADING OR
27 SHIPPING MANIFEST IS PART OF AN ENFORCEMENT ACTION INITIATED
28 DURING THE ONE-YEAR PERIOD.

29 (2) THE BILL OF LADING OR SHIPPING MANIFEST REQUIRED
30 UNDER PARAGRAPH (1) SHALL:

1 (I) INCLUDE A CERTIFICATION BY THE PERSON THAT
2 CREATED THE BIODIESEL BLEND STATING THAT IT WAS CREATED
3 BY AN APPROVED BIODIESEL BLENDING METHOD AND THAT THE
4 INFORMATION CONTAINED IN THE BILL OF LADING OR SHIPPING
5 MANIFEST IS TRUE AND CORRECT. THE CERTIFICATION SHALL BE
6 SUBJECT TO THE PENALTIES UNDER 18 PA.C.S. § 4904
7 (RELATING TO UNSWORN FALSIFICATION TO AUTHORITIES).

8 (II) CONTAIN THE FOLLOWING INFORMATION:

9 (A) THE NAME AND LOCATION OF THE PERSON THAT
10 CREATED THE BIODIESEL BLEND AND, IF THE BIODIESEL
11 BLEND WAS CREATED IN THIS COMMONWEALTH, THE
12 REGISTRATION NUMBER ASSIGNED BY THE DEPARTMENT TO THE
13 SUBJECT LOCATION.

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

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

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

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

25 (F) THE TOTAL GALLONS OF BIODIESEL BLEND SOLD,
26 OFFERED FOR SALE OR TITLE TO WHICH IS OTHERWISE BEING
27 TRANSFERRED.

28 (3) A RETAILER SELLING, OFFERING TO SELL OR OTHERWISE
29 TRANSFERRING TITLE TO A BIODIESEL BLEND SHALL RETAIN A COPY
30 OF THE BILL OF LADING OR SHIPPING MANIFEST REQUIRED UNDER

1 PARAGRAPH (1) FOR A PERIOD OF ONE YEAR FROM RECEIPT OF THE
2 BIODIESEL BLEND OR FOR A LONGER PERIOD OF TIME, IF THE BILL
3 OF LADING OR SHIPPING MANIFEST IS PART OF AN ENFORCEMENT
4 ACTION INITIATED DURING THE ONE-YEAR PERIOD. THE BILL OF
5 LADING OR SHIPPING MANIFEST MUST REMAIN AT THE FACILITY WHERE
6 THE BIODIESEL BLEND HAS BEEN OFFERED FOR SALE, SOLD OR TITLE
7 TO WHICH HAS OTHERWISE BEEN TRANSFERRED AT LEAST UNTIL THE
8 BIODIESEL BLEND PHYSICALLY LEAVES THE FACILITY, AFTER WHICH
9 IT MAY BE RETAINED AT THE CORPORATE HEADQUARTERS OF THE
10 RETAILER. FAILURE BY A RETAILER TO MAKE A COPY OF A BILL OF
11 LADING OR SHIPPING MANIFEST IMMEDIATELY AVAILABLE TO THE
12 DEPARTMENT FOR INSPECTION AT THE FACILITY WHERE THE BIODIESEL
13 BLEND WAS OFFERED FOR SALE, SOLD OR TITLE TO WHICH WAS
14 OTHERWISE TRANSFERRED SHALL NOT BE DEEMED A VIOLATION OF THIS
15 ACT IF THE COPY IS SUBMITTED TO THE DEPARTMENT WITHIN TWO
16 BUSINESS DAYS FOLLOWING THE INSPECTION.

17 (D) CERTIFICATION.--

18 (1) ANY TIME BIODIESEL IS SOLD, OFFERED FOR SALE OR
19 TITLE TO WHICH IS OTHERWISE TRANSFERRED IN THIS COMMONWEALTH
20 FOR USE IN BIODIESEL BLEND, THE PERSON SELLING, OFFERING FOR
21 SALE OR OTHERWISE TRANSFERRING TITLE TO THE BIODIESEL SHALL
22 PROVIDE A CERTIFICATION STATING THAT THE BIODIESEL IS
23 COMPLIANT WITH THE DEFINITION AND QUALITY STANDARDS FOR
24 BIODIESEL UNDER THIS ACT, INCLUDING ASTM D-6751-02, OR ITS
25 SUCCESSOR STANDARD. THE CERTIFICATION SHALL ALSO CONTAIN THE
26 NAME AND LOCATION OF THE PERSON THAT MANUFACTURED THE
27 BIODIESEL AND, IF THE BIODIESEL WAS MANUFACTURED IN THIS
28 COMMONWEALTH, THE REGISTRATION NUMBER ASSIGNED BY THE
29 DEPARTMENT TO THE SUBJECT LOCATION AND SHALL BE SUBJECT TO
30 THE PENALTIES OF 18 PA.C.S. § 4904.

1 (2) A COPY OF THE CERTIFICATION REQUIRED UNDER PARAGRAPH
2 (1) SHALL BE PROVIDED TO ANY PERSON THAT RECEIVES THE
3 BIODIESEL, THE PERSON THAT BLENDS THE BIODIESEL WITH THE
4 DIESEL FUEL TO CREATE THE BIODIESEL BLEND AND TO ANY PERSON
5 THAT RECEIVES THE BIODIESEL BLEND. THE PERSON PROVIDING THE
6 CERTIFICATION AND EACH PERSON THAT RECEIVES A COPY OF THE
7 CERTIFICATION SHALL RETAIN A COPY OF THE CERTIFICATION FOR A
8 PERIOD OF ONE YEAR FROM THE DELIVERY OF THE BIODIESEL OR
9 BIODIESEL BLEND, AS APPLICABLE, OR FOR A LONGER PERIOD OF
10 TIME, IF THE BILL OF LADING OR SHIPPING MANIFEST IS PART OF
11 AN ENFORCEMENT ACTION INITIATED DURING THE ONE-YEAR PERIOD.
12 WITH RESPECT TO A RETAILER THAT RECEIVES THE BIODIESEL BLEND,
13 A COPY OF THE CERTIFICATION MUST REMAIN AT A FACILITY WHERE
14 THE BIODIESEL BLEND MADE WITH THE BIODIESEL IS OFFERED FOR
15 SALE, SOLD OR TITLE TO WHICH IS OTHERWISE TRANSFERRED AT
16 LEAST UNTIL IT PHYSICALLY LEAVES THE FACILITY, AFTER WHICH IT
17 MAY BE RETAINED AT THE CORPORATE HEADQUARTERS OF THE
18 RETAILER. FAILURE BY A RETAILER TO MAKE A COPY OF THE
19 CERTIFICATION IMMEDIATELY AVAILABLE TO THE DEPARTMENT FOR
20 INSPECTION AT A FACILITY WHERE BIODIESEL BLEND MADE WITH THE
21 BIODIESEL IS OFFERED FOR SALE, SOLD OR TITLE TO WHICH IS
22 OTHERWISE TRANSFERRED SHALL NOT BE DEEMED A VIOLATION OF THIS
23 ACT IF THE COPY IS SUBMITTED TO THE DEPARTMENT WITHIN TWO
24 BUSINESS DAYS FOLLOWING THE INSPECTION.

25 SECTION 4. SECTION 5 HEADING AND (A) OF THE ACT ARE AMENDED
26 AND THE SECTION IS AMENDED BY ADDING SUBSECTIONS TO READ:

27 SECTION 5. [AGENCY RESPONSIBILITIES] DEPARTMENT AUTHORITY AND
28 RESPONSIBILITY.

29 (A) [COMPLIANCE] ENFORCEMENT.--WITH THE EXCEPTION OF SECTION
30 3(D), THE DEPARTMENT SHALL [ENSURE COMPLIANCE WITH] ENFORCE THIS

1 ACT AND[, IN CONSULTATION WITH THE DEPARTMENT OF TRANSPORTATION
2 AND THE DEPARTMENT OF ENVIRONMENTAL PROTECTION,] SHALL
3 PROMULGATE REGULATIONS AS NECESSARY TO IMPLEMENT AND ENFORCE THE
4 REQUIREMENTS OF THIS ACT. THE DEPARTMENT MAY EMPLOY ALL PROPER
5 MEANS FOR THE ENFORCEMENT OF THIS ACT, INCLUDING ISSUING NOTICES
6 AND ORDERS, INITIATING CRIMINAL PROSECUTIONS, SEEKING INJUNCTIVE
7 RELIEF, IMPOSING CIVIL PENALTIES AND ENTERING INTO CONSENT
8 AGREEMENTS.

9 * * *

10 (E) AUTHORITY.--

11 (1) THE DEPARTMENT SHALL HAVE THE FOLLOWING AUTHORITY:

12 (I) TO ACCESS DURING REGULAR BUSINESS HOURS AND TO
13 CONDUCT UNANNOUNCED RANDOM INSPECTIONS OF ANY FACILITY
14 LOCATED IN THIS COMMONWEALTH THAT STORES, HOLDS, BLENDS,
15 SELLS, OFFERS FOR SALE OR OTHERWISE TRANSFERS TITLE TO
16 DIESEL FUEL, BIODIESEL OR BIODIESEL BLEND. INSPECTIONS
17 SHALL INCLUDE THE PREMISES OF THE FACILITY, TANKS,
18 STORAGE FACILITIES, TRANSPORTATION AND STORAGE VEHICLES,
19 DISPENSING DEVICES AND ANY OTHER PLACE WHERE DIESEL FUEL,
20 BIODIESEL OR BIODIESEL BLEND IS STORED, HELD, BLENDED,
21 SOLD, OFFERED FOR SALE, OR TITLE TO WHICH IS OTHERWISE
22 TRANSFERRED.

23 (II) TO TAKE SAMPLES OF AND TEST THE DIESEL FUEL,
24 BIODIESEL AND BIODIESEL BLEND BEING STORED, HELD,
25 BLENDED, SOLD, OFFERED FOR SALE OR TITLE TO WHICH IS
26 OTHERWISE BEING TRANSFERRED.

27 (III) TO AUDIT AND COPY THE BOOKS AND RECORDS
28 PERTAINING TO THE DIESEL FUEL, BIODIESEL OR BIODIESEL
29 BLEND BEING STORED, HELD, SOLD, OFFERED FOR SALE OR TITLE
30 TO WHICH IS OTHERWISE BEING TRANSFERRED, AND ITS

1 COMPONENT PARTS, INCLUDING:

2 (A) DELIVERY INVOICES, SALES INVOICES, BILLS OF
3 LADING AND SHIPPING MANIFESTS.

4 (B) INVENTORY RECORDS.

5 (C) RELEVANT CONTRACTS AND AGREEMENTS.

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

1 COMPRESSION IGNITION ENGINES COMMITS A MISDEMEANOR OF THE
2 THIRD DEGREE.

3 (2) A PERSON THAT WILLFULLY AND INTENTIONALLY INTERFERES
4 WITH AN EMPLOYEE OF THE DEPARTMENT IN THE PERFORMANCE OF THE
5 DUTIES CONFERRED UPON THE DEPARTMENT UNDER THE PROVISIONS OF
6 THIS ACT COMMITS A MISDEMEANOR OF THE THIRD DEGREE.

7 (F) PENALTIES.--

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

12 (II) IF A PERSON FAILS TO PAY ALL OR A PORTION OF A
13 PENALTY ASSESSED AGAINST THE PERSON, THE DEPARTMENT MAY
14 REFER THE MATTER TO THE OFFICE OF GENERAL COUNSEL OR THE
15 OFFICE OF ATTORNEY GENERAL, WHICH SHALL INSTITUTE AN
16 ACTION IN THE APPROPRIATE COURT TO RECOVER THE PENALTY.

17 (2) A PERSON THAT KNOWINGLY VIOLATES A PROVISION OF THIS
18 ACT OR A RULE OR REGULATION ADOPTED OR ORDER ISSUED UNDER
19 THIS ACT:

20 (I) UNLESS OTHERWISE SPECIFIED IN THIS ACT, FOR THE
21 FIRST OFFENSE, COMMITS A SUMMARY OFFENSE AND SHALL, UPON
22 CONVICTION, BE SENTENCED TO PAY A FINE OF NOT LESS THAN
23 \$100 NOR MORE THAN \$500 PLUS COSTS OF PROSECUTION OR TO
24 IMPRISONMENT FOR NOT MORE THAN 90 DAYS, OR BOTH.

25 (II) FOR A SUBSEQUENT OFFENSE AT ONE LOCATION THAT
26 OCCURS WITHIN TWO YEARS OF SENTENCING FOR THE PRIOR
27 VIOLATION AT THE SAME LOCATION, COMMITS A MISDEMEANOR OF
28 THE THIRD DEGREE AND SHALL, UPON CONVICTION, BE SENTENCED
29 TO PAY A FINE OF NOT LESS THAN \$500 NOR MORE THAN \$1,000
30 PLUS COSTS OF PROSECUTION OR TO IMPRISONMENT OF NOT MORE

1 THAN ONE YEAR, OR BOTH.

2 (3) IN ADDITION TO ANY OTHER REMEDIES UNDER THIS ACT, A
3 VIOLATION OF THIS ACT OR A REGULATION PROMULGATED UNDER THIS
4 ACT SHALL BE ABATABLE IN ANY MANNER PROVIDED BY LAW OR
5 EQUITY. IN ADDITION TO ANY REMEDY ORDERED IN AN EQUITY
6 PROCEEDING, THE COURT MAY ASSESS CIVIL PENALTIES IN
7 ACCORDANCE WITH THIS ACT.

8 (G) FEES.--

9 (1) THE DEPARTMENT MAY IMPOSE AND COLLECT THE FOLLOWING
10 ANNUAL FEES FOR THE REGISTRATION REQUIRED UNDER SECTION
11 4.1(B):

12 (I) FIVE THOUSAND DOLLARS FOR A LOCATION IN THIS
13 COMMONWEALTH WHERE BIODIESEL IS MANUFACTURED.

14 (II) FIVE THOUSAND DOLLARS FOR A LOCATION IN THIS
15 COMMONWEALTH WHERE BIODIESEL BLEND IS CREATED.

16 (III) ONE HUNDRED DOLLARS FOR A PERSON, OTHER THAN A
17 PERSON THAT OPERATES A LOCATION DESCRIBED IN SUBPARAGRAPH
18 (I) OR (II), THAT SELLS, OFFERS FOR SALE OR OTHERWISE
19 TRANSFERS TITLE TO BIODIESEL OR BIODIESEL BLEND IN THIS
20 COMMONWEALTH, WHETHER OR NOT THE PERSON OPERATES A
21 LOCATION IN THIS COMMONWEALTH WHERE SUCH ACTIVITIES ARE
22 CONDUCTED.

23 (IV) ONE HUNDRED DOLLARS FOR EACH LOCATION IN EXCESS
24 OF ONE IN THIS COMMONWEALTH OPERATED BY THE PERSON
25 DESCRIBED IN SUBPARAGRAPH (III) WHERE THE PERSON SELLS,
26 OFFERS FOR SALE OR OTHERWISE TRANSFERS TITLE TO BIODIESEL
27 OR BIODIESEL BLEND.

28 (2) THERE IS ESTABLISHED A RESTRICTED ACCOUNT WITHIN THE
29 STATE TREASURY TO BE KNOWN AS THE BIOFUEL DEVELOPMENT
30 ACCOUNT. ALL MONEY IN THE ACCOUNT IS HEREBY APPROPRIATED ON A

1 CONTINUING BASIS TO THE DEPARTMENT FOR THE ENFORCEMENT AND
2 ADMINISTRATION OF THIS ACT.

3 (3) THE FOLLOWING SHALL BE DEPOSITED IN THE BIOFUEL
4 DEVELOPMENT ACCOUNT:

5 (I) FEDERAL AND STATE FUNDS APPROPRIATED TO THE
6 DEPARTMENT FOR IMPLEMENTATION AND ADMINISTRATION OF THIS
7 ACT.

8 (II) NOTWITHSTANDING THE PROVISIONS OF 42 PA.C.S. §§
9 3733 (RELATING TO DEPOSITS INTO ACCOUNT) AND 3733.1
10 (RELATING TO SURCHARGE), ALL FEES, FINES, JUDGMENTS AND
11 PENALTIES, INCLUDING ADMINISTRATIVE, CIVIL AND CRIMINAL
12 PENALTIES, AND INTEREST ON THE FOREGOING COLLECTED BY THE
13 DEPARTMENT UNDER THIS ACT.

14 (III) INTEREST AND ANY OTHER EARNINGS ON MONEY IN
15 THE ACCOUNT.

16 (IV) FUNDS FROM ANY OTHER SOURCE, INCLUDING GIFTS
17 AND OTHER CONTRIBUTIONS FROM PUBLIC AND PRIVATE SOURCES.

18 SECTION 5. THIS ACT SHALL TAKE EFFECT IN 30 DAYS.