
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1338 Session of
2022

INTRODUCED BY YAW, MARTIN, GEBHARD, MENSCH, STEFANO, BARTOLOTTA,
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OCTOBER 3, 2022

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, OCTOBER 3, 2022

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 short title of act and for
4 definitions; providing for low emission transportation fuel
5 incentive and for registration and other requirements; and
6 further providing for department authority and responsibility
7 and for infrastructure reports.

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

10 Section 1. Section 1 of the act of July 10, 2008 (P.L.1009,
11 No.78), known as the Biofuel Development and In-State Production
12 Incentive Act, is amended to read:

13 Section 1. Short title.

14 This act shall be known and may be cited as the Biofuel and
15 Low Emission Transportation Fuel Development and In-State
16 Production Incentive Act.

17 Section 2. Section 2 of the act is amended by adding
18 definitions to read:

19 Section 2. Definitions.

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

4 "Account." The Biofuel and Low Emission Transportation Fuel
5 Development Account established under section 5(g).

6 * * *

7 "Gasoline gallon equivalent." Conversion of natural gas
8 under standard conditions to the equivalent of a gallon of
9 gasoline so that one gasoline gallon equivalent is 126.67 cubic
10 feet of natural gas.

11 "Low emission transportation fuel." A motor vehicle fuel
12 which emits lower levels of oxides of nitrogen, volatile organic
13 compounds, greenhouse gases or particulates or any combination
14 thereof when evaluated on a lifecycle analysis than conventional
15 gasoline, reformulated gasoline or diesel fuel. The term shall
16 include compressed natural gas (CNG), liquefied natural gas
17 (LNG), liquefied propane gas (LPG), alcohols (ethanol - e85 and
18 methanol - m85), biomass-based fuels, hydrogen, hythane (any
19 combination of CNG and hydrogen) and renewable natural gas.

20 * * *

21 "Renewable natural gas." Biogas, including biogas derived
22 from municipal solid waste, industrial and food waste,
23 wastewater treatment material and animal manure, resulting from
24 the decomposition of that organic matter under anaerobic
25 conditions, the principal constituents of which are methane and
26 carbon dioxide, that has been upgraded for use in place of
27 fossil natural gas, gasoline or diesel fuel.

28 * * *

29 Section 3. The act is amended by adding sections to read:
30 Section 4.2. Low emission transportation fuel incentive.

1 If the blending requirements under section 3(a) have not been
2 met in any year as determined by the department, the balance may
3 be comprised of other low emission transportation fuels.

4 Section 4.3. Registration and other requirements.

5 (a) Registration requirements.--Any person that offers for
6 sale, sells or otherwise transfers title in this Commonwealth a
7 low emission transportation fuel for use by consumers in on-road
8 compression or spark ignition engines shall register annually
9 with the department. Each location in this Commonwealth where
10 the person conducts the activity shall be separately registered,
11 but may be submitted in a single form. This subsection shall
12 apply to in-State and out-of-State persons. The application for
13 registration shall be on a form prescribed by the department and
14 may be accepted electronically by the department.

15 (b) Shipping manifest.--

16 (1) Each time a low emission transportation fuel is
17 sold, offered for sale or title to which is otherwise
18 transferred by a person other than a retailer for ultimate
19 sale to consumers in this Commonwealth, a shipping manifest
20 meeting the requirements of paragraph (2) shall be provided
21 to the person that receives the low emission transportation
22 fuel.

23 (2) The shipping manifest required under paragraph (1)
24 shall:

25 (i) Include a certification by the person that
26 created the low emission transportation fuel stating that
27 the information on the shipping manifest is true and
28 correct. The certification shall be subject to the
29 penalties under 18 Pa.C.S. § 4904 (relating to unsworn
30 falsification to authorities).

1 (ii) Contain the following information:

2 (A) The name and location of the person that
3 created the low emission transportation fuel and, if
4 the low emission transportation fuel was created in
5 this Commonwealth, the registration number assigned
6 by the department to the subject location.

7 (B) The gasoline gallon equivalent of the low
8 emission transportation fuel sold, offered for sale
9 or title to which is otherwise being transferred.

10 (3) A retailer selling, offering to sell or otherwise
11 transferring title to a low emission transportation fuel
12 shall retain a copy of the shipping manifest required under
13 paragraph (1) for a period of one year from receipt of the
14 low emission transportation fuel or for a longer period of
15 time, if the shipping manifest is part of an enforcement
16 action initiated during the one-year period. The shipping
17 manifest must remain at the facility where the low emission
18 transportation fuel has been offered for sale, sold or title
19 to which has otherwise been transferred at least until the
20 low emission transportation fuel physically leaves the
21 facility, after which it may be retained at the corporate
22 headquarters of the retailer. Failure by a retailer to make a
23 copy of a shipping manifest immediately available to the
24 department for inspection at the facility where the low
25 emission transportation fuel was offered for sale, sold or
26 title to which was otherwise transferred shall not be deemed
27 a violation of this act if the copy is submitted to the
28 department within two business days following the inspection.

29 (c) Certification.--

30 (1) Any time low emission transportation fuel is sold,

1 offered for sale or title to which is otherwise transferred
2 in this Commonwealth for use in compression or spark ignition
3 engines, the person selling, offering for sale or otherwise
4 transferring title to the low emission transportation fuel
5 shall provide a certification stating that the low emission
6 transportation fuel is compliant with this act. The
7 certification shall also contain the name and location of the
8 person that manufactured the low emission transportation
9 fuel.

10 (2) A copy of the certification required under paragraph
11 (1) shall be provided to any person that receives the low
12 emission transportation fuel. The person providing the
13 certification and each person that receives a copy of the
14 certification shall retain a copy of the certification for a
15 period of one year from the delivery of the low emission
16 transportation fuel or for a longer period of time, if part
17 of an enforcement action initiated during the one-year
18 period.

19 Section 4. Sections 5(d), (e) and (g) and 6(a) of the act
20 are amended to read:

21 Section 5. Department authority and responsibility.

22 * * *

23 (d) Reduction.--The department, in consultation with the
24 Department of Environmental Protection, may suspend or modify to
25 reduce the mandated contents required by section 3 [or 4], 4,
26 4.2 or 4.3 if the department determines that doing so is
27 warranted by factors, including, but not limited to,
28 substantially increased costs to consumers or insufficient
29 quantity or distribution of biodiesel [or], cellulosic ethanol
30 or low emission transportation fuel.

1 (e) Authority.--

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

3 (i) To access during regular business hours and to
4 conduct unannounced random inspections of any facility
5 located in this Commonwealth that stores, holds, blends,
6 sells, offers for sale or otherwise transfers title to
7 diesel fuel, biodiesel [or], biodiesel blend or low
8 emission transportation fuel. Inspections shall include
9 the premises of the facility, tanks, storage facilities,
10 transportation and storage vehicles, dispensing devices
11 and any other place where diesel fuel, biodiesel [or],
12 biodiesel blend or low emission transportation fuel is
13 stored, held, blended, sold, offered for sale or title to
14 which is otherwise transferred.

15 (ii) To take samples of and test the diesel fuel,
16 biodiesel and biodiesel blend being stored, held,
17 blended, sold, offered for sale or title to which is
18 otherwise being transferred.

19 (iii) To audit and copy the books and records
20 pertaining to the diesel fuel, biodiesel [or], biodiesel
21 blend or low emission transportation fuel being stored,
22 held, sold, offered for sale or title to which is
23 otherwise being transferred, and its component parts,
24 including:

25 (A) Delivery invoices, sales invoices, bills of
26 lading and shipping manifests.

27 (B) Inventory records.

28 (C) Relevant contracts and agreements.

29 (iv) To issue stop-sale orders with respect to all
30 biodiesel blend and biodiesel stored, held, blended, sold

1 or title to which is otherwise transferred or offered for
2 sale to consumers in this Commonwealth for use in on-road
3 compression or spark ignition engines if the department
4 determines, after sampling and analysis, that the
5 biodiesel blend [or], biodiesel or low emission
6 transportation fuel does not comply with the standards
7 established under this act or the regulations promulgated
8 under this act and would be detrimental to the operation
9 of on-road compression or spark ignition engines if used
10 for its intended use. The department may release the
11 noncompliant biodiesel blend [or], biodiesel or low
12 emission transportation fuel for sale only when the
13 department determines the [biodiesel blend or biodiesel]
14 noncompliant fuel is either brought into compliance with
15 this act or regulations promulgated under this act or it
16 would no longer be detrimental to the operation of on-
17 road compression or spark ignition engines if used for
18 its intended use. All [such biodiesel blend or biodiesel]
19 noncompliant fuel must be properly labeled as to its
20 noncompliant characteristics if released and permitted to
21 be sold without being brought into compliance with this
22 act or regulations promulgated under this act. A person
23 that knowingly sells, offers for sale or otherwise
24 transfers title to biodiesel blend [or], biodiesel or low
25 emission transportation fuel in this Commonwealth subject
26 to a stop-sale order for use by consumers in on-road
27 compression or spark ignition engines commits a
28 misdemeanor of the third degree.

29 (2) A person that willfully and intentionally interferes
30 with an employee of the department in the performance of the

1 duties conferred upon the department under the provisions of
2 this act commits a misdemeanor of the third degree.

3 * * *

4 (g) Account.--

5 (1) There is established a restricted account within the
6 State Treasury to be known as the Biofuel and Low Emission
7 Transportation Fuel Development Account. All money in the
8 account is hereby appropriated on a continuing basis to the
9 department for the enforcement and administration of this
10 act.

11 (2) The following shall be deposited in the Biofuel and
12 Low Emission Transportation Fuel Development Account:

13 (i) Federal and State funds appropriated to the
14 department for implementation and administration of this
15 act.

16 (ii) Notwithstanding the provisions of 42 Pa.C.S. §§
17 3733 (relating to deposits into account) and 3733.1
18 (relating to surcharge), all fines, judgments and
19 penalties, including administrative, civil and criminal
20 penalties, and interest on the foregoing collected by the
21 department under this act.

22 (iii) Interest and any other earnings on money in
23 the account.

24 (iv) Funds from any other source, including gifts
25 and other contributions from public and private sources.

26 Section 6. Infrastructure reports.

27 (a) Certification.--At least six months prior to the
28 effective dates of the mandated content requirements contained
29 in sections 3(a)(1), (2), (3) and (4) [and], 4, 4.2 and 4.3, the
30 department and the Department of Transportation shall jointly

1 make a certification as to whether there is sufficient
2 transportation, distribution and other necessary infrastructure,
3 including rail capability and terminal facilities, in this
4 Commonwealth to meet the requirements of this act.

5 * * *

6 Section 5. This act shall take effect in 60 days.