

**Second Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO**

**ENGROSSED**

*This Version Includes All Amendments Adopted  
on Second Reading in the House of Introduction*

LLS NO. 20-0339.01 Jennifer Berman x3286

**SENATE BILL 20-038**

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**SENATE SPONSORSHIP**

**Fenberg, Winter**

**HOUSE SPONSORSHIP**

**Jaquez Lewis,**

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**Senate Committees**  
Transportation & Energy

**House Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING THE ESTABLISHMENT OF A STATEWIDE STANDARD FOR**  
102      **THE SALE OF BIODIESEL-BLENDED DIESEL FUEL IN COLORADO.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)*

**Energy Legislation Review Interim Study Committee.** The bill requires that all diesel fuel sold or offered for sale in Colorado between June 1 and September 15 of each year, commencing June 1, 2021, be blended with and contain at least 5% biodiesel and that all diesel fuel sold or offered for sale in Colorado between June 1 and September 15 of each year, commencing June 1, 2023, be blended with and contain at least 10%

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

SENATE  
Amended 2nd Reading  
January 31, 2020

biodiesel.

The air quality control commission, in consultation with the director of the division of oil and public safety in the department of labor and employment, shall promulgate rules regarding the blending standard, including rules to establish a waiver process and to require labeling of biodiesel-blended fuel to reflect the percentage of biodiesel included in the blended fuel.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 \_\_\_\_\_  
3 **SECTION 1. In Colorado Revised Statutes, add 8-20-236 as**  
4 **follows:**

5 **8-20-236. Nonattainment area biodiesel-blended fuel standard**  
6 **- exemption - definitions - rules. (1) (a) EXCEPT AS PROVIDED BY RULES**  
7 **PROMULGATED PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION:**

8 **(I) ON OR AFTER JUNE 1, 2021, ALL DIESEL FUEL SOLD OR OFFERED**  
9 **FOR SALE IN A NONATTAINMENT AREA FROM JUNE 1 THROUGH SEPTEMBER**  
10 **15 MUST BE BLENDED WITH AND CONTAIN AT LEAST FIVE PERCENT**  
11 **BIODIESEL (B5); AND**

12 **(II) ON OR AFTER JUNE 1, 2023, ALL DIESEL FUEL SOLD OR OFFERED**  
13 **FOR SALE IN A NONATTAINMENT AREA FROM JUNE 1 THROUGH SEPTEMBER**  
14 **15 MUST BE BLENDED WITH AND CONTAIN AT LEAST TEN PERCENT**  
15 **BIODIESEL (B10).**

16 **(b) THE DIRECTOR:**

17 **(I) SHALL PROMULGATE RULES TO:**

18 **(A) ESTABLISH A WAIVER PROCESS BY WHICH A DISTRIBUTOR OR**  
19 **RETAILER OF DIESEL FUEL OR A REFINER OR TERMINAL OPERATOR IN**  
20 **COLORADO MAY SEEK A TEMPORARY WAIVER FROM THE REQUIREMENTS**  
21 **SET FORTH IN SUBSECTION (1)(a) OF THIS SECTION FOR GOOD CAUSE**  
22 **SHOWN, SUCH AS DEMONSTRATING AN EXTREME DISRUPTION OR**

1 LIMITATION IN THE SUPPLY OF BIODIESEL OR EXTREME WEATHER  
2 CONDITIONS; AND

3 (B) FOR A BILL OF LADING, REQUIRE THE LABELING OF  
4 BIODIESEL-BLENDED FUEL TO REFLECT THE PERCENTAGE OF BIODIESEL  
5 INCLUDED IN THE BLENDED FUEL WHEN THE BLEND IS EQUAL TO OR ABOVE  
6 FIVE PERCENT BIODIESEL (B5); AND

7 (II) MAY PROMULGATE ADDITIONAL RULES TO IMPLEMENT THIS  
8 SECTION AS THE DIRECTOR DEEMS NECESSARY, WHICH RULES MAY  
9 INCLUDE:

10 (A) REQUIREMENTS FOR FUEL DISPENSER LABELING FOR THE SALE  
11 OF BIODIESEL-BLENDED FUELS; AND

12 (B) REQUIREMENTS THAT REFINERS AND TERMINAL OPERATORS  
13 WITH LOCATIONS IN A NONATTAINMENT AREA OFFER CLEAR DIESEL (B0)  
14 AND THAT BIODIESEL PRODUCERS WITH POSITIONS AT REFINERIES AND  
15 TERMINALS OFFER BIODIESEL BLEND STOCK (B100) FOR THE PURPOSES OF  
16 ENSURING SUPPLY SECURITY AND ENHANCING FEDERALLY LICENSED  
17 BLENDERS' ABILITY TO MEET THE REQUIREMENTS SET FORTH IN  
18 SUBSECTION (1)(a) OF THIS SECTION.

19 (c) THE BIODIESEL BLENDING REQUIREMENTS SET FORTH IN  
20 SUBSECTION (1)(a) OF THIS SECTION DO NOT APPLY TO DIESEL FUEL USED  
21 IN LOCOMOTIVES OR OFF-ROAD MINING EQUIPMENT.

22 (2)(a) THE DEPARTMENT, THE AIR QUALITY CONTROL COMMISSION  
23 CREATED IN SECTION 25-7-104, AND THE COLORADO OFFICE OF ECONOMIC  
24 DEVELOPMENT CREATED IN SECTION 24-48.5-101 ARE EACH ENCOURAGED  
25 TO RESEARCH POTENTIAL GRANT PROGRAM IMPLEMENTATION AND  
26 INCENTIVES TO PROMOTE THE PRODUCTION OF BIODIESEL-BLENDED FUEL  
27 IN THE STATE.

1           (b) THE REGIONAL AIR QUALITY COUNCIL, IN COORDINATION WITH  
2           THE DEPARTMENT OF TRANSPORTATION, IS ENCOURAGED TO CONSIDER  
3           UTILIZING EXISTING AND FUTURE FEDERAL RESOURCES TO REPLACE DIESEL  
4           TRUCKS AND COMMERCIAL VEHICLES MANUFACTURED BEFORE 2010 IF IT  
5           FINDS THAT SUCH REPLACEMENT WOULD RESULT IN A SIGNIFICANT  
6           REDUCTION IN EMISSIONS OF VOLATILE ORGANIC COMPOUNDS, NITROGEN  
7           OXIDE, AND OTHER POLLUTANTS IN THE NONATTAINMENT AREA.

8           (c) THE DEPARTMENT, IN CONSULTATION WITH THE REGIONAL AIR  
9           QUALITY COUNCIL, SHALL ANALYZE AND ASSESS THE AVAILABLE SUPPLY  
10           OF BIODIESEL IN COLORADO BEFORE JUNE 1, 2023.

11           (3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
12           REQUIRES:

13           (a) (I) "BIODIESEL" MEANS FUEL COMPOSED OF MONO-ALKYL  
14           ESTERS OF LONG-CHAIN FATTY ACIDS DERIVED FROM PLANT OR ANIMAL  
15           MATTER THAT MEETS THE MOST CURRENT SPECIFICATIONS FOR ASTM  
16           D6751, WHICH IS THE "STANDARD SPECIFICATION FOR BIODIESEL FUEL  
17           BLEND STOCK (B100) FOR MIDDLE DISTILLATE FUELS", ASTM D975,  
18           WHICH IS THE "STANDARD SPECIFICATION FOR DIESEL FUEL OIL,  
19           BIODIESEL BLEND (B0-B5)", AND ASTM D7467, WHICH IS THE  
20           "STANDARD SPECIFICATION FOR DIESEL FUEL OIL, BIODIESEL BLEND (B6  
21           TO B20)".

22           (II) BIODIESEL PRODUCED FROM PALM OIL IS NOT BIODIESEL FOR  
23           PURPOSES OF THIS SECTION UNLESS THE PALM OIL IS CONTAINED WITHIN  
24           WASTE OIL AND GREASE COLLECTED WITHIN THE UNITED STATES.

25           (III) RENEWABLE DIESEL IS BIODIESEL FOR PURPOSES OF THIS  
26           SECTION.

27           (b) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OF OIL AND

1 PUBLIC SAFETY CREATED IN SECTION 8-20-101.

2 (c) "NONATTAINMENT AREA" MEANS AN AREA OF THE STATE  
3 DESIGNATED BY THE UNITED STATES ENVIRONMENTAL PROTECTION  
4 AGENCY AS NOT MEETING THE NATIONAL AMBIENT AIR QUALITY  
5 STANDARDS.

6 (d) "RENEWABLE DIESEL" HAS THE MEANING SET FORTH IN 26  
7 U.S.C. SEC. 40A (f).

8 **SECTION 2.** In Colorado Revised Statutes, 8-20.5-103, amend  
9 (3) introductory portion and (3)(g); and add (3)(h) as follows:

10 **8-20.5-103. Petroleum storage tank fund - petroleum cleanup**  
11 **and redevelopment fund - creation - rules - repeal.** (3) The moneys  
12 MONEY in the petroleum storage tank fund are IS continuously  
13 appropriated to the division of oil and public safety; except that moneys  
14 MONEY for the purposes specified in paragraphs (b), (f), and (g)  
15 SUBSECTIONS (3)(b), (3)(f), AND (3)(g) of this subsection (3) SECTION are  
16 subject to annual appropriation by the general assembly. The fund shall  
17 be used for:

18 (g) Administrative costs necessary for the implementation of this  
19 article and ARTICLE 20.5, section 8-20-206.5, AND SECTION 8-20-236; AND

20 (h) FUEL QUALITY TESTING.

21 **SECTION 3. Act subject to petition - effective date.** This act  
22 takes effect at 12:01 a.m. on the day following the expiration of the  
23 ninety-day period after final adjournment of the general assembly (August  
24 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a  
25 referendum petition is filed pursuant to section 1 (3) of article V of the  
26 state constitution against this act or an item, section, or part of this act  
27 within such period, then the act, item, section, or part will not take effect

1 unless approved by the people at the general election to be held in  
2 November 2020 and, in such case, will take effect on the date of the  
3 official declaration of the vote thereon by the governor.