

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

REENGROSSED

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

LLS NO. 20-0339.01 Jennifer Berman x3286

SENATE BILL 20-038

SENATE SPONSORSHIP

Fenberg, Winter, Bridges, Gonzales, Hansen, Lee, Moreno

HOUSE SPONSORSHIP

Jaquez Lewis and Young,

Senate Committees
Transportation & Energy

House Committees

A BILL FOR AN ACT

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

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 3rd Reading
February 4, 2020

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.

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 SUBSECTIONS (1)(a) AND (1)(b)(II)(B) OF THIS SECTION FOR**
22 **GOOD CAUSE SHOWN, SUCH AS DEMONSTRATING AN EXTREME DISRUPTION**

1 OR LIMITATION IN THE SUPPLY OF DIESEL OR BIODIESEL OR EXTREME
2 WEATHER 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" MEANS DIESEL FUEL CONFORMING TO
7 THE SPECIFICATIONS OF ASTM D975 THAT IS MADE FROM RENEWABLE
8 (NONPETROLEUM) FEEDSTOCKS AND IS NOT A MONO-ALKYL ESTER; EXCEPT
9 THAT "RENEWABLE DIESEL" DOES NOT INCLUDE RENEWABLE FUEL THAT IS
10 CO-PROCESSED WITH PETROLEUM.

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

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

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

23 (h) FUEL QUALITY TESTING.

24 **SECTION 3. Act subject to petition - effective date.** This act
25 ~~takes effect at 12:01 a.m. on the day following the expiration of the~~
26 ~~ninety-day period after final adjournment of the general assembly (August~~
27 ~~5, 2020, if adjournment sine die is on May 6, 2020); except that, if a~~

1 referendum petition is filed pursuant to section 1 (3) of article V of the
2 state constitution against this act or an item, section, or part of this act
3 within such period, then the act, item, section, or part will not take effect
4 unless approved by the people at the general election to be held in
5 November 2020 and, in such case, will take effect on the date of the
6 official declaration of the vote thereon by the governor.