SENATE BILL 20-038

A BILL FOR AN ACT

CONCERNING THE ESTABLISHMENT OF A STATEWIDE STANDARD FOR

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.
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.

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

SECTION 1. In Colorado Revised Statutes, add 8-20-236 as follows:

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

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

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

(b) THE DIRECTOR:

(I) SHALL PROMULGATE RULES TO:

(A) ESTABLISH A WAIVER PROCESS BY WHICH A DISTRIBUTOR OR RETAILER OF DIESEL FUEL OR A REFINER OR TERMINAL OPERATOR IN COLORADO MAY SEEK A TEMPORARY WAIVER FROM THE REQUIREMENTS SET FORTH IN SUBSECTIONS (1)(a) AND (1)(b)(II)(B) OF THIS SECTION FOR GOOD CAUSE SHOWN, SUCH AS DEMONSTRATING AN EXTREME DISRUPTION
OR LIMITATION IN THE SUPPLY OF DIESEL OR BIODIESEL OR EXTREME WEATHER CONDITIONS; AND

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

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

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

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

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

(2) (a) THE DEPARTMENT, THE AIR QUALITY CONTROL COMMISSION CREATED IN SECTION 25-7-104, AND THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT CREATED IN SECTION 24-48.5-101 ARE EACH ENCOURAGED TO RESEARCH POTENTIAL GRANT PROGRAM IMPLEMENTATION AND INCENTIVES TO PROMOTE THE PRODUCTION OF BIODIESEL-BLENDED FUEL IN THE STATE.
(b) The Regional Air Quality Council, in coordination with the Department of Transportation, is encouraged to consider utilizing existing and future federal resources to replace diesel trucks and commercial vehicles manufactured before 2010 if it finds that such replacement would result in a significant reduction in emissions of volatile organic compounds, nitrogen oxide, and other pollutants in the nonattainment area.

(c) The Department, in consultation with the Regional Air Quality Council, shall analyze and assess the available supply of biodiesel in Colorado before June 1, 2023.

(3) As used in this section, unless the context otherwise requires:

(a) (I) "Biodiesel" means fuel composed of mono-alkyl esters of long-chain fatty acids derived from plant or animal matter that meets the most current specifications for ASTM D6751, which is the "Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels", ASTM D975, which is the "Standard Specification for Diesel Fuel Oil, Biodiesel Blend (B0-B5)", and ASTM D7467, which is the "Standard Specification for Diesel Fuel Oil, Biodiesel Blend (B6 to B20)".

(II) Biodiesel produced from palm oil is not biodiesel for purposes of this section unless the palm oil is contained within waste oil and grease collected within the United States.

(III) Renewable diesel is biodiesel for purposes of this section.

(b) "Director" means the director of the Division of Oil and
PUBLIC SAFETY CREATED IN SECTION 8-20-101.

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

(d) "RENEWABLE DIESEL" MEANS DIESEL FUEL CONFORMING TO THE SPECIFICATIONS OF ASTM D975 THAT IS MADE FROM RENEWABLE (NONPETROLEUM) FEEDSTOCKS AND IS NOT A MONO-ALKYLESTER; EXCEPT THAT "RENEWABLE DIESEL" DOES NOT INCLUDE RENEWABLE FUEL THAT IS CO-PROCESSED WITH PETROLEUM.

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

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

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

(h) FUEL QUALITY TESTING.

SECTION 3. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.