

By: Swinford, Cook of Colorado, Hardcastle,  
Jones of Lubbock, Burnam

H.B. No. 777

A BILL TO BE ENTITLED

1 AN ACT

2 relating to value-added processing of agricultural goods into fuel  
3 ethanol and biodiesel and the fuel ethanol and biodiesel incentive  
4 program.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Title 2, Agriculture Code, is amended by adding  
7 Chapter 16 to read as follows:

8 CHAPTER 16. FUEL ETHANOL AND BIODIESEL PRODUCTION

9 Sec. 16.001. DEFINITIONS. In this chapter:

10 (1) "Account" means the fuel ethanol and biodiesel  
11 production account.

12 (2) "ASTM" means the American Society for Testing and  
13 Materials.

14 (3) "Biodiesel" means a monoalkyl ester that:

15 (A) is derived from vegetable oils, rendered  
16 animal fats, or renewable lipids or a combination of those  
17 ingredients; and

18 (B) meets the requirements of ASTM PS 121, the  
19 provisional specification for biodiesel.

20 (4) "Fuel ethanol" means ethyl alcohol that:

21 (A) has a purity of at least 99 percent,  
22 exclusive of added denaturants;

23 (B) has been denatured in conformity with a  
24 method approved by the Bureau of Alcohol, Tobacco and Firearms of

1 the United States Department of the Treasury;

2 (C) meets the requirements of ASTM D4806, the  
3 standard specification for ethanol used as a motor fuel; and

4 (D) is produced exclusively from agricultural  
5 products or by-products or municipal solid waste.

6 (5) "Producer" means a person who operates a fuel  
7 ethanol or biodiesel plant in this state.

8 Sec. 16.002. PLANT REGISTRATION. (a) To be eligible for a  
9 grant for fuel ethanol or biodiesel produced in a plant, a producer  
10 must apply to the department for the registration of the plant. A  
11 producer may apply for the registration of more than one plant.

12 (b) An application for the registration of a plant must show  
13 to the satisfaction of the department that:

14 (1) the plant is capable of producing fuel ethanol or  
15 biodiesel;

16 (2) the producer has made a substantial investment of  
17 resources in this state in connection with the plant; and

18 (3) the plant constitutes a permanent fixture in this  
19 state.

20 (c) The department shall register each plant that qualifies  
21 under this section.

22 Sec. 16.003. REPORTS. (a) On or before the fifth day of  
23 each month, a producer shall report to the department on:

24 (1) the number of gallons of fuel ethanol or biodiesel  
25 produced at each registered plant operated by the producer during  
26 the preceding month;

27 (2) the number of gallons of fuel ethanol or biodiesel

1 imported into this state by the producer during the preceding  
2 month;

3 (3) the number of gallons of fuel ethanol or biodiesel  
4 sold or blended with motor fuels by the producer during the  
5 preceding month; and

6 (4) the total value of agricultural products consumed  
7 in each registered plant operated by the producer during the  
8 preceding month.

9 (b) A producer who fails to file a report as required by this  
10 section is ineligible to receive a grant for the period for which  
11 the report is not filed.

12 Sec. 16.004. FUEL ETHANOL AND BIODIESEL PRODUCTION ACCOUNT.

13 (a) The fuel ethanol and biodiesel production account is an account  
14 in the general revenue fund that may be appropriated only to the  
15 department for the purposes of this chapter, including the making  
16 of grants under this chapter.

17 (b) The account is composed of:

18 (1) fees collected under Section 16.005; and

19 (2) money transferred to the account under Subsection

20 (c).

21 (c) The comptroller shall transfer from the undedicated  
22 portion of the general revenue fund to the account an amount of  
23 money equal to 5.25 times the amount of the fees collected under  
24 Section 16.005.

25 Sec. 16.005. FEE ON FUEL ETHANOL AND BIODIESEL PRODUCTION.

26 (a) The department shall impose a fee on each producer in an amount  
27 equal to 3.2 cents for each gallon of fuel ethanol or biodiesel

1 produced in each registered plant operated by the producer.

2 (b) For each fiscal year, the department may not impose fees  
3 on a producer for more than 18 million gallons of fuel ethanol or  
4 biodiesel produced at any one registered plant.

5 (c) The department shall transfer the fees collected under  
6 this section to the comptroller for deposit to the credit of the  
7 account.

8 (d) The department may not impose fees on a producer for  
9 fuel ethanol or biodiesel produced at a registered plant after the  
10 10th anniversary of the date production from the plant begins.

11 Sec. 16.006. FUEL ETHANOL AND BIODIESEL GRANTS. (a) The  
12 department shall make grants to producers as an incentive for the  
13 development of the fuel ethanol and biodiesel industry and  
14 agricultural production in this state.

15 (b) A producer is entitled to receive from the account 20  
16 cents for each gallon of fuel ethanol or biodiesel produced in each  
17 registered plant operated by the producer until the 10th  
18 anniversary of the date production from the plant begins.

19 (c) For each fiscal year a producer may not receive grants  
20 for more than 18 million gallons of fuel ethanol or biodiesel  
21 produced at any one registered plant.

22 (d) The department by rule shall provide for the  
23 distribution of grant funds under this chapter to producers. The  
24 department shall make grants not less often than quarterly.

25 (e) If the department determines that the amount of money  
26 credited to the account is not sufficient to distribute the full  
27 amount of grant funds to eligible producers as provided by this

1 chapter for a fiscal year, the department shall proportionately  
2 reduce the amount of each grant for each gallon of fuel ethanol or  
3 biodiesel produced as necessary to continue the incentive program  
4 during the remainder of the fiscal year.

5 SECTION 2. This Act takes effect September 1, 2003.

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COMMITTEE AMENDMENT NO. 1

Amend H.B. 777 by adding a new SECTION 2 to read as follows:

SECTION 2. Notwithstanding Section 16.004(c), Agriculture Code, as added by this Act, the comptroller may not make transfers from general revenue during the fiscal biennium ending August 31, 2005.

Renumber subsequent sections accordingly.

Brown of Kaufman