

Amend **HB 3168** by striking all below the enacting clause and substituting the following:

SECTION 1. Chapter 16, Agriculture Code, is amended by adding Section 16.007 to read as follows:

Sec. 16.007. REGULATION OF FUEL ETHANOL OR BIODIESEL IN A MANNER MORE STRINGENT THAN FEDERAL LAW. (a) In this section, "state agency" has the meaning assigned by Section 315.002, Government Code.

(b) Except as provided by this section and the Reid vapor pressure requirements for gasoline used as control measures in the state implementation plan, a state agency may not adopt or implement rules in a manner that restricts the production or distribution of fuel ethanol or biodiesel if the rules impose a restriction more stringent than federal law provides.

(c) After July 1st, 2008, Subsection (b) does not apply to a rule adopted by the Texas Commission on Environmental Quality if that commission determines that, without imposing the restriction provided by the rule, emissions generated by using fuel ethanol or biodiesel will jeopardize compliance with the state implementation plan for attaining national ambient air quality standards.

(d) Subsection (b) does not apply if:

(1) the United States Environmental Protection Agency determines that compliance with that subsection will result in noncompliance with the state implementation plan for attaining national ambient air quality standards; or

(2) producers of biodiesel fail to provide proof on or before July 1st, 2008, of testing that:

(A) demonstrates compliance with the Texas Low Emission Diesel Program; and

(B) was conducted in accordance with protocols approved by the Texas Commission on Environmental Quality.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.