

AN ACT

relating to the fuel ethanol and biodiesel incentive program of the Department of Agriculture.

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

SECTION 1. The heading to Chapter 16, Agriculture Code, is amended to read as follows:

CHAPTER 16. FUEL ETHANOL, RENEWABLE METHANE, AND BIODIESEL  
PRODUCTION INCENTIVE PROGRAM

SECTION 2. Section 16.001, Agriculture Code, is amended by amending Subdivisions (1) and (6) and adding Subdivision (4-a) to read as follows:

(1) "Account" means the fuel ethanol, renewable methane, and biodiesel production account.

(4-a) "Renewable methane" means methane gas derived from animal waste or an agricultural byproduct, including creamery or fruit waste or corn silage.

(6) "Producer" means a person who operates a fuel ethanol, renewable methane, or biodiesel plant in this state.

SECTION 3. Sections 16.002(a) and (b), Agriculture Code, are amended to read as follows:

(a) To be eligible for a grant for fuel ethanol, renewable methane, or biodiesel produced in a plant, a producer must apply to the office for the registration of the plant. A producer may apply for the registration of more than one plant.

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

(1) the plant is capable of producing fuel ethanol, renewable methane, or biodiesel;

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

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

SECTION 4. Section 16.003(a), Agriculture Code, is amended to read as follows:

(a) On or before the fifth day of each month, a producer shall report to the office on:

(1) the number of gallons of fuel ethanol or biodiesel or MMBtu of renewable methane produced at each registered plant operated by the producer during the preceding month;

(2) the number of gallons of fuel ethanol or biodiesel imported into this state by the producer during the preceding month;

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

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

SECTION 5. The heading to Section 16.004, Agriculture Code, is amended to read as follows:

Sec. 16.004. FUEL ETHANOL, RENEWABLE METHANE, AND BIODIESEL

1 PRODUCTION ACCOUNT.

2 SECTION 6. Section 16.004(a), Agriculture Code, is amended  
3 to read as follows:

4 (a) The fuel ethanol, renewable methane, and biodiesel  
5 production account is an account in the general revenue fund that  
6 may be appropriated only to the office for the purposes of this  
7 chapter, including the making of grants under this chapter.

8 SECTION 7. The heading to Section 16.005, Agriculture Code,  
9 is amended to read as follows:

10 Sec. 16.005. FEE ON FUEL ETHANOL, RENEWABLE METHANE, AND  
11 BIODIESEL PRODUCTION.

12 SECTION 8. Sections 16.005(a), (b), and (d), Agriculture  
13 Code, are amended to read as follows:

14 (a) The office shall impose a fee on each producer in an  
15 amount equal to 3.2 cents for each gallon of fuel ethanol or MMBtu  
16 of renewable methane and 1.6 cents for each gallon of biodiesel  
17 produced in each registered plant operated by the producer.

18 (b) For each fiscal year, the office may not impose fees on a  
19 producer for more than 18 million gallons of fuel ethanol or  
20 biodiesel or MMBtu of renewable methane produced at any one  
21 registered plant.

22 (d) The office may not impose fees on a producer for fuel  
23 ethanol, renewable methane, or biodiesel produced at a registered  
24 plant after the 10th anniversary of the date production from the  
25 plant begins.

26 SECTION 9. The heading to Section 16.006, Agriculture Code,  
27 is amended to read as follows:

1       Sec. 16.006. FUEL ETHANOL, RENEWABLE METHANE, AND BIODIESEL  
2 GRANTS.

3       SECTION 10. Sections 16.006(a), (b), (c), and (e),  
4 Agriculture Code, are amended to read as follows:

5       (a) The office, after consultation with the department,  
6 shall make grants to producers as an incentive for the development  
7 of the fuel ethanol, renewable methane, and biodiesel industry and  
8 agricultural production in this state.

9       (b) A producer is entitled to receive from the account 20  
10 cents for each gallon of fuel ethanol or MMBtu of renewable methane  
11 and 10 cents for each gallon of biodiesel produced in each  
12 registered plant operated by the producer until the 10th  
13 anniversary of the date production from the plant begins.

14       (c) For each fiscal year a producer may not receive grants  
15 for more than 18 million gallons of fuel ethanol or biodiesel or  
16 MMBtu of renewable methane produced at any one registered plant.

17       (e) If the office determines that the amount of money  
18 credited to the account is not sufficient to distribute the full  
19 amount of grant funds to eligible producers as provided by this  
20 chapter for a fiscal year, the office shall proportionately reduce  
21 the amount of each grant for each gallon of fuel ethanol or  
22 biodiesel or each MMBtu of renewable methane produced as necessary  
23 to continue the incentive program during the remainder of the  
24 fiscal year.

25       SECTION 11. The changes in a fee charged or a payment made  
26 for the production of biodiesel under Sections 16.005 and 16.006,  
27 Agriculture Code, as amended by this Act, apply only to biodiesel

1 produced on or after the effective date of this Act.

2       SECTION 12. This Act takes effect immediately if it  
3 receives a vote of two-thirds of all the members elected to each  
4 house, as provided by Section 39, Article III, Texas Constitution.  
5 If this Act does not receive the vote necessary for immediate  
6 effect, this Act takes effect September 1, 2009.

H.B. No. 2318

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President of the Senate

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Speaker of the House

I certify that H.B. No. 2318 was passed by the House on April 24, 2009, by the following vote: Yeas 132, Nays 0, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 2318 was passed by the Senate on May 20, 2009, by the following vote: Yeas 30, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor