

By: Ellis

S.B. No. 1192

A BILL TO BE ENTITLED

AN ACT

relating to biodiesel and cellulosic ethanol content requirements for certain fuels.

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

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

CHAPTER 16A. BIODIESEL AND CELLULOSIC ETHANOL CONTENT REQUIREMENTS
FOR FUELS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 16A.001. DEFINITIONS. In this subchapter:

(1) "ASTM" means the American Society for Testing and Materials.

(2) "Biodiesel" means a monoalkyl ester that:
(A) is derived from vegetable oils, rendered animal fats, algae, or renewable lipids or a combination of those ingredients; and

(B) meets the established ASTM specification for biodiesel.

(3) "Cellulosic ethanol" means ethanol:
(A) derived from any lingocellulosic or hemicellulosic matter that is available on a renewable or recurring basis including:

(i) dedicated energy crops and trees;

(ii) wood and wood residues;

1 (iii) plants;
2 (iv) grasses;
3 (v) agricultural residues;
4 (vi) fibers;
5 (vii) animal wastes and other waste
6 materials; and
7 (viii) municipal solid waste; or
8 (B) produced in facilities where animal wastes or
9 other waste materials are digested or otherwise used to displace
10 not less than 90 percent of the fossil fuel normally used in the
11 production of ethanol.

12 (4) "Renewable diesel" means a nonester diesel fuel or
13 fuel blending component derived from nonpetroleum resources that:

14 (A) is used to replace or reduce the quantity of
15 fossil fuels present in fuels sold to consumers;

16 (B) is registered under 40 C.F.R. Part 79 for
17 motor vehicle fuels or fuel additives;

18 (C) meets an established ASTM specification;

19 (D) is compatible for use in engines and
20 equipment designed to run on conventional petroleum diesel fuels;
21 and

22 (E) is derived from renewable content at the
23 percentages required by this chapter.

24 [Sections 16A.002-16A.050 reserved for expansion]

25 SUBCHAPTER B. FUEL CONTENT REQUIREMENTS

26 Sec. 16A.051. BIODIESEL CONTENT IN DIESEL FUEL SOLD FOR
27 ON-ROAD USE. (a) Subject to Subsections (b) and (c) and Section

1 16A.053, diesel fuel sold or offered for sale to ultimate consumers
2 in this state for use in on-road compression ignition engines must
3 contain not less than:

4 (1) two percent biodiesel by volume, beginning on the
5 first anniversary of the date, as determined by the department,
6 that in-state production of biodiesel, on an annualized basis,
7 reaches 80 million gallons and is sustained for three consecutive
8 months;

9 (2) five percent biodiesel by volume, beginning on the
10 first anniversary of the date, as determined by the department,
11 that in-state production of biodiesel, on an annualized basis,
12 reaches 200 million gallons and is sustained for three consecutive
13 months;

14 (3) 10 percent biodiesel by volume, beginning on the
15 first anniversary of the date, as determined by the department,
16 that in-state production of biodiesel, on an annualized basis,
17 reaches 400 million gallons and is sustained for three consecutive
18 months; and

19 (4) 20 percent biodiesel by volume, beginning on the
20 first anniversary of the date, as determined by the department,
21 that in-state production of biodiesel, on an annualized basis,
22 reaches 800 million gallons and is sustained for three consecutive
23 months.

24 (b) The biodiesel volume requirements provided by
25 Subsection (a) take effect only if the department, in cooperation
26 with the Texas Department of Transportation and the Texas
27 Commission on Environmental Quality, makes a determination that

1 manufacturers of diesel-fueled motor vehicles sold in this state
2 have publicly stated that they will not void or withdraw vehicle
3 engine warranties due to the use of the biodiesel blends as
4 specified by Subsection (a). The determination must be published
5 in the Texas Register and transmitted to the governor, the
6 lieutenant governor, the speaker of the house of representatives,
7 and each member of the standing committees of the house of
8 representatives and the senate with primary jurisdiction over
9 environmental matters.

10 (c) Renewable diesel produced in this state may be used in
11 place of biodiesel to meet not more than 25 percent of the biodiesel
12 volume requirements provided by Subsection (a).

13 (d) This section does not apply to aviation fuel, home
14 heating fuel, or to the extent this section conflicts with other
15 law.

16 Sec. 16A.052. CELLULOSIC ETHANOL CONTENT IN GASOLINE.

17 (a) Subject to Subsections (b) and (c) and Section 16A.053,
18 gasoline sold or offered for sale to ultimate consumers in this
19 state must contain not less than:

20 (1) two percent cellulosic ethanol by volume,
21 beginning on the first anniversary of the date, as determined by the
22 department, that in-state production of cellulosic ethanol, on an
23 annualized basis, reaches 240 million gallons and is sustained for
24 three consecutive months;

25 (2) five percent cellulosic ethanol by volume,
26 beginning on the first anniversary of the date, as determined by the
27 department, that in-state production of cellulosic ethanol, on an

1 annualized basis, reaches 600 million gallons and is sustained for
2 three consecutive months; and

3 (3) 10 percent cellulosic ethanol by volume, beginning
4 on the first anniversary of the date, as determined by the
5 department, that in-state production of cellulosic ethanol, on an
6 annualized basis, reaches 1.2 billion gallons and is sustained for
7 three consecutive months;

8 (b) A renewable fuel other than cellulosic ethanol may be
9 used to meet the cellulosic ethanol volume requirements provided by
10 Subsection (a) if the renewable fuel:

11 (1) meets the requirements of 40 C.F.R. Part 79;

12 (2) has an emissions profile comparable to cellulosic
13 ethanol;

14 (3) is suitable for use in motor vehicle engines;

15 (4) is derived from renewable resources or feedstock;

16 (5) is not derived from corn-based ethanol unless it
17 is from cellulosic materials; and

18 (6) is approved by the department.

19 (c) This section does not apply to gasoline sold in regions
20 of this state where the use of cellulosic ethanol would violate,
21 conflict with, or otherwise interfere with compliance with a
22 national ambient air quality standards attainment program.

23 Sec. 16A.053. MODIFICATION OF VOLUME REQUIREMENTS.

24 (a) The department, in consultation with the Texas Department of
25 Transportation and the Texas Commission on Environmental Quality,
26 may delay or reduce the volume requirements provided by Section
27 16A.051(a) or 16A.052(a) if the department determines that to do so

1 is warranted by factors including:

2 (1) substantially increased costs to consumers; or

3 (2) insufficient quantity or distribution of
4 biodiesel or cellulosic ethanol.

5 (b) If under Section 16A.054(a) the department determines
6 that there is insufficient infrastructure in place to meet a volume
7 requirement of Section 16A.051(a) or 16A.052(a), the department
8 shall delay the implementation of the requirement until the
9 department determines that there is sufficient infrastructure in
10 place.

11 Sec. 16A.054. STUDIES AND REPORTS. (a) Not less than six
12 months before the implementation of a volume requirement provided
13 by Section 16A.051(a) or 16A.052(a), including a volume requirement
14 reduced under Section 16A.053(a), the department, in conjunction
15 with the Texas Department of Transportation, shall determine
16 whether there is sufficient transportation, distribution, and
17 other infrastructure necessary to implement the requirements.

18 (b) Not later than September 1 of each year, the department
19 shall compile:

20 (1) the name and location of each facility producing
21 biodiesel or cellulosic ethanol;

22 (2) the amount of biodiesel or cellulosic ethanol
23 produced by each facility in the preceding year; and

24 (3) the amount and type of any financial assistance
25 made available to a biodiesel or cellulosic ethanol production
26 facility by the state in the preceding year.

27 (c) Not later than December 31, 2010, the Texas Commission

1 on Environmental Quality shall complete a study of the effects on
2 this state's ability to achieve and maintain national ambient air
3 quality standards of the biodiesel and cellulosic ethanol volume
4 requirements of this chapter. The Texas Commission on
5 Environmental Quality may contract with a qualified independent
6 third party to conduct the study.

7 (d) Not later than September 1 of each year, the Texas
8 Forest Service shall submit to the department a report documenting
9 the effect, if any, on forest health, condition, and productivity
10 of in-state production of cellulosic ethanol from woody biomass.

11 Sec. 16A.055. RULES. The department, in consultation with
12 the Texas Department of Transportation and the Texas Commission on
13 Environmental Quality, shall adopt rules to implement and enforce
14 this chapter.

15 SECTION 2. This Act takes effect September 1, 2009.