



Senate

General Assembly

File No. 28

February Session, 2008

Substitute Senate Bill No. 372

Senate, March 13, 2008

The Committee on Environment reported through SEN. MEYER of the 12th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING GRANTS AND OTHER INCENTIVES FOR BIODIESEL.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 32-324 of the 2008 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective from passage*):

4 For the purposes of this section and sections 32-324a to 32-324f,
5 inclusive:

6 (1) "Biodiesel" means a fuel comprised of mono-alkyl esters of long
7 chain fatty acids derived from vegetable oils or animal fats, designated
8 B100, and meeting the requirements of designation D6751 of the
9 American Society for Testing and Materials.

10 (2) "Qualified biodiesel producer" means a facility that produces
11 biodiesel, is registered with the state of Connecticut, is domiciled in
12 Connecticut and is actively [engaged in the production of] committed

13 to producing biodiesel in Connecticut for commercial purposes.

14 (3) "Qualified biodiesel distributor" means a facility that stores and
15 distributes biodiesel, is registered with the state of Connecticut, is
16 domiciled in Connecticut and is actively [engaged in the storage and
17 distribution of] committed to storing and distributing biodiesel in
18 Connecticut for commercial purposes.

19 Sec. 2. Subdivision (2) of subsection (b) of section 12-587 of the 2008
20 supplement to the general statutes is repealed and the following is
21 substituted in lieu thereof (*Effective July 1, 2008*):

22 (2) Gross earnings derived from the first sale of the following
23 petroleum products within this state shall be exempt from tax: (A) Any
24 petroleum products sold for exportation from this state for sale or use
25 outside this state; (B) the product designated by the American Society
26 for Testing and Materials as "Specification for Heating Oil D396-69",
27 commonly known as number 2 heating oil, to be used exclusively for
28 heating purposes or to be used in a commercial fishing vessel, which
29 vessel qualifies for an exemption pursuant to section 12-412 of the 2008
30 supplement to the general statutes; (C) kerosene, commonly known as
31 number 1 oil, to be used exclusively for heating purposes, provided
32 delivery is of both number 1 and number 2 oil, and via a truck with a
33 metered delivery ticket to a residential dwelling or to a centrally
34 metered system serving a group of residential dwellings; (D) the
35 product identified as propane gas, to be used exclusively for heating
36 purposes; (E) bunker fuel oil, intermediate fuel, marine diesel oil and
37 marine gas oil to be used in any vessel having a displacement
38 exceeding four thousand dead weight tons; (F) for any first sale
39 occurring prior to July 1, 2008, propane gas to be used as a fuel for a
40 motor vehicle; (G) for any first sale occurring on or after July 1, 2002,
41 grade number 6 fuel oil, as defined in regulations adopted pursuant to
42 section 16a-22c, to be used exclusively by a company which, in
43 accordance with census data contained in the Standard Industrial
44 Classification Manual, United States Office of Management and
45 Budget, 1987 edition, is included in code classifications 2000 to 3999,

46 inclusive, or in Sector 31, 32 or 33 in the North American Industrial
47 Classification System United States Manual, United States Office of
48 Management and Budget, 1997 edition; (H) for any first sale occurring
49 on or after July 1, 2002, number 2 heating oil to be used exclusively in a
50 vessel primarily engaged in interstate commerce, which vessel
51 qualifies for an exemption under section 12-412 of the 2008 supplement
52 to the general statutes; (I) for any first sale occurring on or after July 1,
53 2000, paraffin or microcrystalline waxes; (J) for any first sale occurring
54 prior to July 1, 2008, petroleum products to be used as a fuel for a fuel
55 cell, as defined in subdivision (113) of section 12-412 of the 2008
56 supplement to the general statutes; (K) a commercial heating oil blend
57 containing not less than [ten] five per cent of alternative fuels derived
58 from agricultural produce, food waste, waste vegetable oil or
59 municipal solid waste, including, but not limited to, biodiesel or low
60 sulfur dyed diesel fuel; [or] (L) for any first sale occurring on or after
61 July 1, 2007, diesel fuel other than diesel fuel to be used in an electric
62 generating facility to generate electricity; (M) for any first sale
63 occurring on or after July 1, 2008, biofuels or biodiesel that meet the
64 specifications of the American Society for Testing and Materials
65 Designation D396, D975 or D6751 containing a blend of not less than
66 five per cent renewable content; or (N) for any first sale occurring on or
67 after July 1, 2010, additives of any derivation added to heating oil that
68 is used exclusively for heating purposes to maintain the stability or
69 operational performance of petroleum products.

70 Sec. 3. Subsection (a) of section 12-701 of the 2008 supplement to the
71 general statutes is amended by adding subdivisions (37) to (39),
72 inclusive, as follows (*Effective from passage and applicable to income years*
73 *commencing on or after January 1, 2008*):

74 (NEW) (37) "Biodiesel blended heating fuel" means a fuel comprised
75 of a minimum of two per cent biodiesel blended with conventional
76 home heating oil, which meets the specifications of the American
77 Society for Testing and Materials designation D396 or D975.

78 (NEW) (38) "Biodiesel" means a fuel comprised exclusively of mono-

79 alkyl esters of long chain fatty acids derived from vegetable oils or
80 animal fats, designated B100 (pure biodiesel), which meets the
81 specifications of the American Society for Testing and Materials
82 designation D6751.

83 (NEW) (39) "Residential purposes" means the use or maintenance of
84 any structure or part of a structure in this state as a place of abode by
85 or for a person, whether or not owned by such person, on other than a
86 temporary or transient basis. "Residential purposes" includes the use
87 or maintenance of multifamily dwelling units, such as multifamily
88 homes, apartment buildings, condominiums and cooperative
89 apartments as places of abode. "Residential purposes" does not include
90 the use or maintenance of any part of a structure used as a hotel, motel
91 or similar space, except for those units used by the same occupant for
92 not less than ninety consecutive days.

93 Sec. 4. (NEW) (*Effective from passage and applicable to income years*
94 *commencing on or after January 1, 2008*) (a) Any resident of this state, as
95 defined in subdivision (1) of subsection (a) of section 12-701 of the 2008
96 supplement to the general statutes, as amended by this act, subject to
97 the tax under chapter 229 of the general statutes for any taxable year,
98 shall be entitled to a credit in determining the amount of tax liability
99 under said chapter equal to one cent per gallon for each per cent of
100 biodiesel included in the biodiesel blended heating fuel purchased by
101 the taxpayer on or after January 1, 2008, but before December 31, 2013.
102 Said credit shall not exceed twenty cents per gallon. The biodiesel
103 blended heating fuel shall be used for space heating or hot water
104 production for residential purposes within the state. If a taxpayer
105 makes more than one qualifying purchase of biodiesel blended heating
106 fuel and the percentage of biodiesel included in the biodiesel blended
107 heating fuel varies, said taxpayer shall calculate each purchase of
108 biodiesel blended heating fuel separately. If two or more taxpayers
109 share in the purchase of biodiesel blended heating fuel, the amount of
110 the credit allowable to each taxpayer is to be prorated according to the
111 percentage of the total biodiesel blended heating fuel purchased by
112 each taxpayer.

113 (b) The credit allowed under this section shall not exceed five
 114 hundred dollars for each taxable year. In the case of two or more
 115 taxpayers sharing in the purchase of biodiesel blended heating fuel,
 116 the credit allowed, in the aggregate, shall not exceed five hundred
 117 dollars for each taxable year.

118 Sec. 5. (*Effective July 1, 2008*) The sum of six million dollars is
 119 appropriated to the Connecticut qualified biodiesel producer incentive
 120 account established under section 32-324a of the 2008 supplement to
 121 the general statutes, from the General Fund, for the fiscal year ending
 122 June 30, 2009, for the purposes specified in said section.

123 Sec. 6. (*Effective July 1, 2008*) The sum of two million dollars is
 124 appropriated to the Department of Economic and Community
 125 Development, from the General Fund, for the fiscal year ending June
 126 30, 2009, for the fuel diversification grant program established under
 127 section 32-324g of the 2008 supplement to the general statutes.

128 Sec. 7. (*Effective July 1, 2008*) The sum of forty thousand dollars is
 129 appropriated to the Department of Consumer Protection, from the
 130 General Fund, for the fiscal year ending June 30, 2009, for said
 131 department's motor fuel quality testing program established pursuant
 132 to sections 14-327a to 14-327e, inclusive, of the general statutes or the
 133 2008 supplement to the general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	32-324
Sec. 2	<i>July 1, 2008</i>	12-587(b)(2)
Sec. 3	<i>from passage and applicable to income years commencing on or after January 1, 2008</i>	12-701(a)
Sec. 4	<i>from passage and applicable to income years commencing on or after January 1, 2008</i>	New section
Sec. 5	<i>July 1, 2008</i>	New section

Sec. 6	<i>July 1, 2008</i>	New section
Sec. 7	<i>July 1, 2008</i>	New section

Statement of Legislative Commissioners:

The effective date in section 3 was changed to "2008" and in section 4 the date of January 1, 2009, was changed to January 1, 2008, for consistency and to reflect legislative intent.

ENV *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Department of Revenue Services	GF - Revenue Impact	See Below	See Below
Department of Revenue Services	GF - Cost	300,000	125,000
Consumer Protection, Dept.	GF - Cost	40,000	None
Department of Economic & Community Development	GF - Cost	8.0 million	8.0 million

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill establishes a number of tax incentives against the personal income tax and petroleum gross earnings tax to encourage the production and use of biodiesel fuel for transportation and heating. The short-term impact of these tax incentives cannot be determined but is anticipated to be minimal because the commercial availability of biodiesel is limited. However, as the availability of alternative fuel sources increases these incentives are likely to have a very significant impact on General Fund revenues, which could eventually be in excess of \$100 million per year.

The bill is expected to result in a cost to the Department of Revenue Services of \$300,000 in FY 09 and \$125,000 in FY 10 plus fringe benefit costs¹ to administer and audit the tax provisions contained in the bill. Section 5 of the bill appropriates \$6.0 million to the Connecticut

¹ The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The first year fringe benefit costs for new positions do not include pension costs. The estimated first year fringe benefit rate as a percentage of payroll is 25.36%. The state's pension contribution is based upon the prior year's certification by the actuary for the State

Qualified Biodiesel Producer Incentive Account in FY 09.

Section 6 of the bill appropriates \$2.0 million to the Department of Economic and Community Development in FY 09 for the Fuel Diversification Grant Program. The bill (section 1) also expands grant eligibility requirements for biodiesel producers and distributors and does not impact the amount appropriated for incentives and grant programs.

Section 7 of the bill appropriates \$40,000 to the Department of Consumer Protection (DCP) for the fiscal year ending June 30, 2009 for the existing motor fuel quality testing program. The section does not specify which account within DCP such funds would be appropriated.

The Out Years

State Impact:

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

Employees Retirement System (SERS). The SERS fringe benefit rate is 33.27%, which when combined with the rate for non-pension fringe benefits totals 58.63%.

OLR Bill Analysis**sSB 372*****AN ACT CONCERNING GRANTS AND OTHER INCENTIVES FOR BIODIESEL.*****SUMMARY:**

This bill (1) expands tax exemptions for certain blends of biodiesel fuel, (2) creates an income tax credit for state residents who buy certain biodiesel blends for residential use, (3) expands grant eligibility requirements for biodiesel producers and distributors, and (4) appropriates more than \$8 million for biodiesel programs and other motor fuel programs.

EFFECTIVE DATES: Various. See below.

TAX EXEMPTIONS AND CREDITS***Petroleum Products Gross Earnings Tax Exemption***

Current law exempts commercial heating oil blends from the petroleum products gross earnings tax if they contain at least 10% of alternative fuels derived from farm produce, food waste, waste vegetable oil, or municipal solid waste, including biodiesel or low sulfur diesel fuel. The bill expands this exemption to include heating oil blends if they contain at least 5% of these alternative fuels.

It exempts, starting July 1, 2008, the first sale of (1) American Society for Testing and Materials (ASTM) designation D6751 (pure biodiesel) and (2) biofuel and biodiesel blends that meet designations D396 (home heating oil) and D975 (diesel fuel) and contain at least 5% renewable fuel. It also exempts, starting July 1, 2010, the sale of heating oil additives used exclusively for heating purposes to maintain the stability or operational performance of petroleum products.

EFFECTIVE DATE: July 1, 2008

INCOME TAX CREDITS

The bill establishes a one-cent-per-gallon income tax credit for each percent of biodiesel included in the heating fuel a state resident buys between January 1, 2008 and December 31, 2013. The heating fuel must be used for space heating or to heat water for residential purposes. The credit cannot be less than 2 cents or more than 20 cents per gallon. The maximum credit is \$500 for each taxable year. If two or more taxpayers share in the purchase of biodiesel blend, their total annual credit cannot exceed \$500.

A taxpayer who makes more than one qualifying purchase of heating fuel in which the percentage of biodiesel varies must calculate each purchase separately. If two or more taxpayers share in the purchase of heating fuel, the amount of the credit must be prorated according to the percentage of heating fuel each purchased.

For the purposes of the tax credit, heating fuel is home heating oil or diesel fuel blended with at least 2% biodiesel, and a residence is any structure, or part of a structure, used as a place of abode, whether or not the person living there owns it. It includes multifamily dwellings, such as apartment buildings, condominiums, and cooperative apartments, but it does not include places where people live on a temporary or transient basis, hotels, or motels, except for units where the same occupant lives for at least 90 consecutive days.

The bill defines biodiesel as a fuel comprised exclusively of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated B100 (pure biodiesel), which meets ASTM designation D6751.

EFFECTIVE DATE: Upon passage, and applicable to income years starting on or after January 1, 2008

BIODIESEL PRODUCER INCENTIVE GRANT PROGRAM

PA 07-4, June Special Session, created the Connecticut Qualified Biodiesel Producer Incentive Account to provide grants to qualified biodiesel producers and distributors who produce and distribute

biodiesel in Connecticut for commercial purposes. To be eligible for incentive grants (1) producers must be actively engaged in producing and (2) distributors must be actively engaged in storing and distributing, biodiesel. Under the bill, producers and distributors need only be actively committed to these activities to be eligible.

EFFECTIVE DATE: Upon passage

GENERAL FUND APPROPRIATIONS

The bill appropriates \$6 million in FY 09 for the Biodiesel Producer Incentive Account, \$2 million in FY 09 to the Department of Economic and Community Development (DECD) for the fuel diversification grant program, and \$40,000 in FY 09 to the Department of Consumer Protection for its motor fuel quality testing program (CGS §§ 14-327a to 327e).

EFFECTIVE DATE: July 1, 2008.

BACKGROUND

Fuel Diversification Grant Program

By law, DECD must administer a fuel diversification grant program for Connecticut colleges and universities or state agricultural research institutions for (1) research to promote biofuel production from agricultural products, algae, and waste grease and (2) biofuel quality testing (CGS § 32-324g).

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 28 Nay 0 (02/29/2008)