



# Senate

General Assembly

**File No. 302**

February Session, 2010

Substitute Senate Bill No. 382

*Senate, April 6, 2010*

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 REQUIRING BIODIESEL BLENDED HEATING OIL AND LOWERING THE SULFUR CONTENT OF HEATING OIL SOLD IN THE STATE.***

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

1 Section 1. Subsection (a) of section 16a-21a of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective July*  
3 *1, 2011*):

4 (a) The amount of sulfur content of the following fuels sold, offered  
5 for sale, distributed or used in this state shall not exceed the following  
6 percentages by weight: (1) For number two heating oil, [three-tenths of  
7 one per cent] for the period beginning July 1, 2011, and ending June 30,  
8 2014, fifty parts per million and, on and after July 1, 2014, fifteen parts  
9 per million, and (2) for number two off-road diesel fuel, three-tenths of  
10 one per cent.

11 Sec. 2. (NEW) (*Effective October 1, 2010*) (a) For purposes of this  
12 section:

13 (1) "Heating oil" means heating fuel that meets the American Society  
14 of Testing Materials or "ASTM" standard D396 or the "ASTM" standard  
15 D6751;

16 (2) "Biodiesel blend" means a fuel comprised of mono-alkyl esters of  
17 long chain fatty acids derived from vegetable oils or animal fats that  
18 meets the most recent version of ASTM International designation  
19 D6751;

20 (3) "Sold" means the wholesale sale made to a retailer or the retail  
21 sale made to an end-user consumer;

22 (4) "Commissioner" means the Commissioner of Consumer  
23 Protection, or the commissioner's designee; and

24 (5) "Sufficient in-state production of biodiesel" means fifty per cent  
25 of the annual mandated volume of biodiesel, as determined by the  
26 most recent data available from the Energy Information  
27 Administration of the United States Department of Energy, is available  
28 from in-state producers based upon the combined nameplate capacity  
29 of such producers.

30 (b) (1) Subject to the provisions of subdivision (2) of this subsection  
31 and subsections (d) and (f) of this section, (A) not later than July 1,  
32 2011, all heating oil sold in this state shall be a biodiesel blend  
33 containing not less than two per cent biodiesel, (B) not later than July 1,  
34 2012, all heating oil sold in this state shall be a biodiesel blend  
35 containing not less than five per cent biodiesel, (C) not later than July  
36 1, 2015, all heating oil sold in this state shall be a biodiesel blend  
37 containing not less than ten per cent biodiesel, (D) not later than July 1,  
38 2017, all heating oil sold in this state shall be a biodiesel blend  
39 containing not less than fifteen per cent biodiesel, and (E) not later  
40 than July 1, 2020, all heating oil sold in this state shall be a biodiesel  
41 blend containing not less than twenty per cent biodiesel.

42 (2) The provisions of subparagraphs (A) to (E), inclusive, of  
43 subdivision (1) of this subsection shall not take effect until the states of

44 New York, Massachusetts and Rhode Island each adopt requirements  
45 that are substantially similar to the provisions of subparagraphs (A) to  
46 (E), inclusive, of subdivision (1) of this subsection.

47 (c) Unless the commissioner issues a waiver pursuant to subsection  
48 (f) of this section, any biodiesel blended with heating oil shall be  
49 produced in accordance with industry-accepted quality control  
50 standards. A certificate of analysis that verifies conformity with the  
51 critical specifications of designation D6751 of ASTM International, as  
52 defined by the National Biodiesel Accreditation Program, shall be  
53 provided by the marketers or producers of any such biodiesel prior to  
54 the blending of such biodiesel with heating oil. The Department of  
55 Consumer Protection, within available appropriations, shall verify that  
56 biodiesel offered for sale in this state conforms to the critical  
57 specifications of designation D6751 of ASTM International, as defined  
58 by the National Biodiesel Accreditation Program, and to the biodiesel  
59 fuel quality compliance protocol currently accepted by the Department  
60 of Consumer Protection.

61 (d) On or before April 1, 2011, and on or before April 1, 2012, the  
62 Commissioner of Consumer Protection, in consultation with the  
63 Distillate Advisory Board established pursuant to subsection (e) of this  
64 section, shall, within available appropriations, determine whether  
65 there is sufficient in-state production of biodiesel, to comply with the  
66 provisions of subparagraphs (A) and (B) of subdivision (1) of  
67 subsection (b) of this section, respectively. If the commissioner  
68 determines that such production is not sufficient, the commissioner, in  
69 consultation with the board, may delay the implementation date  
70 contained in said subparagraph until July 1, 2012, or earlier, and July 1,  
71 2013, or earlier, respectively, provided the commissioner: (1) Not later  
72 than three business days after such determination, posts a notice  
73 specifying the duration of such delay on the department's Internet web  
74 site, and (2) not later than thirty days after such posting, reports, in  
75 accordance with the provisions of section 11-4a of the general statutes,  
76 the reasons for such delay to the joint standing committees of the  
77 General Assembly having cognizance of matters relating to the

78 environment, general law and energy and technology.

79 (e) (1) There is established a Distillate Advisory Board. Such board  
80 shall be located in the Department of Consumer Protection and shall  
81 consist of the following members appointed by the Commissioner of  
82 Consumer Protection: (A) Two representatives of the producers or  
83 suppliers of biodiesel in this state, (B) two representatives of the retail  
84 heating oil industry in this state, and (C) two representatives of the  
85 wholesale distillate supply industry in this state. Each member of the  
86 board shall serve at the pleasure of the commissioner and without  
87 compensation. No funds shall be allocated or made available to the  
88 board.

89 (2) The board shall advise the commissioner on industry and market  
90 progress in meeting and enabling compliance with the requirements of  
91 subsections (b) and (c) of this section.

92 (f) (1) The Commissioner of Consumer Protection, upon the receipt  
93 of a petition submitted by the Distillate Advisory Board in compliance  
94 with the provisions of subdivision (2) of this subsection, shall  
95 temporarily waive the requirements of subsections (b) and (c) of this  
96 section when: (A) The United States Department of Energy authorizes  
97 a release from the Northeast Heating Oil Reserve, (B) there is an  
98 inadequate supply of low-sulfur distillate products, or (C) there is an  
99 inadequate supply of biodiesel blending stocks or an operational  
100 problem that affects the supply of biodiesel blending stocks. Any such  
101 waiver shall be for a period of not less than thirty days and not more  
102 than forty-five days, provided such waiver may be renewed after the  
103 expiration of such period of time.

104 (2) Any petition from the Distillate Advisory Board that requests a  
105 waiver of any requirement of subsection (b) or (c) of this section shall  
106 include, at a minimum: (A) A statement of the immediate threat to the  
107 health and safety of the citizens of this state posed by the inadequate  
108 supply of low-sulfur distillate products, biodiesel blending stocks or  
109 operational problems that affect the supply of biodiesel blending  
110 stocks, as applicable, (B) the cause and nature of such inadequate

111 supply or operational problem, as applicable, (C) the expected  
 112 duration of such inadequate supply or operational problem, and (D) as  
 113 applicable, a description of any alternative distillate supply that  
 114 temporarily is needed to take the place of the applicable distillate  
 115 supply described in subsection (b) or (c) of this section. Not later than  
 116 three business days after receipt of any such petition, the  
 117 commissioner shall issue a waiver of the requirements of subsection (b)  
 118 or (c) of this section, as applicable.

119 (g) Not later than February 1, 2012, and each year thereafter, the  
 120 Commissioner of Consumer Protection, in consultation with the  
 121 Distillate Advisory Board, shall submit a report, in accordance with the  
 122 provisions of section 11-4a of the general statutes, to the joint standing  
 123 committees of the General Assembly having cognizance of matters  
 124 relating to energy and the environment on the progress in meeting the  
 125 requirements of this section and on any affect that such requirements  
 126 may have on the price or supply of heating oil in this state.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2011	16a-21a(a)
Sec. 2	October 1, 2010	New section

**ENV** Joint Favorable Subst.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

### **OFA Fiscal Note**

#### **State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 11 \$</b>	<b>FY 12 \$</b>
Various State Agencies	Various Funds - Potential Cost	None	See Below

#### **Municipal Impact:**

<b>Municipalities</b>	<b>Effect</b>	<b>FY 11 \$</b>	<b>FY 12 \$</b>
All Municipalities	STATE MANDATE - Potential Cost	None	See Below

### **Explanation**

The bill results in a potential cost to the state and to municipalities by reducing the maximum allowable sulfur content in heating oil and establishing biodiesel blending requirements for such oil. Current price differential data indicates an increase in the per gallon price due to the requirements in the range of \$.05 to \$.10 per gallon. This differential may decrease with increased usage and production of biodiesel blends. State agencies currently use over 5.5 million gallons of heating oil. The bill specifies that the requirements do not go into effect until Massachusetts, New York and Rhode Island each adopt similar requirements which results in the fiscal impact being potential rather than definitive.

### **The Out Years**

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

**OLR Bill Analysis****sSB 382*****AN ACT REQUIRING BIODIESEL BLENDED HEATING OIL AND LOWERING THE SULFUR CONTENT OF HEATING OIL SOLD IN THE STATE.*****SUMMARY:**

This bill (1) reduces the maximum allowable sulfur content in heating oil and (2) establishes biodiesel blending requirements for such oil. The heating oil sulfur standard is reduced from the current 3,000 parts per million (ppm) to 50 ppm beginning July 1, 2011, and to 15 ppm beginning July 1, 2014. The bill defines "heating oil" as heating fuel meeting the American Society of Testing Materials (ASTM) standard D396 or ASTM standard D6751 (see BACKGROUND).

The biodiesel blending requirements begin at 2% in 2011, increasing in steps to 20% by 2020, if certain conditions are met. The bill provides for a waiver process from these requirements.

The bill establishes a Distillate Advisory Board within the Department of Consumer Protection (DCP), with members appointed by the DCP commissioner. The board must advise the commissioner on progress in meeting the bill's requirements. The bill also establishes reporting requirements.

EFFECTIVE DATE: July 1, 2011 for the heating oil sulfur provision; October 1, 2010 for the biodiesel provisions.

**BIODIESEL*****Biodiesel Blend Requirements***

The bill requires that all heating oil sold in the state be a biodiesel blend with a certain percentage of biodiesel that increases over time. "Biodiesel blend" means a fuel comprised of mono-alkyl esters of long

chain fatty acids derived from vegetable oils or animal fats that meets the most recent version of ASTM International designation D6751.

The biodiesel blend requirements are not less than (1) 2% biodiesel by July 1, 2011; (2) 5% by July 1, 2012; (3) 10% by July 1, 2015; (4) 15% by July 1, 2017; and (5) 20% by July 1, 2020.

The bill specifies that these requirements do not take effect until Massachusetts, New York, and Rhode Island each adopt substantially similar requirements.

### ***Production Standards***

Unless the DCP commissioner issues a waiver (see below), any biodiesel blended with heating oil must be produced according to industry-accepted quality control standards. Marketers or producers of such biodiesel must provide a certificate of analysis verifying conformity with the critical specifications of designation D6751 of ASTM international as defined by the National Biodiesel Accreditation Program prior to the blending of the biodiesel with heating oil. DCP, within available appropriations, must verify that the biodiesel offered for sale in the state conforms to the critical specifications cited above and to the biodiesel fuel quality compliance protocol accepted by DCP.

### ***Distillate Advisory Board***

The bill establishes a six-member Distillate Advisory Board in DCP. The DCP commissioner appoints all members, who must be present in Connecticut, as follows: two representatives of biodiesel producers or suppliers; two representatives of the retail heating oil industry; and two representatives of the wholesale distillate supply industry. The board is not funded and members serve without compensation and at the pleasure of the commissioner. The board must advise the commissioner on industry and market progress in meeting and enabling compliance with the bill.

### ***Sufficient In-State Production***

By April 1, 2011 and April 1, 2012, DCP, in consultation with the Distillate Advisory Board, must, within available appropriations,

determine if there is sufficient in-state biodiesel production to comply with the bill's requirements. The bill defines "sufficient in-state production of biodiesel" as 50% of the annual mandated volume of biodiesel, as determined by the most recent data from the Energy Information Administration of the U.S. Department of Energy, that is available from in-state producers based on the combined nameplate capacity of such producers.

If the DCP commissioner determines production is not sufficient, he can, in consultation with the board, delay implementation until July 1, 2012 or earlier, and July 1, 2013 or earlier respectively. The commissioner must (1) post a notice specifying the length of the delay on the department's website within three business days after making the production insufficiency determination and (2) within 30 days of the posting, report to the Environment, General law, and Energy and Technology committees on the reasons for the delay.

### ***Temporary Waivers of Biodiesel Requirements***

DCP, after receiving a petition from the board, must temporarily waive the biodiesel blend requirements when (1) the U.S. Department of Energy authorizes a release from the Northeast Heating Oil Reserve, (2) there is an inadequate supply of low sulfur distillate products, or (3) there is an inadequate supply of biodiesel blending stocks or an operational problem affecting supply of biodiesel blending stocks.

The waiver is for between 30 and 45 days and can be renewed. A waiver petition from the board must include:

1. a statement of the immediate threat to the health and safety of the state's citizens posed by the inadequate supply or operational problems as described above;
2. the cause and nature of the inadequacy or operational problem;
3. the expected duration of the inadequate supply or operational problem; and

4. as applicable, a description of any alternative distillate supply temporarily needed to take the place of the applicable supply required.

DCP must grant the waiver within three days of receiving the petition.

### **Reports**

By February 1, 2012 and annually afterward, the DCP commissioner, in consultation with the Distillate Advisory Board, must report to the Energy and Technology and Environment committees on the progress made in meeting the bill's requirements and the effect of them on the price or supply of heating oil in the state.

## **BACKGROUND**

### **ASTM Designation D6751, D396**

ASTM is an international voluntary standards development organization. Designation D6751 covers certain biodiesel fuel blend stock for use as a blend component with middle distillate fuels. The biodiesel must be mono-alkyl esters of long chain fatty acids derived from vegetable oils and animal fats. The product must undergo chemical analysis for various substances.

Designation D396 covers grades of fuel oil intended for use in various types of fuel oil burning equipment under various climatic and operating conditions.

### **Related Bill**

sSB 118 (File 81) qualifies entities intending to actively produce or store and distribute biodiesel fuel for grants funded out of the Connecticut Qualified Biodiesel Producer Initiative Account, administered by the Department of Economic and Community Development. Current law limits the grants to entities actively producing or storing and distributing the fuel.

## **COMMITTEE ACTION**

Environment Committee

Joint Favorable Substitute

Yea 27 Nay 3 (03/17/2010)