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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

RELATING TO HEALTH AND SAFETY - BIODIESEL HEATING OIL ACT OF 2013

Introduced By: Senators Sosnowski, Euer, DiPalma, Coyne, and Seveney

Date Introduced: February 13, 2020

Referred To: Senate Environment & Agriculture

(208)

It is enacted by the General Assembly as follows:

1 SECTION 1. The title of Chapter 23-23.7 of the General Laws entitled "Biodiesel
2 Heating Oil Act of 2013" is hereby amended to read as follows:

3 ~~CHAPTER 23-23.7~~

4 ~~Biodiesel Heating Oil Act of 2013~~

5 CHAPTER 23-23.7

6 BIODIESEL PRODUCTS

7 SECTION 2. Sections 23-23.7-3, 23-23.7-4, 23-23.7-5 and 23-23.7-7 of the General
8 Laws in Chapter 23-23.7 entitled "Biodiesel Heating Oil Act of 2013" are hereby amended to
9 read as follows:

10 **23-23.7-3. Definitions.**

11 As used in this chapter, the following words shall have the following meanings:

12 (1) The term "ASTM" or "International" means American Society for Testing and
13 Materials International.

14 ~~(2) "Biobased product" shall include the following;~~

15 ~~(i) "Biobased liquid fuel" means a liquid fuel that is derived principally from renewable~~
16 ~~biomass and meets the specifications or quality certification standards for use in residential,~~
17 ~~commercial, or industrial heating applications established by ASTM International—ASTM D396,~~
18 ~~or the appropriate successor standard, as the case may be.~~

19 (2) "Biodiesel blend (BXX)" means a blend of biodiesel fuel with fuel oil in which the

1 "BXX" represents the volume percentage of biodiesel fuel in the blend as provided in the
2 following designations:

3 (i) "B5" represents a biodiesel blend in which the volume of biodiesel fuel in the blend is
4 between four and one-half percent (4.5%) to five and one-half percent (5.5%);

5 (ii) "B10" represents a biodiesel blend in which the volume of biodiesel fuel in the blend
6 is between nine and one-half percent (9.5%) to ten and one-half percent (10.5%).

7 (iii) "B20" represents a biodiesel blend in which the volume of biodiesel fuel in the blend
8 is between nineteen and one-half percent (19.5%) to twenty and one-half percent (20.5%).

9 (iv) "B50" represents a biodiesel blend in which the volume of biodiesel in the blend is
10 forty-nine and one-half percent (49.5%) to fifty and one-half percent (50.5%).

11 ~~(ii)~~(3) "Biodiesel fuel" means ~~the monoalkyl esters of long chain fatty acids derived from~~
12 ~~plant or animal matters~~ a fuel, designated B100, that meets the requirements of the ASTM
13 International specification D6751, or the most recent specification and which ~~meet~~ meets the
14 registration requirements for fuels and fuel additives established by the United States
15 environmental protection agency under section 211 of the clean air act, 42 U.S.C. § 7545, and the
16 requirements of ASTM International--ASTM D6751-; or

17 (4) "Biodiesel heating fuel" means a heating fuel comprised of biodiesel and/or
18 renewable hydrocarbon diesel that is blended with heating oil that meets the requirements of
19 ASTM International designation D396, or the most recent specification, or a fuel comprised of
20 renewable hydrocarbon diesel with petroleum heating oil that meets the specification of ASTM
21 D975, or other specifications as determined by the director.

22 ~~(iii)~~(5) "Biomass" or "Renewable biomass" means a material, including crops and crop
23 residues, trees and tree residues, organic portions of municipal solid waste, organic portions of
24 construction and demolition debris, grease trap waste, and algae, that can be used for fuel but
25 does not have a petroleum or other fossil fuel base.

26 (6) "Blender" or "distributor" means the person that holds the inventory position in the
27 heating oil, as reflected on the records of the terminal operator. A person holds the inventory
28 position in heating oil when the person has a contractual agreement with the terminal operator for
29 the use of storage facilities and terminaling services at a terminal with respect to the heating oil.
30 The term also includes a terminal operator that owns heating oil in its terminal.

31 ~~(3)~~(7) "Director" means the director of the department of environmental management.

32 (8) "Eligible Feedstock" means soybean oil, canola oil from annual cover crops, algae oil,
33 biogenic waste oils, fats or greases, or non-food grade corn oil; provided that it meets the
34 requirements of renewable biomass through the aggregate compliance provisions of 40 CFR §§

1 [80.1426 and 80.1454\(g\).](#)

2 ~~(4)(9)~~ "Heating oil" means ~~fuel or fuel oil used for heating residential, commercial, or~~
3 ~~industrial properties, including No. 1 distillate, No. 2 distillate, a liquid blended with No. 1~~
4 ~~distillate, No. 2 distillate, or a five percent (5%) biobased liquid fuel that meets the specifications~~
5 ~~or quality certification standards for use in residential, commercial, or industrial heating~~
6 ~~applications established by ASTM International.~~ [petroleum oil refined for the purpose of use as](#)
7 [fuel for combustion in a space and/or water heating system that meets the requirements of ASTM](#)
8 [International designation D396, or the most recent specification.](#)

9 [\(10\) "Renewable hydrocarbon diesel" means a fuel derived from an eligible feedstock](#)
10 [that meets the requirements of ASTM D975, or the most recent specification. Renewable](#)
11 [hydrocarbon diesel shall not include any fuel from co-processed biomass with a feedstock that is](#)
12 [not a biomass.](#)

13 **23-23.7-4. Heating oil biobased products.**

14 Notwithstanding any law, rule, regulation, or order to the contrary, and in accordance
15 with the compliance schedule established in this chapter, all No. 2 distillate heating oil sold in the
16 state for residential, commercial, or industrial uses within the state, shall contain, at a minimum,
17 the specified percentage of biobased product, unless such requirement has been suspended
18 pursuant to § 23-23.7-6. The compliance schedule shall be as follows:

19 (1) Not later than July 1, 2014, all No. 2 distillate heating oil sold in the state shall
20 contain not less than two percent (2%) of a biobased product.

21 (2) Not later than July 1, 2015, all No. 2 distillate heating oil sold in the state shall
22 contain not less than three percent (3%) of a biobased product.

23 (3) Not later than July 1, 2016, all No. 2 distillate heating oil sold in the state shall
24 contain not less than four percent (4%) of a biobased product.

25 (4) Not later than July 1, 2017, all No. 2 distillate heating oil sold in the state shall
26 contain not less than five percent (5%) of a biobased product.

27 [\(5\) Not later than July 1, 2020, all No. 2 distillate heating oil sold in the state shall at a](#)
28 [minimum meet the standards for B5 biodiesel blend \(i.e., four and one-half percent \(4.5%\) to five](#)
29 [and one-half percent \(5.5%\) of biodiesel\) and/or renewable hydrocarbon diesel.](#)

30 [\(6\) Not later than July 1, 2023, all No. 2 distillate heating oil sold in the state shall at a](#)
31 [minimum meet the standards for B10 biodiesel blend \(i.e., nine and one-half percent \(9.5%\) to ten](#)
32 [and one-half percent \(10.5%\) of biodiesel\) and/or renewable hydrocarbon diesel.](#)

33 [\(7\) Not later than July 1, 2025, all No. 2 distillate heating oil sold in the state shall at a](#)
34 [minimum meet the standards for B20 biodiesel blend \(i.e., nineteen and one-half percent \(19.5%\)](#)

1 to twenty and one-half percent (20.5%) of biodiesel) and/or renewable hydrocarbon diesel.

2 (8) Not later than July 1, 2030, all No. 2 distillate heating oil sold in the state shall at a
3 minimum meet the standards for B50 biodiesel blend (i.e., forty nine and one-half percent
4 (49.5%) to fifty and one-half percent (50.5%) of biodiesel) and/or renewable hydrocarbon diesel,
5 unless the department of environmental management issues a finding of significant and material
6 incompatibility issues with the bioheating fuel use in existing heating systems.

7 **23-23.7-5. Certification.**

8 (a) The blender or distributor of ~~the biobased-product~~ biodiesel or renewable hydrocarbon
9 diesel at the time of sale to a retail distributor of heating fuel shall provide certification stating:

10 (1) That the No. 2 distillate heating fuel meets ASTM International--ASTM D396 and/or
11 the successor standard as the case may be; and

12 (2) That the ~~biobased-product~~ biodiesel or renewable hydrocarbon diesel used for
13 blending meets the definition of ~~biobased-product~~ biodiesel or renewable hydrocarbon diesel in
14 ~~subdivision § 23-23.7-3(2)(4);~~ and

15 (3) The percentage of the ~~biobased-product~~ biodiesel or renewable hydrocarbon diesel
16 contained in the fuel.

17 (b) The director shall create and provide to blenders and distributors a quarterly report
18 form to be filed by the blender or distributor with the department of environmental management
19 stating the number of gallons of ~~biobased-fuel~~ biodiesel or renewable hydrocarbon diesel sold and
20 certification that said gallons meet the standards set forth in this chapter.

21 **23-23.7-7. Suspension.**

22 (a) The governor of the state of Rhode Island may temporarily suspend the requirements
23 imposed by § 23-23.7-4 if it is determined that the physical availability of ~~biobased-product~~
24 biodiesel and/or renewable hydrocarbon diesel heating oil which complies with these
25 requirements is inadequate or unavailable at commercially reasonable prices to meet the needs of
26 the residential, commercial, or industrial uses in this state and the inadequate availability
27 constitutes an emergency, provided that the ~~governor, shall specify in writing, the period of time~~
28 ~~the suspension shall be in effect.~~ period of time the suspension shall be in effect shall be in
29 writing and shall not exceed three (3) months. Any person seeking a suspension under subsection
30 (a) of this section shall submit a request in writing to the governor that provides sufficient
31 information to demonstrate that the physical availability of biodiesel product heating oil which
32 complies with these requirements is inadequate or unavailable at commercially reasonable prices
33 to meet the needs of the residential, commercial, or industrial uses in this state and that the
34 inadequate availability constitutes an emergency.

1 (b) The director may, upon application by a blender or distributor, defer compliance with
2 the requirements imposed by § 23-23.7-4 for a period that shall not exceed three (3) months for
3 that blender or distributor where compliance is not possible for good cause shown. Any blender
4 or distributor seeking a deferral of compliance under subsection (b) of this section shall submit a
5 request in writing to the director that provides the factual basis for the deferral. Any appeal of the
6 director's decision shall be pursuant to chapter 35 of title 42 the ("Administrative Procedures
7 Act").

8 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO HEALTH AND SAFETY - BIODIESEL HEATING OIL ACT OF 2013

1 This act would require ever increasing requirements of biobased product in No. 2
2 distillate heating oil. By July 1, 2023, ten percent (B10 - 9.5 - 10.5%) of No. 2 distillate heating
3 oil would be biobased product. This would increase on a set schedule until until July 1, 2030
4 when fifty percent (B50 - 49.5 - 50.5%) would be biodiesel and/or renewable hydrocarbon diesel
5 product in No. 2 heating oil. The act would provide for the suspension of this requirement in
6 limited circumstances.

7 This act would take effect upon passage.

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