



2006 State Legislation Highlights

Highlights of State Legislation Passed Through September 30, 2006

- The National Biodiesel Board has tracked more than 275 pieces of biodiesel-related legislation at the state level, 53 of which have become law
- The new laws include incentives, use requirements, point of taxation clarification, authorization of studies, state fleet use requirements, biodiesel promotion, and others
- Below are some examples of bills that have been adopted into law in various states.

Arizona

Use of Biodiesel to Meet Alt. Fuel Vehicle Purchase Mandates - This new law allows for a fuel purchase equivalency for biodiesel at one vehicle equivalent for every 450 gallons of neat biodiesel or 2,250 gallons of diesel fuel substitute.

Property Tax Incentives for Biodiesel Producers - Adds property that is used specifically to produce biodiesel fuel to qualify as a Class 6 Property, for purposes of taxation. Currently, Class 6 property is assessed at a 5 percent assessment ratio.

Arkansas

Tax Refund for Biodiesel Fuel Suppliers – provides for an excise-tax refund of 50 cents for each gallon of B100 that is used to produce any biodiesel mixture. Refund is limited to first 2 percent of total gallons of biodiesel blended.

California

Executive Order that, among other things, establishes a target for the state of California to produce and use a minimum of 20 percent of its biofuels within California by 2010, 40 percent by 2020, and 75 percent by 2050. Biofuels includes both ethanol and biodiesel. In addition, the E.O. urges CARB to consider as part of its rulemaking the most flexible possible use of biofuels, which includes its Rulemaking to Update the Predictive Model and Specification for Reformulated Gasoline

Colorado

Use of Biofuels in State Buildings – The life-cycle cost analysis performed for each major facility will now include the use of biofuel to provide supplemental or exclusive heating, power, or both for the major facility. The cost analysis regarding the use of biofuel must consider stranded utility costs. Definition of biofuel includes biodiesel.



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Use of Biodiesel in State Fleets – Requires all state vehicles be fueled with B20, by Jan. 1 2007, subject to availability and so long as the price is no greater than 10 cents more per gallon than regular diesel fuel. Law goes into effect July 1, 2006.

Connecticut

Bioheat® Fuel - This law exempts heating oil from the state gross earnings tax levied on the sale of petroleum products. Heating oil is defined as that made from "agricultural produce, food waste, waste vegetable oil or municipal solid waste," and includes, but is not limited to, biodiesel or low sulfur dyed diesel fuel.

Florida

The Florida Energy Act - This new law provides for sales tax exemptions and investment tax credits for costs associated with renewable energy technologies, which includes biodiesel. The provision defines "costs" as equipment, machinery, capital costs, operation and maintenance costs, and research and development. A grant program has also been established for research and development projects associated with renewable energy technologies.

Georgia

Biodiesel Definition – This new law defines biodiesel according to ASTM D 6751. It also makes it illegal to sell, purchase or blend biodiesel unless it meets this definition.

Hawaii

State Fleet Use – This new law directs state agencies with diesel fuel purchases to evaluate a purchase preference for biodiesel blends. Also allows agencies that use biodiesel fuel to offset their vehicle purchase requirements at the rate of one vehicle for each 450 gallons of neat biodiesel fuel used. Defines neat biodiesel fuel as B100 by volume.

State Biodiesel Purchase Preference – Gives purchase preference to biodiesel and biofuels in state contracts. Stipulates that contracts for the purchase of diesel fuel or boiler fuel must give preference to bids for biofuels or blends of biofuel & petroleum fuel

Indiana

Study on Use of Biodiesel – Requires Environmental Quality Service Council to study, among other things, the feasibility of requiring motor vehicles sold in Indiana to meet standards for B20 use.



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Tax Credits for Biodiesel Production, Blending & Retail Sales - Increases the maximum amount of credits that may be granted for biodiesel production, biodiesel blending, and ethanol production and indicates that the Indiana economic development corporation may grant a credit that is less than the maximum permissible statutory credit. Extends the tax credit for the retail sale of blended biodiesel to 2010.

Iowa

Renewable Fuels and Infrastructure Development – These new laws contain various provisions, including a three cent income tax credit on each gallon of a two percent (B2) blend or higher for qualified point-of-sale retailers. The law also established a renewable fuels standard, saying sales of ethanol or biodiesel must equal 25 percent of a retailer's fuel sales by 2020. There are exceptions for small fuel retailers.

Other specifics of the biodiesel and renewable fuels bills include a system for the delivery of infrastructure support for biodiesel point-of-sale, as well as infrastructure grants; 50 percent cost-share assistance up to \$50,000 per project for biodiesel-related projects such as retail sites or terminal racks; statutory recognition of the ASTM and EPA definitions of biodiesel; and support for increased state monitoring of fuel quality.

Kansas

Biodiesel Producer Incentives - Establishes the Kansas Qualified Biodiesel Fuel Producer Incentive Fund (KQBPIF), which will provide qualified biodiesel producers a \$.30/gallon production incentive for each gallon of biodiesel sold by the producer. A "Kansas qualified biodiesel fuel producer" is any producer of biodiesel fuel whose principal place of business and facility for the production of biodiesel are located within the state of Kansas. The Fund is to be administered by the state Dept. of Revenue. Program begins April 1, 2007 with an authorized transfer of \$437,500. Beginning July 1, 2007, and quarterly thereafter, \$875,000 will be made available to the KQBPIF. The program expires July 1, 2016.

Louisiana

Biodiesel Mandate - Establishes a minimum biodiesel requirement for diesel fuel sold in the state. Once annualized production volume in Louisiana reaches 10 million gallons, two percent of the total diesel sold by volume in the state must be biodiesel. A related law requires the biodiesel to be produced from domestically grown feedstock. Blenders and retailers must meet this two percent requirement within six months of the production volume being met. Retailers are



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not required to sell biodiesel, and it is not required to be sold in ozone non-attainment areas.

Maine

Excise Taxes - This law temporarily reduces the excise tax on motor fuels that contain at least 2% of biodiesel by volume from \$0.23 per gallon to \$0.20 per gallon.

Study Commission – The new law establishes a Study Group under the Bureau of Motor Vehicles to consider the revenue impacts of a differential tax on biodiesel, the impacts on tax administration and compliance and alternatives to a differential tax including a refund process.

Maryland

State Fleet Biodiesel Use - Requires the State to ensure that, in fiscal year 2008 and in each subsequent fiscal year, at least 50 percent of vehicles using diesel fuel in the State vehicle fleet use a blend of fuel that is at least 5 percent biodiesel fuel.

Michigan

Standards - Establishes state standards for the sale of biodiesel and biodiesel blends, including registration requirements and definitions of biodiesel. The new law also allows for the designation of up to ten additional renaissance zones, specifically for renewable energy facilities.

Fuel Tax Reduction – This bill allows the state to temporarily impose a 12-cents-a-gallon tax, lower than the current 19-cents-a-gallon imposed on diesel fuel that contains at least 5 percent biodiesel.

Grant Program - Provides a fund in the Strategic Fund Act to fund a service station matching grant program to provide incentives to owners and operators of service stations to convert existing fuel delivery systems and to create new fuel delivery system to provide E85 and biodiesel blends.

Infrastructure Incentives - Creates the E-85 and B20 Infrastructure Development Program in the Michigan Economic Development Corporation (MEDC). This program, funded at \$500,000 by MEDC will support new E-85 and biodiesel stations in Michigan, by providing up to 50 percent of the total cost for converting an existing gas station to E-85 or B5, or 50 percent of the total cost for the construction of a new E-85 pump or changes at the terminal for biodiesel. Also provides for a bulk plant grant program that allows up to 50% of the costs to convert existing fuel delivery systems to provide biodiesel blends and a new



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construction grant not to exceed 50% of new construction costs to create a fuel delivery system to provide biodiesel fuel.

State Fleets - This law directs the Director of Administration & Budget to install the necessary fueling infrastructure or contract with a supplier to supply alternative fuels at all state motor transport facilities so that all state owned vehicles capable of utilizing alternative fuels are able to use them. Alternative fuel includes E85 fuel and biodiesel fuel blends. Must be done not later than January 1, 2007.

Study Commission - Creates a commission to promote the research and use of ethanol, biodiesel and other renewable fuels. Gives authority to review state regs. relevant to alternative fuels. Commission must report its findings within 1 year of implementation of the law.

Mississippi

Study Commission - Creates a Study Committee on the Potential Use of Biodiesel Fuel, effective July 1, 2006. The study committee will study the need for mandated use of biodiesel and the benefits accruing to agriculture and the environment. The committee shall report to the Legislature no later than January 2, 2007.

New York

Residential Bioheat® Tax Credit - This new law creates a tax credit for bioheat in residential heating applications will provide one cent (\$0.01) per percent of biodiesel per gallon of bioheat with a cap at the B20 level. For example, B5 will be eligible for a five cents per gallon New York State income tax credit, and B20 will be eligible for a 20 cent per gallon tax credit. Higher percentage blends, if used, will receive 20 cents per gallon. Effective July 1, 2006, through June 30, 2007.

Biofuel Fuel Production Tax Credit – This provision allows New York companies that make renewable fuels to receive a tax credit for each gallon of biofuel they produce. The credit amounts to 15 cents per gallon after the first 40,000 gallons produced. The credit would be capped at \$2.5 million annually per taxpayer per year. Biodiesel is defined as a biofuel and eligible under the program.

Elimination of all Motor Fuel Taxes on Alternative Fuels – This new law provides an exemption from motor fuel, petroleum business, fuel use and sales and compensating use taxes for renewable fuels such as B20 and E85, and other alternative fuels. E85, CNG and Hydrogen will be fully exempt from the above



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taxes while B20 will have a 20% tax reduction at the point in the blending process at which taxes are levied.

Cost-Share Infrastructure Grants – This new \$10 million initiative directs the New York Energy Research and Development Authority (NYSERDA) to conduct a competitive solicitation to provide cost sharing grants to private sector gas stations to install and/or convert pumps for the purpose of distributing B20 or E85 Ethanol.

Alternative Fuel Refueling Tax Credit – A tax credit is provided under the corporation tax, corporate franchise tax and the personal income tax in an amount equal to 50 percent of the cost of the purchase of "alternative fuel vehicle (AFV) refueling property," which would be property that would have facilities to dispense biodiesel, E85 and other alternative fuels.

Contracts Prohibiting Renewable Fuels Illegal - This new law allows retail service stations to obtain renewable fuels irrespective of contract provisions with a supplier. It authorizes motor fuel franchise dealers to obtain alternative fuels from a supplier other than a franchise distributor.

North Carolina

Biodiesel Provider Credit - This law provides for a biodiesel provider credit equal to the per gallon excise tax the producer paid on the biodiesel, currently \$0.299 per gallon. Only a biodiesel provider that produces at least 100,000 gallons of biodiesel during the taxable year is allowed a credit and the credit may not exceed five hundred thousand dollars (\$500,000). This law is effective for taxable years beginning on or after January 1, 2008 and is repealed for taxable years beginning on or after January 1, 2010

Ohio

State Fleet Use - Beginning July 1, 2006, requires that all new motor vehicles acquired by state agencies be capable of using alternative fuels and sets minimum E85 blend fuel and biodiesel use requirements for those vehicles. Also created is the "Biodiesel Revolving Fund," consisting of money received from the sale of credits, to pay for the incremental cost of biodiesel for use in vehicles owned or leased by the state that use diesel fuel.

Alternative Fuel Transportation Grant Program - Expands the program to make grants for purchasing and installing alternative fuel distribution facilities and terminals, and for paying the costs of educational and promotional materials and activities regarding alternative fuel. Gives preference to entities that will be



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purchasing or installing facilities or terminals for both blended biodiesel and blended gasoline.

Study Commission - Requires the Department of Development to study making the production, sale, and use of biodiesel and blended ethanol fuels a commercially viable and self-sustaining industry in Ohio.

Rhode Island

Biodiesel Production Facilities - Current RI law allows a tax credit of fifty percent (50%) of the capital, labor, and equipment costs incurred by the taxpayer directly for the construction of any filling station or improvements to any existing filling station in order to provide alternative fuel. The law was amended to include biodiesel in the definition of alternative fuel and authorizes the RI State Energy Office to fund construction of biodiesel production facilities.

South Dakota

Ag Processing Facilities - Expands the tax refund for ag processing facilities to also include the expansion of existing facilities. The tax refund relates to contractors' excise tax paid on construction costs.

Virginia

Biofuels Production Fund and Grant Incentive Program – The Program offers grants to producers of neat biofuels, which includes B100. To be eligible for a grant the producer must produce in excess of 10 million gallons of neat biofuels within the Commonwealth in a calendar year using feedstock originating domestically within the United States. The producer must commence eligible sales on or after January 1, 2007, and pre-existing producers are only eligible if their production increases over prior calendar year levels by at least 10 million gallons of neat biofuels. Producers that qualify for a grant under the program may be granted \$0.10 per gallon for neat biofuels produced in the given calendar year. If moneys in the fund are not sufficient to pay all qualified applicants, disbursements from the Fund shall be made on a pro-rata basis. The Program and Fund would expire on December 31, 2016. The payment of grants is subject to an appropriation to the fund.

Washington

Biofuels Education Fund – \$98,000 appropriated for FY 2007 is provided solely to establish a biofuels consumer education and outreach program at the Washington State University extension energy program.

B2 Requirement – Requires 2 percent of diesel sold in the state to be biodiesel starting Dec. 1, 2008, or when feedstock grown in the state can satisfy the 2



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percent requirement; requirement to increase to 5 percent when certain triggers are met (in state crush capacity, grown feedstocks).

For more information: The National Biodiesel Board maintains the most comprehensive biodiesel Web site in the US at www.biodiesel.org. Contact Scott Hughes, Director of Governmental Affairs for the National Biodiesel Board at shughes@biodiesel.org or Josh Zahn, State Regulatory Manager, at jzahn@sbcglobal.net.

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