



States' Biofuels Statutes

STATE OF PENNSYLVANIA

This project was undertaken in partnership with the USDA Office of the Chief Economist, The Office of Energy Policy and New Uses. For information on the full project, visit [States' Biofuels Statutory Citations](#).

Current through the 2014 Legislative Session of the Pennsylvania State Legislature.

§ 1650.5. Department authority and responsibility

(a) Enforcement.--With the exception of section 3(d),¹ the department shall enforce this act and shall promulgate regulations as necessary to implement and enforce the requirements of this act. The department may employ all proper means for the enforcement of this act, including issuing notices and orders, initiating criminal prosecutions, seeking injunctive relief, imposing civil penalties and entering into consent agreements.

(b) Environmental Quality Board.--The Environmental Quality Board shall promulgate regulations as necessary to ensure compliance with the carbon offset requirements of section 3(d).

(c) Report.--Beginning one year from the effective date of this act and each year thereafter, the Department of Conservation and Natural Resources shall report on the effect, if any, of in-State production of cellulosic ethanol from woody biomass on forest health, condition and productivity.

(d) Reduction.--The department, in consultation with the Department of Environmental Protection, may suspend or modify to reduce the mandated contents required by section 3 or 4² if the department determines that doing so is warranted by factors, including, but not limited to, substantially increased costs to consumers or insufficient quantity or distribution of biodiesel or cellulosic ethanol.

(e) Authority.--

(1) The department shall have the following authority:

(i) To access during regular business hours and to conduct unannounced random inspections of any facility located in this Commonwealth that stores, holds, blends, sells, offers for sale or otherwise transfers title to diesel fuel, biodiesel or biodiesel blend. Inspections shall include the premises of the facility, tanks, storage facilities, transportation and storage vehicles, dispensing devices and any other place where diesel fuel, biodiesel or biodiesel blend is stored, held, blended, sold, offered for sale or title to which is otherwise transferred.

(ii) To take samples of and test the diesel fuel, biodiesel and biodiesel blend being stored, held, blended, sold, offered for sale or title to which is otherwise being transferred.

(iii) To audit and copy the books and records pertaining to the diesel fuel, biodiesel or biodiesel blend being stored, held, sold, offered for sale or title to which is otherwise being transferred, and its component parts, including:

(A) Delivery invoices, sales invoices, bills of lading and shipping manifests.

(B) Inventory records.

(C) Relevant contracts and agreements.

(iv) To issue stop-sale orders with respect to all biodiesel blend and biodiesel stored, held, blended, sold or title to which is otherwise transferred or offered for sale to consumers in this Commonwealth for use in on-road compression ignition engines if the department determines, after sampling and analysis, that the biodiesel blend or biodiesel does not comply with the standards established under this act or the regulations promulgated under this act and would be detrimental to the operation of on-road compression ignition engines if used for its intended use. The department may release the noncompliant biodiesel blend or biodiesel for sale only when the department determines the biodiesel blend or biodiesel is either brought into compliance with this act or regulations promulgated under this act or it would no longer be detrimental to the operation of on-road compression ignition engines if used for its intended use. All such biodiesel blend or biodiesel must be properly labeled as to its noncompliant characteristics if released and permitted to be sold without being brought into compliance with this act or regulations promulgated under this act. A person that knowingly sells, offers for sale or otherwise transfers title to biodiesel blend or biodiesel in this Commonwealth subject to a stop-sale order for use by consumers in on-road compression ignition engines commits a misdemeanor of the third degree.

(2) A person that willfully and intentionally interferes with an employee of the department in the performance of the duties conferred upon the department under the provisions of this act commits a misdemeanor of the third degree.

(f) Penalties.--

(1)(i) The department may assess a civil penalty of not less than \$100 nor more than \$1,000 per day for each knowing violation of this act or a regulation promulgated under this act.

(ii) If a person fails to pay all or a portion of a penalty assessed against the person, the department may refer the matter to the Office of General Counsel or the Office of Attorney General, which shall institute an action in the appropriate court to recover the penalty.

(2) A person that knowingly violates a provision of this act or a rule or regulation adopted or order issued under this act:

(i) Unless otherwise specified in this act, for the first offense, commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not less than \$100 nor more than \$500 plus costs of prosecution or to imprisonment for not more than 90 days, or both.

(ii) For a subsequent offense at one location that occurs within two years of sentencing for the

prior violation at the same location, commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of not less than \$500 nor more than \$1,000 plus costs of prosecution or to imprisonment of not more than one year, or both.

(3) In addition to any other remedies under this act, a violation of this act or a regulation promulgated under this act shall be abatable in any manner provided by law or equity. In addition to any remedy ordered in an equity proceeding, the court may assess civil penalties in accordance with this act.

(g) Account.--

(1) There is established a restricted account within the State Treasury to be known as the Biofuel Development Account. All money in the account is hereby appropriated on a continuing basis to the department for the enforcement and administration of this act.

(2) The following shall be deposited in the Biofuel Development Account:

(i) Federal and State funds appropriated to the department for implementation and administration of this act.

(ii) Notwithstanding the provisions of 42 Pa.C.S. ?§ 3733 (relating to deposits into account) and 3733.1 (relating to surcharge), all fines, judgments and penalties, including administrative, civil and criminal penalties, and interest on the foregoing collected by the department under this act.

(iii) Interest and any other earnings on money in the account.

(iv) Funds from any other source, including gifts and other contributions from public and private sources.

Credits 2008, July 10, P.L. 1009, No. 78, § 5, effective in 90 days [Oct. 8, 2008]. Amended 2012, July 5, P.L. 921, No. 96, § 4, effective in 30 days [Aug. 6, 2012].