



States' Biofuels Statutes

STATE OF TENNESSEE

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 2013 Legislative Session of the Tennessee General Assembly.

§ 47-25-2001. Short title

This part shall be known and may be cited as the “Tennessee Renewable Fuels Blending Act of 2009.”

Credits 2009 Pub.Acts, c. 523, § 1, eff. Jan. 1, 2010.

§ 47-25-2002. Definitions

As used in this part, unless the context otherwise requires:

- (1) “Biodiesel” (biodiesel fuel blending stock) means a fuel comprised of mono-alkyl esters of long chain fatty acids meeting the requirements of ASTM D 6751;
- (2) “Blending Stock” means any liquid compound used for blending with other liquid compounds, including catalytically reformed products and additives, to produce gasoline and gasoline-oxygenate blends that are consistent with the requirements of chapter 18, part 13 of this title. Blending stock includes such products as sub-octane gasoline, conventional blending stock for oxygenate blending (CBOB) and reformulated blending stock for oxygenate blending (RBOB);
- (3) “Ethanol,” also known as denatured fuel ethanol, means nominally anhydrous ethyl alcohol meeting ASTM D 4806 standards. Ethanol is intended to be blended with gasoline for use as a fuel in a spark-ignition internal combustion engine. The denatured fuel ethanol is first made unfit for drinking by the addition of the alcohol and tobacco tax and trade bureau (TTB) approved substances before blending with gasoline;
- (4) “Permissive supplier” means any person that is not subject to the general taxing jurisdiction of this state, but that:
 - (A) Is a position holder in a federal qualified terminal located outside this state;

- (B) Is registered for transactions in taxable motor fuels under [§ 4101 of the Internal Revenue Code](#), codified in [26 U.S.C. § 4101](#), in the bulk transfer/terminal distribution system; and
- (C) Acquires products in such out-of-state terminals from position holders in transactions that otherwise qualify as two-party exchanges;
- (5) “Person” means a natural person, partnership, firm, association, corporation, limited liability company, court appointed representative, state, political subdivision or any other entity, group or syndicate;
- (6) “Position holder” means the person that holds the inventory position in petroleum products in a terminal, as reflected in the records of the terminal operator. A person holds the inventory position in petroleum products when that person has a contract with the operator for the use of storage facilities and terminaling services for petroleum products at the terminal. “Position holder” includes a terminal operator that owns petroleum products in the terminal;
- (7) “Refiner” means a person that owns, operates or otherwise controls a refinery within the United States;
- (8) “Refinery” means a facility used to produce motor fuel from crude oil, unfinished oils, natural gas liquids or other hydrocarbons, and from which motor fuel may be removed by pipeline, by marine vessel or at a rack;
- (9) “Retail station” means any service station, garage, truck stop or other outlet dispensing motor fuel from a container equipped with a computer-type pump that measures fuel passing through it;
- (10) “Retailer” means a person that engages in the business of selling or distributing petroleum products to the end user within this state through a retail station;
- (11) “Supplier” means a person that meets all the following conditions:
- (A) Is subject to the general taxing jurisdiction of this state;
- (B) Is registered under [§ 4101 of the Internal Revenue Code](#) for transactions in taxable motor fuels in the bulk transfer/terminal system; and
- (C) Is one of the following:
- (i) The position holder in a terminal or refinery in this state, or is one that receives fuel from a position holder within a terminal or refinery in this state;
- (ii) A person that imports taxable petroleum products into this state from a foreign country;
- (iii) A person that acquires taxable petroleum products from a terminal or refinery outside this state for import into this state on such person’s account; or

(iv) A person that is the receiving supplier on a two-party exchange;

(12) “Terminal” means a storage and distribution facility for taxable motor fuel, supplied by pipeline or marine vessel, that is registered as a qualified terminal by the internal revenue service;

(13) “Two-party exchange” means a transaction in which a petroleum product is transferred from one licensed supplier or licensed permissive supplier to another licensed supplier or licensed permissive supplier pursuant to an exchange agreement:

(A) Which transaction includes a transfer from the person that holds the inventory position for taxable motor fuel in the terminal as reflected on the records of the terminal operator; and

(B) The exchange transaction is completed prior to removal of the product from the terminal by the receiving exchange partner; and

(14) “Wholesaler” means an entity that acquires petroleum products from a supplier, importer or from another wholesaler for subsequent sale and distribution at wholesale by tank cars, transport trucks or vessels, and subsequently resells to retailers, other wholesalers or to consumers from its own or its wholly owned affiliated retail locations.

Credits [2009 Pub.Acts, c. 523, § 1, eff. Jan. 1, 2010.](#)

§ 47-25-2003. Gasoline and gasoline blending stock; suitable for blending with ethanol

All refiners, suppliers and permissive suppliers in this state shall make available to wholesalers gasoline or gasoline blending stock that has not been blended with, but is suitable for blending with, ethanol. All refiners, suppliers and permissive suppliers in this state shall make available to a wholesaler diesel that is suitable for blending with biodiesel. Diesel sold by refiners, suppliers and permissive suppliers to wholesalers may contain up to five percent (5%) biodiesel. Gasoline and gasoline blending stock, as applicable, must be made available with detergent additives in sufficient concentrations such that after the addition of ethanol at the maximum volume percent permitted by state and federal law, the final product meets or exceeds the lowest additive concentrations as required by the federal environmental protection agency (EPA).

Credits [2009 Pub.Acts, c. 523, § 1, eff. Jan. 1, 2010.](#)

§ 47-25-2004. Contract provisions

Any contract or provision between a wholesaler and a refiner, supplier or permissive supplier executed or renewed on or after January 1, 2010, that forbids, limits or restricts a wholesaler’s ability to blend petroleum products with ethanol or biodiesel shall be void as against public policy. Nothing in this section shall prohibit a franchisor or the holder of a trademark from selecting its own customers in bona fide transactions and not in restraint of trade, and from including in its contracts, franchise or licensing

agreements those reasonable terms that allow the franchisor or licensor to require its franchisees or licensees to maintain the quality and integrity of the blended products produced under this part so long as the terms are consistent with the Tennessee Petroleum Trade Practices Act, compiled in part 6 of this chapter, the Federal Petroleum Marketing Practices Act, compiled in [15 U.S.C. § 2801 et seq.](#) and [§ 47-25-2003](#).

Credits [2009 Pub.Acts, c. 523, § 1, eff. Jan. 1, 2010.](#)

§ 47-25-2005. Complaint; investigation; fines for violation

(a) Upon a complaint by a wholesaler and upon investigation by the commissioner of agriculture and after the commissioner determines that a refinery, supplier or permissive supplier in this state is in willful noncompliance with this part, the commissioner of agriculture may assess fines up to five thousand dollars (\$5,000) per day for each day of the willful violation. The fines shall be used to pay for the cost of investigation, hearing and other related administrative costs. The remainder of the funds shall be used to fund grants designated by the commissioner of agriculture for the promotion of biofuel research, technology or agricultural development, biofuel production facilities or retail infrastructure and installation for biofuel distribution.

(b) Upon receiving a complaint and initiating an investigation, the commissioner or the commissioner's agent, presenting appropriate credentials, is authorized to enter the place of business of any refiner, supplier or permissive supplier in this state during normal business hours to examine, and obtain samples of, such records as may be necessary to determine compliance with this part. Refiners, suppliers and permissive suppliers in this state shall hold the records open for inspection by all officers or inspectors charged with the enforcement of this part, and shall preserve and retain the records for a period of at least one (1) year. If the owner of any refiner, supplier or permissive supplier, or the owner's agent, refuses to admit the commissioner, or the commissioner's agent, to inspect in accordance with this section, the commissioner is authorized to obtain from any state court a court order directing the owner or the owner's agent to submit the premises described in the warrant to inspection.

(c) A refinery, supplier, or permissive supplier who is aggrieved by a proposed departmental order to enforce provisions of this part shall be entitled to a contested case hearing to be conducted in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

Credits [2009 Pub.Acts, c. 523, § 1, eff. Jan. 1, 2010.](#)

§ 47-25-2006. Wholesalers responsibilities

Wholesalers purchasing gasoline, gasoline blending stock or diesel are responsible for ensuring that their activities result in gasolines and diesels that meet the standards promulgated by the commissioner of agriculture. Refiners, suppliers and permissive suppliers shall not be liable for fines, penalties, injuries or damages arising out of the subsequent blending of gasoline, gasoline blending stock or diesel pursuant to this part.

Credits [2009 Pub.Acts, c. 523, § 1, eff. Jan. 1, 2010.](#)