

HOUSE No. 4364

The Commonwealth of Massachusetts



EXECUTIVE DEPARTMENT
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DEVAL L. PATRICK
GOVERNOR

TIMOTHY P. MURRAY
LIEUTENANT GOVERNOR

November 5, 2007.

To the Honorable Senate and House of Representatives:

I am filing for your consideration, along with Senate President Therese Murray and House Speaker Salvatore DiMasi, the attached legislative proposal, entitled, "An Act Furthering the Biofuels Clean Energy Sector."

This bill will strengthen our clean energy sector and enable our universities and technology companies to continue leading the nation in biofuels development. This bill maximizes the Commonwealth's opportunity to grow our clean energy sector, play to our established strength in biotechnology and improve our environment in several ways. First, this bill establishes the first in the nation cellulosic ethanol tax exemption, and although cellulosic ethanol is not yet commercially available, this incentive will propel the intense research occurring in Massachusetts forward. Second, on a ramped timeline, this bill requires a minimum percentage of biodiesel as a component of diesel fuel sold in the Commonwealth. Finally, this initiative requires a minimum percentage of bioheat as a component of heating oil sold in the Commonwealth, also on a ramped timeline. In addition to ensuring clean energy and addressing the threat of climate change, this initiative has the potential to grow the biofuels sector of our clean energy industry by adding 3,000 jobs and \$320 million in the state economy.

This bill secures Massachusetts' leadership in cutting edge clean energy and clean fuels research and development, while protecting the environment and creating jobs. Accordingly, I urge your early and favorable consideration of this bill.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Deval Patrick", written over a large, light-colored circular mark.

DEVAL L. PATRICK,
Governor.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT FURTHERING THE BIOFUELS CLEAN ENERGY SECTOR.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Subsection (l) of Section 1 of Chapter 64A of the
2 General Laws, as appearing in the 2006 Official Edition, is hereby
3 amended by inserting after the first sentence the following para-
4 graphs:—

5 Notwithstanding the prior sentence, for fuel consisting of a
6 blend of gasoline and ethanol, the tax per gallon shall be reduced
7 in proportion to the percentage of the fuel content, measured by
8 volume, that consists of ethanol derived from cellulosic feed-
9 stocks grown in a sustainable manner.

10 Entities wishing to obtain the aforesaid tax reduction for cellu-
11 losic ethanol shall provide documentation satisfactory to the divi-
12 sion of energy resources that such fuel is produced from
13 feedstocks that are grown in a sustainable manner. The division
14 shall promulgate regulations to effectuate the provisions of this
15 subsection, provided, that for the purposes of this subsection, the
16 term “sustainable manner” shall be consistent with the definition
17 of sustainable as defined in this chapter. The division, in consul-
18 tation with the department of revenue, shall also promulgate regu-
19 lations concerning the timing and form of documentation that will
20 enable the department to determine the appropriate tax revenue to
21 be collected.

1 SECTION 2. Chapter 64A as so appearing, is further amended
2 by inserting after subsection (l) the following subsections:—

3 (m) “Ethanol”, the clear, colorless, flammable oxygenated
4 hydrocarbon with the chemical formula C₂H₅OH, also known as
5 ethyl alcohol or grain alcohol, that can be derived from biomass
6 materials and used as a fuel to power motor vehicles.

- 7 (n) “Cellulosic feedstocks”, cellulosic plant material composed
8 primarily of cellulose, hemicellulose and/or lignin, that can be
9 converted into ethanol.
- 10 (o) “Sustainable”, the ability of a natural resource to yield a
11 stable output of usable products indefinitely without causing sig-
12 nificant damage to ecosystem health or pollution-control capacity.
- 13 (p) “Cellulosic fuel”, ethanol derived from cellulosic feedstocks
14 grown in a sustainable manner.

1 SECTION 3. Chapter 94 is hereby amended by inserting after
2 Section 249H the following section:—

3 Section 249H½. (1) As used in this subsection, the following
4 terms shall have the following meanings:

5 “Biodiesel fuel”, a renewable, biodegradable, mono alkyl ester
6 combustible liquid fuel derived from agricultural plant oils or
7 animal fats and meeting American society for testing and mate-
8 rials specification D6751 for biodiesel fuel (B100) blend stock for
9 distillate fuels.

10 “BQ-9000”, the national biodiesel accreditation program for
11 producers and marketers of biodiesel fuel, operated by the
12 national biodiesel accreditation commission.

13 “Deputy Director”, the deputy director of the division of stan-
14 dards.

15 “Division”, the division of standards in the office of consumer
16 affairs and business regulation.

17 “Feedstock(s)”, the raw material used to produce a fuel.

18 “Marketer”, an entity engaged in the business of the distribu-
19 tion and sale of biodiesel and/or biodiesel blends.

20 “Sustainable”, the ability of a natural resource to yield a stable
21 output of usable products indefinitely without causing significant
22 damage to ecosystem health or pollution-control capacity.

23 (2) All petroleum-distillate #2 fuel offered for sale to end-users,
24 retail sellers, or to any other entity that will be providing such fuel
25 directly to end-users in the Commonwealth for use in residential,
26 commercial, or industrial heating applications, must contain at
27 least 2.0 percent biodiesel fuel by volume by July 1, 2010. All
28 such fuel must contain at least 3.0 percent biodiesel fuel by
29 volume by July 1, 2011, 4.0 percent biodiesel fuel by volume by
30 July 1, 2012, and 5.0 percent biodiesel fuel by volume by July 1,

31 2013.

32 The division may delay these implementation dates based on its
33 determination, in consultation with the division of energy
34 resources, that providing sufficient supplies of the required
35 biodiesel blends to end-use consumers is not feasible due to lack
36 of supply, lack of blending facilities, or unreasonable cost. If the
37 division delays implementation as provided in the preceding sen-
38 tence, the deputy director of the division shall file a report within
39 30 days of such decision with the clerk of the Senate, the clerk of
40 the House of Representatives, the House and Senate Committees
41 on Ways and Means, the Joint Committee on Telecommunications,
42 Utilities and Energy, the Joint Committee on Environment, Nat-
43 ural Resources and Agriculture and the Joint Committee on Trans-
44 portation explaining the reasons for any such decision to delay
45 implementation.

46 (3) Manufacturers and wholesale distributors of biodiesel fuel
47 doing business in the commonwealth shall furnish samples of such
48 products to the division and permit the entry and inspection by the
49 division of the premises of such manufacturers or distributors, and
50 the inspection of biodiesel fuel stored thereon.

51 (4) Manufacturers and wholesale distributors of biodiesel fuel
52 doing business in the commonwealth shall provide documentation
53 satisfactory to the division that such fuel is produced from feed-
54 stocks that are grown in a sustainable manner. For purposes of this
55 subsection, “sustainable manner” shall be determined by the divi-
56 sion of energy resources pursuant to regulations it shall promul-
57 gate under Sections 6(8) and 12 of Chapter 25A, provided, that for
58 the purposes of this subsection, the term “sustainable manner”
59 shall be consistent with the definition of sustainable as defined in
60 this chapter.

61 (5) Manufacturers of biodiesel fuel that is sold in the Common-
62 wealth must hold BQ-9000 accreditation, must submit documenta-
63 tion of this accreditation to the division by November 1, 2009, and
64 must submit documentation to the division showing that their
65 accreditation remains current every 2 years thereafter.

66 (6) The division shall evaluate the feasibility and desirability of
67 requiring BQ-9000 or other comparable accreditation requirement
68 for marketers of biodiesel fuel and petroleum-based motor fuel
69 blended with biodiesel fuel operating in the Commonwealth. If the

70 division concludes that such accreditation is feasible and desirable
71 in order to protect consumers and the environment, the division
72 shall promulgate regulations to implement an accreditation
73 requirement.

74 (7) The division shall promulgate regulations to implement the
75 provisions of this subsection.

76 (8) No person shall sell or offer to sell in the Commonwealth
77 heating fuel, including biodiesel fuel, that does not conform to the
78 provisions of this section.

79 (9) Notwithstanding any of the provisions of Section 249H of
80 this chapter, failure to comply with subsection (8) of this section
81 shall constitute an unfair or deceptive act under the provisions of
82 Chapter 93A, and may be enforced as provided therein.

1 SECTION 4. Chapter 94 is hereby amended by inserting after
2 Section 295G the following section:—

3 Section 295G½. (1) As used in this section, the following
4 words and terms shall have the following meanings:

5 “Biodiesel fuel”, a renewable, biodegradable, mono alkyl ester
6 combustible liquid fuel derived from agricultural plant oils or
7 animal fats and meeting American society for testing and mate-
8 rials specification D6751 for biodiesel fuel (B100) blend stock for
9 distillate fuels.

10 “BQ-9000”, the national biodiesel accreditation program for
11 producers and marketers of biodiesel fuel, operated by the
12 national biodiesel accreditation commission.

13 “Deputy Director”, the director of the division of standards.

14 “Division”, the division of standards in the office of consumer
15 affairs and business regulation.

16 “Feedstock(s)”, the raw material used to produce a fuel.

17 “Marketer”, an entity engaged in the business of the distribu-
18 tion and sale of biodiesel and/or biodiesel blends.

19 “Sustainable”, the ability of a natural resource to yield a stable
20 output of usable products indefinitely without causing significant
21 damage to ecosystem health or pollution-control capacity.

22 (2) All diesel motor fuel offered for sale to end-users, retail
23 sellers, or to any other entity that will be providing diesel motor
24 fuel directly to end-users in the commonwealth, must contain at
25 least 2.0 percent biodiesel fuel by volume by July 1, 2010. All

26 such diesel motor fuel must contain at least 3.0 percent biodiesel
27 fuel by volume by July 1, 2011, 4.0 percent biodiesel fuel by
28 volume by July 1, 2012, and 5.0 percent biodiesel fuel by volume
29 by July 1, 2013.

30 The division may delay these implementation dates based on its
31 determination, in consultation with the division of energy
32 resources, that providing sufficient supplies of the required
33 biodiesel blends to end-use consumers is not feasible due to a lack
34 of supply, lack of blending facilities, or unreasonable cost. If the
35 division delays implementation as provided in the preceding sen-
36 tence, the deputy director of the division shall file a report within
37 30 days of such decision with the clerk of the Senate, the clerk of
38 the House of Representatives, the House and Senate Committees
39 on Ways and Means, the Joint Committee on Telecommunications,
40 Utilities and Energy, the Joint Committee on Environment, Nat-
41 ural Resources and Agriculture and the Joint Committee on Trans-
42 portation explaining the reasons for any such decision to delay
43 implementation.

44 (3) Manufacturers and wholesale distributors of biodiesel fuel
45 doing business in the commonwealth shall provide documentation
46 satisfactory to the division that such fuel is produced from feed-
47 stocks that are grown in a sustainable manner. For purposes of
48 this subsection, “sustainable manner” shall be determined by the
49 division of energy resources pursuant to regulations it shall pro-
50 mulgate under Sections 6(8) and 12 of Chapter 25A, provided,
51 that for the purposes of this subsection, the term “sustainable
52 manner” shall be consistent with the definition of sustainable as
53 defined in this chapter.

54 (4) Manufacturers of biodiesel fuel that is sold in the Common-
55 wealth must hold BQ-9000 accreditation, must submit documenta-
56 tion of this accreditation to the division by November 1, 2009, and
57 must submit documentation to the division showing that their
58 accreditation remains current every 2 years thereafter.

59 (5) The division shall evaluate the feasibility and desirability of
60 requiring BQ-9000 or other comparable accreditation requirement
61 for marketers of biodiesel fuel and petroleum-based motor fuel
62 blended with biodiesel fuel operating in the commonwealth. If
63 the division concludes that such accreditation is feasible and
64 desirable in order to protect consumers and the environment, the

65 division shall promulgate regulations to implement an accredita-
66 tion requirement.

67 (6) The division shall promulgate regulations to implement the
68 provisions of this section.

69 (7) No person shall sell or offer to sell in the Commonwealth
70 motor fuel, including biodiesel fuel, that does not conform to the
71 provisions of this section.

72 (8) Failure to comply with subsection (7) of this section shall
73 constitute an unfair or deceptive act under the provisions of
74 Chapter 93A, and may be enforced as provided therein.

1 SECTION 5. Sections 1 and 2 of this act shall be effective for
2 tax years beginning on or after January 1, 2008 and before Jan-
3 uary 1, 2018.