

Substituted by the House, on motion of Mr. Dempsey of Haverhill, for a bill with the same title (House, No. 4821).

The Commonwealth of Massachusetts

In the Year Two Thousand and Eight.

AN ACT RELATIVE TO CLEAN ENERGY BIOFUELS.

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

SECTION 1. Chapter 64A of the General Laws is hereby amended by striking out section 1, as appearing in the 2006 Official Edition, and inserting in place thereof the following section:—

Section 1. As used in this chapter, the following words shall, unless the context otherwise requires, have the following meanings:—

“Appellate tax board”, the board established by section 1 of chapter 58A.

“Average price”, the weighted average selling price per gallon of fuel exclusive of federal and state motor fuel taxes imposed thereon sold by licensees, as determined by the commissioner on a consistent basis from information furnished by distributors, unclassified exporters and unclassified importers with their monthly returns and from other statistical data reflecting the average level of such prices at the time such determination is made.

“Cellulosic biofuel”, fuel that may be used in place of petroleum-based fuel derived from cellulose, hemicellulose or lignin derived from renewable biomass.

“Commissioner”, the commissioner of revenue.

“Department”, the department of environmental protection within the executive office of energy and environmental affairs.

“Distributor”, shall include: (1) any person qualified to do business in the commonwealth who produces, refines, manufactures or

26 compounds fuel, as herein defined, or any person who operates a
27 port or pipe line terminal within the commonwealth for the receipt
28 of fuel, as herein defined; and (2) any person who elects to qualify
29 as a distributor by importing into the commonwealth or by
30 receiving within the commonwealth fuel, as herein defined, by
31 pipe line, vessel, tank car, or tank truck lots, for resale in pipe
32 line, vessel, tank car or tank truck lots; provided, that no person
33 under clause (2) shall qualify as a distributor unless his facilities
34 regularly used for the receipt and storage of fuel, as herein
35 defined, are such that not less than 25,000 gallons may be stored
36 in the aggregate, at one location within the commonwealth; and
37 provided, further, that at least 75 per cent of the fuel imported or
38 received by him is sold to others for resale exclusive of sales to
39 government instrumentalities.

40 "Division", the division of energy resources within the execu-
41 tive office of energy and environmental affairs.

42 "Eligible cellulosic biofuel", cellulosic biofuel that yields at
43 least a 60 per cent reduction in lifecycle greenhouse gas emissions
44 relative to average lifecycle greenhouse gas emissions for petro-
45 leum based fuel sold in 2005, as determined by the division in
46 consultation with the department and the executive office of
47 energy and environmental affairs.

48 "Feedstock", raw material used to produce a fuel.

49 "Fuel", all products commonly or commercially known or sold
50 as gasoline, including casing-head and absorption or natural gaso-
51 line, regardless of their classification or uses; and any liquid pre-
52 pared, advertised, offered for sale, or sold for use as or commonly
53 and commercially used as a fuel in internal combustion engines,
54 which when subjected to distillation in accordance with the stan-
55 dard method of test for distillation of gasoline, naphtha, kerosene
56 and similar petroleum products (American Society for Testing
57 Materials Designation D--86) show not less than 10 per cent dis-
58 tilled (recovered) below 347° Fahrenheit (175° Centigrade) and
59 not less than 95 per cent distilled (recovered) below 464° Fahren-
60 heit (240° Centigrade); provided, that the term "fuel" shall not
61 include industrial solvents or naphthas which distill, by American
62 Society for Testing Materials Method D--86, not more than 9 per
63 cent at 176° Fahrenheit, and which have a distillation range of
64 150° Fahrenheit, or less, or liquefied gases which would not exist

65 as liquids at a temperature of 60° Fahrenheit and a pressure of
66 14.7 pounds per square inch absolute. For the purposes of this
67 chapter, “fuel” shall include products sold or used as fuel for air-
68 craft, except aircraft fuel as defined in section 1 of chapter 64J.

69 “Lifecycle greenhouse gas emissions”, the aggregate quantity
70 of greenhouse gas emissions, including direct emissions and sig-
71 nificant indirect emissions such as significant emissions from land
72 use changes, as determined by the division in consultation with
73 the department and the executive office of energy and environ-
74 mental affairs, related to the full fuel lifecycle, including all stages
75 of fuel and feedstock production and distribution, from feedstock
76 generation or extraction through the distribution and delivery and
77 use of the finished fuel to the ultimate consumer, where the mass
78 values for all greenhouse gases are adjusted to account for their
79 relative global warming potential.

80 “Low carbon fuel standard”, a requirement that the average
81 lifecycle greenhouse gas emissions attributable to use of energy in
82 an economic sector are equal to or less than a specified numeric
83 level, or a similar standard or system, such as the requirement
84 contained in California Executive Order S-1-07. The level may be
85 stated as units of greenhouse gas emissions per unit of delivered
86 energy, corrected for differences in the efficiency of the energy in
87 the particular end use; for example the difference between effi-
88 ciency of a gasoline engine and an electric motor in powering a
89 vehicle. The standard may apply to the commonwealth or a larger
90 geographic area, and may apply to energy used in motor vehicles
91 or to another energy-consuming sector.

92 “Motor vehicle” shall include any vehicle propelled by any
93 power other than muscular, except boats, tractors used exclusively
94 for agricultural purposes and such vehicles as run only on rails or
95 tracks.

96 “Purchaser”, shall include, in addition to its usual meaning, a
97 distributor and unclassified importer in the case of a transfer of
98 fuel by a distributor or an unclassified importer into a motor
99 vehicle, or into a receptacle from which fuel is supplied by him to
100 his own or other motor vehicles.

101 “Renewable biomass”, non-fossil fuel based material,
102 including: planted crops; crop residues; planted trees and tree
103 residues from sustainably managed forests; waste materials

104 including animal waste, animal byproducts, organic portions of
105 municipal solid waste, grease trap waste, construction and demoli-
106 tion debris; and algae, or as otherwise determined by the division
107 in consultation with the department and the executive office of
108 energy and environmental affairs.

109 “Sale” shall include, in addition to its usual meaning, the
110 transfer of fuel by a distributor or an unclassified importer into a
111 motor vehicle or into a receptacle from which fuel is supplied by
112 him to his own or other motor vehicles.

113 “Tax per gallon”, shall be 21 cents per gallon. For aviation
114 fuel, “tax per gallon” shall mean 7½ per cent of the average price,
115 as determined by the commissioner for each calendar quarter,
116 computed to the nearest tenth of a cent per gallon; provided, how-
117 ever, that such tax shall not be less than 10 cents per gallon.

118 “To sell”, in all of its moods and tenses, shall refer to a sale as
119 herein defined.

120 “Unclassified importer”, any person who imports or causes to
121 be imported fuel, as herein defined, for use, distribution or sale in
122 the commonwealth, but who does not qualify as a distributor.

123 “Unclassified exporter”, any person licensed as a distributor in
124 another state who exports or causes to be exported fuel, as herein
125 defined, for use, distribution or sale outside the commonwealth,
126 but who does not qualify as a distributor.

127 “Waste feedstock”, previously used or discarded solid, liquid or
128 contained gaseous material with heating value resulting from
129 industrial, commercial, or household food service activities that
130 would otherwise be stored, treated, transferred or disposed. Waste
131 feedstock shall include but not be limited to waste vegetable oils,
132 waste animal fats, substances derived from wastewater and the
133 treatment of wastewater, or grease trap waste. Waste feedstock
134 shall not include petroleum-based waste or waste that otherwise
135 meets the definition of hazardous waste, unless otherwise deter-
136 mined by the department.

1 SECTION 2. Said chapter 64A is hereby further amended by
2 inserting after section 1 the following section:—

3 Section 1A. For fuel consisting of eligible cellulosic biofuel or
4 of a blend of gasoline and eligible cellulosic biofuel, the tax per
5 gallon shall be reduced in proportion to the percentage of the fuel

6 content consisting of eligible cellulosic biofuel, measured by
7 available energy content, as determined by the division of energy
8 resources, hereinafter referred to as the division.

9 Manufacturers and wholesale distributors of cellulosic biofuel
10 who seek to have their fuel classified as eligible cellulosic biofuel
11 shall provide documentation satisfactory to the division that such
12 fuel yields at least a 60 per cent reduction in lifecycle greenhouse
13 gas emissions per unit of delivered energy, in comparison to the
14 petroleum-based fuel displaced.

15 In determining the percentage reduction in lifecycle greenhouse
16 gas emissions relative to petroleum-based fuel achieved by partic-
17 ular supplies of cellulosic biofuel, the division, in consultation
18 with the department and the executive office of energy and envi-
19 ronmental affairs, shall utilize information and best practices
20 available from other sources, including other states, the federal
21 government, foreign governments, academic research and private
22 and non-profit organizations.

23 If the division determines through an initial review that a waste
24 feedstock will yield at least a 60 per cent lifecycle greenhouse gas
25 reduction, is free of hazardous materials and hazardous waste and
26 meets any other conditions established by the division, the divi-
27 sion may exempt fuel produced from such a feedstock from a full
28 lifecycle greenhouse gas emissions analysis.

29 The division, in consultation with the department and the exec-
30 utive office of energy and environmental affairs, shall promulgate
31 rules and regulations necessary to carry out the provisions of this
32 section.

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

3 Section 249H½. (1) As used in this section, the following
4 words shall, unless the context clearly requires otherwise, have
5 the following meanings:—

6 “BQ-9000”, the national biodiesel accreditation program for
7 producers and marketers of biodiesel fuel, operated by the
8 national biodiesel accreditation commission.

9 “Commissioner”, the commissioner of the division of energy
10 resources.

11 “Department”, the department of environmental protection
12 within the executive office of energy and environmental affairs.

13 “Division”, the division of energy resources within the execu-
14 tive office of energy and environmental affairs.

15 “Eligible petroleum distillate substitute fuel”, petroleum distil-
16 late substitute fuel that yields at least a 50 per cent reduction in
17 lifecycle greenhouse gas emissions relative to average lifecycle
18 greenhouse gas emissions for petroleum distillate fuel sold in
19 2005, as determined by the division in consultation with the
20 department and the executive office of energy and environmental
21 affairs.

22 “Feedstock”, the raw material used to produce a fuel.

23 “Lifecycle greenhouse gas emissions”, the aggregate quantity
24 of greenhouse gas emissions, including direct emissions and sig-
25 nificant indirect emissions such as significant emissions from land
26 use changes, as determined by the division in consultation with
27 the department and the executive office of energy and environ-
28 mental affairs, related to the full fuel lifecycle, including all stages
29 of fuel and feedstock production and distribution, from feedstock
30 generation or extraction through the distribution and delivery and
31 use of the finished fuel to the ultimate consumer, where the mass
32 values for all greenhouse gases are adjusted to account for their
33 relative global warming potential.

34 “Low carbon fuel standard”, a legal requirement that the
35 average lifecycle greenhouse gas emissions attributable to use of
36 energy in an economic sector are equal to or below a specified
37 numeric level, or a similar standard or system, such as the require-
38 ment contained in California Executive Order S-1-07. The level
39 may be stated as units of greenhouse gas emissions per unit of
40 delivered energy, corrected for differences in the efficiency of the
41 energy in the particular end use; for example the difference
42 between efficiency of a gasoline engine and an electric motor in
43 powering a vehicle. The standard may apply to the common-
44 wealth or a larger geographic area, and may apply to energy used
45 in motor vehicles or to another energy-consuming sector.

46 “Petroleum distillate substitute fuel”, fuel that is derived pre-
47 dominantly from renewable biomass; and meets American Society
48 for Testing and Materials specifications for use in home heating
49 applications, or such other quality certification standards as are

50 approved by the division. For industrial and commercial applica-
51 tions, the division may substitute operational performance require-
52 ments that it determines are acceptable.

53 “Renewable biomass”, non-fossil fuel based material,
54 including: planted crops; crop residues; planted trees and tree
55 residues from sustainably managed forests; waste materials
56 including animal waste, animal byproducts, organic portions of
57 municipal solid waste, grease trap waste, construction and demoli-
58 tion debris; and algae, or as otherwise determined by the division
59 in consultation with the department and the executive office of
60 energy and environmental affairs.

61 “Waste feedstock”, previously used or discarded solid, liquid or
62 contained gaseous material with heating value resulting from
63 industrial, commercial, or household food service activities that
64 would otherwise be stored, treated, transferred or disposed. Waste
65 feedstock shall include but not be limited to waste vegetable oils,
66 waste animal fats, substances derived from wastewater and the
67 treatment of wastewater, or grease trap waste. Waste feedstock
68 shall not include petroleum-based waste or waste that otherwise
69 meets the definition of hazardous waste, unless otherwise deter-
70 mined by the department.

71 (2) Manufacturers and wholesale distributors of petroleum dis-
72 tillate substitute fuel who seek to have their fuel classified as eli-
73 gible petroleum distillate substitute fuel shall provide
74 documentation satisfactory to the division that such fuel yields at
75 least a 50 per cent reduction in lifecycle greenhouse gas emissions
76 per unit of delivered energy, in comparison to the petroleum distil-
77 late fuel displaced.

78 In determining the percentage lifecycle greenhouse gas reduc-
79 tions achieved by particular fuels, the division, in consultation
80 with the department and the executive office of energy and envi-
81 ronmental affairs, shall utilize information and best practices
82 available from other sources, including other states, the federal
83 government, foreign governments, academic research and private
84 and non-profit organizations.

85 If the division, in consultation with the department and the
86 executive office of energy and environmental affairs, determines
87 through an initial review that a particular waste feedstock will
88 clearly yield at least a 50 per cent lifecycle greenhouse gas reduc-

89 tion, is free of hazardous materials and hazardous waste, and
90 meets any other conditions set by regulations promulgated by the
91 division, the division may exempt fuel produced from such a
92 material from a full lifecycle greenhouse gas emissions analysis.

93 For supplies that the division determines meet the criteria
94 above for reductions in greenhouse gas emissions, the division
95 shall certify the supplies as eligible petroleum distillate substitute
96 fuel and shall provide documentation or certificates to suppliers of
97 such fuel showing the number of gallons of neat eligible petro-
98 leum distillate substitute fuel supplied. The division shall, by reg-
99 ulation, determine which suppliers the documentation shall apply
100 to, and shall create a mechanism for tracking such supplies.

101 (3) Except as provided in paragraph (4), the following shall
102 apply to all number 2 petroleum distillate fuel and all other liquid
103 fuel sold as a substitute for number 2 distillate fuel, offered for
104 sale to end-users, retail sellers, or to any other entity that will be
105 providing such fuel directly to end-users in the commonwealth for
106 use in residential, commercial, or industrial heating applications.
107 Such fuel must contain at least 2 per cent eligible petroleum distil-
108 late substitute fuel, measured by available energy content or as
109 otherwise provided by the division, no later than July 1, 2010.
110 Except as provided in subsection (4), all such fuel must contain at
111 least 3 per cent eligible petroleum distillate substitute fuel no later
112 than July 1, 2011, 4 per cent eligible petroleum distillate substi-
113 tute fuel no later than July 1, 2012, and 5 per cent eligible petro-
114 leum distillate substitute fuel no later than July 1, 2013.

115 The division shall study the feasibility of applying the per-
116 centage requirements above to number 4 and number 6 petroleum
117 distillate fuel, including whether blends of eligible petroleum dis-
118 tillate substitute fuel with number 4 or number 6 petroleum distil-
119 late fuel will operate correctly in applicable heating equipment. If
120 the division determines that doing so is feasible, it shall extend the
121 percentage requirements above to number 4 and number 6 petro-
122 leum distillate fuel.

123 The division may delay these implementation dates for the
124 period of time which it determines, in consultation with the
125 department of environmental protection and the executive office
126 of energy and environmental affairs, that providing sufficient sup-
127 plies of the required eligible petroleum distillate substitute fuel to

128 end-use consumers is not feasible due to lack of supply, lack of
129 blending facilities, or unreasonable cost. If the division delays
130 implementation as provided in the preceding sentence, the com-
131 missioner shall file a report within 30 days of such decision with
132 the clerks of the house of representatives and senate who shall for-
133 ward the same to the house and senate committees on ways and
134 means, the joint committee on telecommunications, utilities and
135 energy, the joint committee on environment, natural resources and
136 agriculture and the joint committee on transportation explaining
137 the reasons for any such decision to delay implementation.

138 If a low carbon fuel standard, or a similar standard or system,
139 that will achieve equal or greater reductions in greenhouse gas
140 emissions to the minimum content requirement for eligible petro-
141 leum distillate substitute fuel specified by this section, is adopted
142 by the commonwealth, or a standard applying to the common-
143 wealth is adopted by the United States government; then at least
144 60 days prior to the effective date of the standard the department
145 of environmental protection shall submit a statement to the
146 general court that the standard will become effective on the partic-
147 ular date, and the department's determination that the standard
148 will achieve the specified reduction in emissions. If the general
149 court takes no action, the minimum content requirement specified
150 by this section shall expire on the date that the regulations imple-
151 menting the standard or system become effective, or at such other
152 date specified by the division, but in any case within 1 year of
153 implementation of the regulations. If the division chooses an
154 expiration date other than the effective date of the regulations it
155 shall submit a statement to the general court explaining its reasons
156 for doing so.

157 (4) The division, in consultation with the department and the
158 executive office of energy and environmental affairs, shall study
159 the feasibility, benefits, and costs, including benefits and costs to
160 consumers, producers, and the state government, of making the
161 percentage mandates in subsection (3) apply on a statewide
162 average basis rather than for every gallon of petroleum distillate
163 fuel sold for heating purposes in the state. If the division deter-
164 mines that such a system is feasible and that its benefits substan-
165 tially exceed its costs, the division shall have the authority to
166 implement such a system. The division shall determine on which

167 entities the percentage requirements shall be applied. If the divi-
168 sion implements such a system, the division shall promulgate reg-
169 ulations allowing and tracking sales of certificates or other
170 documentation from the division that show use of eligible petro-
171 leum distillate substitute fuel in the commonwealth. Entities may
172 meet their percentage requirements for use of eligible petroleum
173 distillate substitute fuel by purchasing certificates or other docu-
174 mentation, and such certificates may be re-sold.

175 (5) Manufacturers and wholesale distributors of eligible petro-
176 leum distillate substitute fuel, and of fuel blended from petroleum
177 distillate and eligible petroleum distillate substitute, doing busi-
178 ness in the commonwealth shall furnish samples of such products
179 to the division, shall permit the entry and inspection by the divi-
180 sion or the department of the premises of such manufacturers or
181 distributors, and the inspection and sampling of fuel stored
182 thereon.

183 (6) Manufacturers of eligible petroleum distillate substitute fuel
184 that is sold in the commonwealth shall meet quality assurance cri-
185 teria or accreditation requirements determined by the division, in
186 consultation with the department. Manufacturers shall submit doc-
187 umentation of this quality assurance or accreditation to the divi-
188 sion by November 1, 2009, or at least 3 months prior to the date
189 on which the division certifies their fuel as eligible petroleum dis-
190 tillate substitute fuel, and shall submit documentation to the divi-
191 sion showing that their accreditation remains current every 2 years
192 thereafter.

193 (7) The division shall evaluate the feasibility and desirability of
194 requiring BQ-9000 or other comparable accreditation requirement
195 for producers and wholesale distributors of petroleum distillate
196 substitute fuel and petroleum distillate fuel blended with petro-
197 leum distillate substitute fuel operating in the commonwealth. If
198 the division concludes that such accreditation is feasible and
199 desirable in order to protect consumers and the environment, the
200 division shall promulgate regulations to implement an accredita-
201 tion requirement.

202 (8) The division shall promulgate regulations to implement the
203 provisions of this section.

204 (9) No person shall sell or offer to sell petroleum distillate
205 heating fuel in the commonwealth, including eligible petroleum

206 distillate substitute fuel that does not conform to the provisions of
207 this section.

208 (10) Notwithstanding section 249H, failure to comply with sub-
209 section (9) of this section shall constitute an unfair or deceptive
210 act under chapter 93A, and may be enforced as provided therein.

1 SECTION 4. Said chapter 94 is hereby further amended by
2 inserting after section 295G the following section:—

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

5 “BQ-9000”, the national biodiesel accreditation program for
6 producers and marketers of biodiesel fuel, operated by the
7 national biodiesel accreditation commission.

8 “Commissioner”, the commissioner of the division of energy
9 resources.

10 “Department”, the department of environmental protection
11 within the executive office of energy and environmental affairs.

12 “Diesel substitute fuel”, fuel that is derived predominantly from
13 renewable biomass; that meets American Society for Testing and
14 Materials specifications for use in diesel engines, or that meets
15 such other quality certification standards as are approved by the
16 division for the application involved. For diesel substitute fuel
17 used in on-road motor vehicles, the fuel shall meet the registration
18 requirements for fuels and fuel additives established by the United
19 States environmental protection agency under section 211C of the
20 Clean Air Act, 42 USC section 7545.

21 “Division”, the division of energy resources.

22 “Eligible diesel substitute fuel”, diesel substitute fuel that
23 yields at least a 50 per cent reduction in lifecycle greenhouse gas
24 emissions relative to average emissions for petroleum-based
25 diesel fuel sold in 2005, as determined by the division in consulta-
26 tion with the department and the executive office of energy and
27 environmental affairs.

28 “Feedstock”, the raw material used to produce a fuel.

29 “Lifecycle greenhouse gas emission”, the aggregate quantity of
30 greenhouse gas emissions, including direct emissions and signifi-
31 cant indirect emissions such as significant emissions from land
32 use changes, as determined by the division in consultation with
33 the department and the executive office of energy and environ-

34 mental affairs, related to the full fuel lifecycle, including all stages
35 of fuel and feedstock production and distribution, from feedstock
36 generation or extraction through the distribution and delivery and
37 use of the finished fuel to the ultimate consumer, where the mass
38 values for all greenhouse gases are adjusted to account for their
39 relative global warming potential.

40 “Low carbon fuel standard”, a legal requirement that the
41 average lifecycle greenhouse gas emissions attributable to use of
42 energy in an economic sector are equal to or below a specified
43 numeric level, or a similar standard or system, such as the require-
44 ment contained in California Executive Order S-1-07. The level
45 may be stated as units of greenhouse gas emissions per unit of
46 delivered energy, corrected for differences in the efficiency of the
47 energy in the particular end use; for example the difference
48 between efficiency of a gasoline engine and an electric motor in
49 powering a vehicle. The standard may apply to the common-
50 wealth or a larger geographic area, and may apply to energy used
51 in motor vehicles or to another energy-consuming sector.

52 “Renewable biomass”, non-fossil fuel based material,
53 including: planted crops; crop residues; planted trees and tree
54 residues from sustainably managed forests; waste materials
55 including animal waste, animal byproducts, organic portions of
56 municipal solid waste, grease trap waste, construction and demoli-
57 tion debris; and algae, or as otherwise determined by the division
58 in consultation with the department and the executive office of
59 energy and environmental affairs.

60 “Waste feedstock”, previously used or discarded solid, liquid or
61 contained gaseous material with heating value resulting from
62 industrial, commercial, or household food service activities that
63 would otherwise be stored, treated, transferred or disposed. Waste
64 feedstock shall include but not be limited to waste vegetable oils,
65 waste animal fats, substances derived from wastewater and the
66 treatment of wastewater, and grease trap waste. Waste feedstocks
67 shall not include petroleum-based waste or waste that otherwise
68 meets the definition of hazardous waste, unless otherwise deter-
69 mined by the department.

70 (2) Manufacturers and wholesale distributors of diesel substi-
71 tute fuel doing business in the commonwealth who wish to have
72 their fuel classified as eligible diesel substitute fuel shall provide

73 documentation satisfactory to the division that such fuel yields at
74 least a 50 per cent reduction in lifecycle greenhouse gas emissions
75 per unit of delivered energy, in comparison to the petroleum-based
76 diesel fuel displaced.

77 In determining the percentage lifecycle greenhouse gas reduc-
78 tions achieved by particular fuels, the division, in consultation
79 with the department of environmental protection and the executive
80 office of energy and environmental affairs, shall utilize informa-
81 tion and best practices available from other sources, including
82 state governments, the United States environmental protection
83 agency, interstate organizations, academic researchers, national
84 governments, and the European Union.

85 If the division, in consultation with the department and the
86 executive office of energy and environmental affairs, determines
87 through an initial review that a particular waste feedstock will
88 clearly yield at least a 50 per cent lifecycle greenhouse gas reduc-
89 tion, is free of hazardous materials and hazardous waste, and
90 meets any other conditions set by regulations promulgated by the
91 division, the division may exempt fuel produced from such a
92 material from a full lifecycle greenhouse gas emissions analysis.

93 For supplies that the division determines meet the criteria
94 above for reductions in greenhouse gas emissions, the division
95 shall, by regulation, certify the supplies as eligible diesel substi-
96 tute fuel and shall provide documentation or certificates to sup-
97 pliers of such fuel showing the number of gallons of neat eligible
98 diesel substitute fuel supplied. The division shall, by regulation,
99 determine which suppliers the documentation shall apply to, and
100 create a mechanism for tracking such supplies.

101 (3) Except as provided in subsection (4), the following shall
102 apply to all diesel motor vehicle fuel and all other liquid fuel used
103 in motor vehicle diesel engines, offered for sale to end-users,
104 retail sellers, or to any other entity that will be providing such fuel
105 directly to end-users in the commonwealth for use in transporta-
106 tion. All such fuel must contain at least 2 per cent eligible diesel
107 substitute fuel, measured by available energy content or in such
108 other manner as determined by the division no later than July 1,
109 2010. Except as provided in subsection (4), all such fuel must
110 contain at least 3 per cent eligible diesel substitute fuel no later
111 than July 1, 2011, 4 per cent eligible diesel substitute fuel no later

112 than July 1, 2012, and 5 per cent eligible diesel substitute fuel no
113 later than July 1, 2013.

114 The division may delay these implementation dates for the
115 period of time which it determines, in consultation with the
116 department and the executive office of energy and environmental
117 affairs, that providing sufficient supplies of the required eligible
118 diesel substitute fuel to end-use consumers is not feasible due to
119 lack of supply, lack of blending facilities, or unreasonable cost. If
120 the division delays implementation as provided in the preceding
121 sentence, the commissioner shall file a report within 30 days of
122 such decision with the clerks of the house of representatives and
123 senate who shall forward the same to the house and senate com-
124 mittees on ways and means, the joint committee on telecommuni-
125 cations, utilities and energy, the joint committee on environment,
126 natural resources and agriculture and the joint committee on trans-
127 portation explaining the reasons for any such decision to delay
128 implementation.

129 If a low carbon fuel standard, or a similar standard or system,
130 that will achieve equal or greater reductions in greenhouse gas
131 emissions to the minimum content requirement specified by this
132 section is adopted by the commonwealth, or a standard applying
133 to the commonwealth is adopted by the United States government,
134 then at least 60 days prior to the effective date of the standard the
135 department shall submit a statement to the general court of the
136 commonwealth that the standard will become effective on the par-
137 ticular date, and the department's determination that the standard
138 will achieve the specified reduction in emissions. If the general
139 court takes no action, the minimum content requirement specified
140 by this section shall expire on the date that the regulations imple-
141 menting the standard or system become effective, or at such other
142 date specified by the division, but in any case within 1 year of
143 implementation of the regulations. If the division chooses an expi-
144 ration date other than the effective date of the regulations it must
145 submit a statement to the general court explaining its reasons for
146 doing so.

147 (4) The division, in consultation with the department and the
148 executive office of energy and environmental affairs, shall study
149 the feasibility, benefits, and costs, including benefits and costs to
150 consumers, producers, and the state government, of making the

151 percentage mandates in subsection (3) apply on a statewide
152 average basis rather than for every gallon of diesel motor fuel sold
153 in the state. If the division implements such a system, the division
154 shall promulgate regulations allowing and tracking sales of certifi-
155 cates or other documentation from the division that show use of
156 eligible diesel substitute fuel in the commonwealth. Entities may
157 meet their percentage requirements for use of eligible diesel sub-
158 stitute fuel by purchasing certificates or other documentation, and
159 such certificates may be re-sold.

160 (5) Manufacturers and wholesale distributors of eligible diesel
161 substitute fuel, and of fuel blended from petroleum diesel and eli-
162 gible diesel substitute, doing business in the commonwealth shall
163 furnish samples of such products to the division, shall permit the
164 entry and inspection by the division and department of the
165 premises of such manufacturers or distributors, and the inspection
166 and sampling of fuel stored thereon.

167 (6) Manufacturers of eligible diesel substitute fuel that is sold
168 in the commonwealth must meet quality assurance criteria or
169 accreditation requirements determined by the division, in consul-
170 tation with the department. Manufacturers must submit documen-
171 tation of this quality assurance or accreditation to the division by
172 November 1, 2009, or at least 3 months prior to the date on which
173 the division certifies their fuel as eligible diesel substitute fuel,
174 and must submit documentation to the division showing that their
175 accreditation remains current every 2 years thereafter.

176 (7) The division shall evaluate the feasibility and desirability of
177 requiring BQ-9000 or other comparable accreditation requirement
178 for producers and wholesale distributors of diesel substitute fuel
179 and petroleum-based motor fuel blended with diesel substitute
180 fuel operating in the commonwealth. If the division concludes
181 that such accreditation is feasible and desirable in order to protect
182 consumers and the environment, the division shall promulgate
183 regulations to implement an accreditation requirement.

184 (8) The division shall promulgate regulations to implement the
185 provisions of this section.

186 (9) No person shall sell or offer to sell in the commonwealth
187 heating fuel, including eligible diesel substitute fuel, that does not
188 conform to this section.

189 (10) Notwithstanding section 249H, failure to comply with sub-
190 section (9) shall constitute an unfair or deceptive act under the
191 provisions of chapter 93A, and may be enforced as provided
192 therein.

1 SECTION 5. The division of energy resources, in consultation
2 with the department of revenue, shall promulgate regulations con-
3 cerning the timing and form of documentation that will enable the
4 department to determine the appropriate tax revenue to be col-
5 lected pursuant to this act.

1 SECTION 6. Section 1 shall be effective for tax years begin-
2 ning January 1, 2009 and ending December 31, 2017.”

1 SECTION 7. There is hereby established a special commission
2 to study the feasibility and effectiveness of various forms of
3 incentives to promote the development and use of advanced bio-
4 fuels in the commonwealth including, but not limited to: produc-
5 tion credits, feedstock incentives and direct consumer credits for
6 the use of advanced biofuels in various applications. The com-
7 mission shall be comprised of 11 members: 3 of whom shall be
8 appointed by the speaker of the house of representatives, 1 of
9 whom shall be the house chair of the joint committee on telecom-
10 munication, utilities and energy, who shall serve as co-chair; 1 of
11 whom shall be appointed by the house minority leader; 3 of whom
12 shall be appointed by the senate president, 1 of whom shall be the
13 senate chair of the joint committee on telecommunication, utilities
14 and energy, who shall serve as co-chair; 1 of whom shall be
15 appointed by the senate minority leader; and 3 of whom shall be
16 appointed by the governor, 1 of whom shall be the secretary of
17 the executive office of energy and environmental affairs, or his
18 designee, and 1 of whom shall be employed by a company that
19 works in the field of advanced biofuels. In conducting its investi-
20 gation and study, the commission shall consider biofuel incentive
21 programs in other states and the commonwealth's relative compet-
22 itiveness in the field.

23 The commission shall report to the general court the results of
24 its investigation and study and its recommendations, if any,
25 together with drafts of legislation necessary to carry its recom-

26 mendations into effect, by filing the same with the clerks of the
27 house of representatives and the senate, who shall forward the
28 same to the joint committee on telecommunications, utilities and
29 energy and the house and senate committees on ways and means
30 on or before December 31, 2008.” ; and by inserting before the
31 enacting clause the following emergency preamble:— “*Whereas,*
32 *The deferred operation of this act would tend to defeat its pur-*
33 *pose, which is to provide forthwith for the immediate production*
34 *and use of clean biofuels to reduce oil dependence and greenhouse*
35 *gas emissions in the commonwealth, therefore it is hereby*
36 *declared to be an emergency law, necessary for the immediate*
37 *preservation of the public convenience.*

