

**FINAL
FISCAL NOTE**

Drafting Number: LLS 09-0549
Prime Sponsor(s): Sen. Schwartz
 Rep. Vigil

Date: May 8, 2009
Bill Status: Signed into Law
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TITLE: CONCERNING BLENDING DIESEL FUELS AFTER WITHDRAWAL AT THE RACK, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

Fiscal Impact Summary	FY 2009-2010	FY 2010-2011
State Revenue		
State Expenditures		
Cash Funds		
Highway Users Trust Fund*	\$6,650	\$0
Federal Funds	37,630	0
FTE Position Change	0.0 FTE	0.0 FTE
Effective Date: The Governor signed the bill into law on April 30, 2009, and unless a referendum petition is filed, the bill will take effect August 5, 2009.		
Appropriation Summary for FY 2009-2010: None required		
Local Government Impact: None.		

* *These costs are appropriated in the Long Bill to the Department of Revenue for computer programming costs associated with new legislation.*

Summary of Legislation

This bill permits dyed diesel fuel to be blended by a licensed distributor with biodiesel fuel after withdrawal at a terminal or refinery rack up to the maximum federally allowed blend and still retain its exemption from the state's special fuel's tax.

The bill specifies that only licensed fuel blenders are allowed to blend dyed diesel fuel with biodiesel fuel after withdrawal at a terminal rack. Any person who violates the licensing or reporting requirements is subject to a \$5,000 fine for a first violation, a \$10,000 fine for a second violation, and revocation of his or her blender's license for a third violation.

Finally, the amended bill specifies that in FY 2009-10, up to \$37,630 of money received by the Governor's Energy Office from the U.S. Department of Energy may be used for computer programming expenses to monitor and track exempt dyed diesel fuel that is blended with biodiesel.

Background

Currently, the state exempts special fuels (including diesel, kerosene, liquified petroleum gas and natural gas) used in vehicles from the state fuel tax as long as the product is used for designated purposes, including on-farm agricultural vehicles and highway construction projects. In order to mark it as tax exempt, the fuel is blended with red dye.

Over the past 6 years, biodiesel (diesel fuel that is produced from plant or animal wastes as apposed to petroleum products) production and sales has increased markedly in Colorado. Biodiesel is taxed at a rate of 20.5 cents per gallon. Table 1 presents estimates of gallons of biodiesel sold and associated excise tax collections based on information obtained from the Department of Revenue (DOR).

Table 1. Gallons of Biodiesel Production and Associated Taxable Receipts		
Fiscal Year	Gallons	Tax Receipts
FY 2002-03	726	\$148.83
FY 2003-04	28,672	\$5,877.76
FY 2004-05	581,656	\$119,239.48
FY 2005-06	2,638,398	\$540,871.59
FY 2006-07	3,863,935	\$792,106.68
FY 2007-08	3,542,350	\$726,181.75
TOTAL	4,124,732	\$845,570.06

It should be noted that through October 2008, however, biodiesel sales were only 44 percent of what they had been in 2007. This accounts for the slight decline seen between FY 2006-07 and FY 2007-08. Currently, some biodiesel is being blended with dyed diesel, though it is impossible to know how much as dyed diesel sales are not tracked by the DOR because they are tax exempt.

State Expenditures

Department of Revenue -- Personal Services. Currently, it takes about 80 hours per month for department personnel to verify the receipts and disbursements reported by roughly 300 fuel distributors of clear petroleum diesel. Because dyed diesel is not taxed, similar verification is not currently undertaken. Because this bill allows the blending of a taxable (biodiesel) and a non-taxable (dyed diesel) fuel, the department will now have to verify receipts and disbursements of the fuels in such blends. However, the existing verification structure combined with the small number of biodiesel producers operating in Colorado (3) will allow this verification to be accomplished within existing budgetary resources.

Department of Revenue -- Computer Programming. The department will have to modify its computerized fuel tracking system to track the dyed fuel transactions to ensure the amount reported purchased by blenders can be verified. It is anticipated that it will take 369 hours to program this change, at a contract rate of \$120 per hour, for a total of \$44,280. Of this amount, the bill specifies that \$37,630 will be funded with money that the Governor's Energy Office receives from the U.S. Department of Energy. The remaining \$6,650 is funded from the Highway Users Trust Fund.

Departments Contacted

Revenue