

# SENATE, No. 3150

## STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED DECEMBER 14, 2009

**Sponsored by:**

**Senator BOB SMITH**

**District 17 (Middlesex and Somerset)**

**Senator CHRISTOPHER "KIP" BATEMAN**

**District 16 (Morris and Somerset)**

**SYNOPSIS**

Requires specific reduction of sulfur content in heating oil, and scheduled increase of blending biofuels therein after July 1, 2011, unless requirements are waived by Governor pursuant to Executive Order.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT imposing certain ultra-low sulfur and biobased liquid  
2 content requirements on heating oil and supplementing Title 26  
3 of the Revised Statutes.

4  
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*

7  
8 1. This act shall be known and may be cited as the "Ultra-Low  
9 Sulfur and Biobased Heating Oil Fuel Act of 2009."

10  
11 2. As used in this act:

12 "Biobased liquid fuel" means a liquid fuel that is derived  
13 principally from renewable biomass and meets the specifications or  
14 quality certification standards for use in residential, commercial, or  
15 industrial heating applications established by ASTM International -  
16 ASTM D6751, or the appropriate successor standard, as the case  
17 may be.

18 "Biodiesel fuel" means the monoalkyl esters of long chain fatty  
19 acids derived from plant or animal matters which meet the  
20 registration requirements for fuels and fuel additives established by  
21 the United States Environmental Protection Agency under section  
22 211 of the Clean Air Act, 42 U.S.C. s.7545, and the requirements of  
23 ASTM International - ASTM D6751.

24 "Heating oil" means heating fuel or fuel oil used for heating  
25 residential, commercial, or industrial properties, including No. 1  
26 distillate, No. 2 distillate No. 6 distillate, a liquid blended with No.  
27 1 distillate, No. 2 distillate, or No. 6 distillate with a 3% sulfate  
28 level, or a 5% biobased liquid fuel that meets the specifications or  
29 quality certification standards for use in residential, commercial, or  
30 industrial heating applications established by ASTM International.

31 "Renewable biomass" means a material, including crops and crop  
32 residues, trees and tree residues, organic portions of municipal solid  
33 waste, organic portions of construction and demolition debris,  
34 grease trap waste, and algae, that can be used for fuel but does not  
35 have a petroleum or other fossil fuel base.

36 "Renewable diesel fuel" means diesel fuel derived from biomass  
37 using a thermal depolymerization process which meets the  
38 registration requirements for fuels and fuel additives the United  
39 States Environmental Protection Agency under section 211 of the  
40 Clean Air Act, 42 U.S.C. s.7545, and the requirements of ASTM  
41 International - ASTM D975 or D396.

42  
43 3. a. Notwithstanding any law, rule, regulation, or order to the  
44 contrary, on July 1, 2011 and thereafter, all heating oil sold for  
45 residential, commercial, or industrial heating uses within the State  
46 shall have a sulfur content of 15 parts per million or less.

47 b. The Governor, by Executive Order, may, for a period of 180  
48 days, temporarily suspend the implementation and enforcement of

1 subsection a. of this section, if the Governor determines, in  
2 consultation with the Department of Environmental Protection, that  
3 compliance with the requirement established in subsection a. of this  
4 section is not feasible because a sufficient amount of the required  
5 blend of heating oil is not commercially available, and cannot be  
6 made commercially available, to meet the anticipated demand  
7 within the State by July 1, 2011.

8 c. Upon determining that sufficient supplies of the required  
9 blend of heating oil can be made commercially available to meet the  
10 anticipated demand within the State, the Governor shall rescind any  
11 temporary suspension imposed pursuant to subsection b. of this  
12 section, and shall establish an implementation and enforcement date  
13 180 days or more after the date on which sufficient supplies of the  
14 required blend of heating oil can be made commercially available at  
15 reasonable rates to meet the anticipated demand within the State.

16

17 4. a. Notwithstanding any law, rule, regulation, or order to the  
18 contrary, and in accordance with the compliance schedule  
19 established in this subsection, on July 1, 2011 and thereafter, all  
20 heating oil sold in the State for residential, commercial, or  
21 industrial uses, or for hot water heating within the State, shall  
22 contain at a minimum the specified percentage of biobased liquid  
23 fuel, unless such requirement has been waived pursuant to  
24 subsection b. of this section. The compliance schedule shall be as  
25 follows:

26 (1) from July 1, 2011 to June 30, 2012 ----- 3%

27 (2) July 1, 2012 to June 30, 2013 ----- 4%

28 (3) July 1, 2013 and thereafter ----- 5%.

29 b. The Governor, by Executive Order, may, for a period of 180  
30 days, suspend the implementation and enforcement of paragraph  
31 (1), (2), or (3) of subsection a. of this section, if the Governor  
32 determines, in consultation with the Department of Environmental  
33 Protection, that meeting the compliance schedule established in  
34 subsection a. of this section is not feasible because a sufficient  
35 amount of the required blend of heating oil is not commercially  
36 available, and cannot be made commercially available, as  
37 determined by the Commissioner of Environmental Protection, to  
38 meet the anticipated demand within the State within the prescribed  
39 schedule.

40 c. Upon determining that a sufficient supply of the required  
41 blend of heating oil can be made commercially available to meet the  
42 anticipated demand within the State, the Governor shall rescind the  
43 suspension imposed pursuant to subsection b. of this section, and  
44 shall establish a compliance date for the blend of heating oil to  
45 contain the appropriate percentage of biobased liquid fuel. No  
46 compliance date established pursuant to this subsection may be 180  
47 days or less after the date on which sufficient supplies of the

1 required blend of heating oil can be made commercially available to  
2 meet the anticipated demand within the State.

3 d. In order to meet the percentage requirements established in  
4 subsection a. of this section, heating oil sold for residential,  
5 commercial, or industrial use or hot water heating within the State  
6 shall be blended at the wholesale point of distribution. Nothing in  
7 this subsection shall be interpreted as precluding any person from  
8 blending heating oil at other than the wholesale point of distribution  
9 for use by that person or any other person.

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11 5. This act shall take effect immediately.

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#### STATEMENT

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16 This bill, entitled the "Ultra-Low Sulfur and Biobased Heating  
17 Oil Fuel Act of 2009," requires all heating oil sold on or after July  
18 1, 2011 for residential, commercial, or industrial heating uses  
19 within this State to have an ultra-low sulfur content of no more than  
20 15 parts per million, unless such a requirement is waived by the  
21 Governor pursuant to an Executive Order.

22 The bill also establishes a compliance schedule for the biobased  
23 liquid content of heating oil, unless waived by the Governor  
24 pursuant to an Executive Order, that requires heating oil sold in the  
25 State:

26 1) from July 1, 2011 to June 30, 2012 to have at least a three  
27 percent biobased liquid content;

28 2) from July 1, 2012 to June 30, 2013 to have at least a four  
29 percent biobased liquid content; and

30 3) from July 1, 2013 and thereafter to have a five percent  
31 biobased liquid content.

32 The bill authorizes the Governor to suspend the implementation  
33 and enforcement of the ultra-low sulfur and biobased liquid content  
34 requirements for a period of 180 days if the Governor determines,  
35 in consultation with the Department of Environmental Protection,  
36 that meeting such requirements is not feasible because sufficient  
37 amounts of the required blend of heating oil are not commercially  
38 available to meet anticipated demand. The bill authorizes the  
39 Governor to establish a new compliance date when sufficient  
40 supplies can be made available.

41 The bill requires that to meet the percentage requirements  
42 established in the compliance schedule in section 4 of the bill,  
43 heating oil shall be blended at the wholesale point of distribution  
44 but no person is precluded from blending heating oil at other than  
45 the wholesale point of distribution for use by that person or any  
46 other person.