



House of Representatives

General Assembly

File No. 54

January Session, 2021

Substitute House Bill No. 6412

House of Representatives, March 16, 2021

The Committee on Energy and Technology reported through REP. ARCONTI of the 109th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING A LOW-CARBON FUEL BLEND OF HEATING OIL AND THE ESTABLISHMENT OF A BIOHEAT ADVISORY BOARD.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 16a-21b of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2021*):

3 (a) For purposes of this section:

4 (1) "Heating oil" means heating fuel that meets the American Society
5 of Testing Materials or "ASTM" standard D396 or the "ASTM" standard
6 D6751;

7 (2) ["Biodiesel blend" means a fuel comprised of mono-alkyl esters of
8 long chain fatty acids derived from vegetable oils or animal fats that
9 meets the most recent version of ASTM International designation
10 D6751;] "Low-carbon fuel blend" means a fuel meeting the standards for
11 advanced biofuels under the federal Renewable Fuel Standard Program,
12 requiring a fifty per cent reduction in lifecycle greenhouse gas

13 emissions, including, but not limited to, qualifying biodiesel meeting
14 the most recent version of ASTM International designation D6751;

15 (3) "Sold" means the wholesale sale made to a retailer or the retail sale
16 made to an end-user consumer; and

17 (4) "Commissioner" means the Commissioner of Consumer
18 Protection, or the commissioner's designee.]; and]

19 [(5) "Sufficient in-state production of biodiesel" means fifty per cent
20 of the annual mandated volume of biodiesel, as determined by the most
21 recent data available from the Energy Information Administration of the
22 United States Department of Energy, is available from in-state
23 producers based upon the combined nameplate capacity of such
24 producers.]

25 (b) [(1)] Subject to the provisions of [subdivision (2) of this subsection
26 and subsections (d) and (f)] subsection (e) of this section, [(A)] (1) not
27 later than July 1, [2011] 2022, all heating oil sold in this state shall be a
28 [biodiesel blend] low-carbon fuel blend containing not less than [two]
29 five per cent biodiesel, [(B)] (2) not later than July 1, [2012] 2025, all
30 heating oil sold in this state shall be a [biodiesel blend] low-carbon fuel
31 blend containing not less than [five] ten per cent biodiesel, [(C)] (3) not
32 later than July 1, [2015] 2030, all heating oil sold in this state shall be a
33 [biodiesel blend] low-carbon fuel blend containing not less than [ten]
34 fifteen per cent biodiesel, [(D)] (4) not later than July 1, [2017] 2034, all
35 heating oil sold in this state shall be a [biodiesel blend] low-carbon fuel
36 blend containing not less than [fifteen] twenty per cent biodiesel, and
37 [(E)] (5) not later than July 1, [2020] 2035, all heating oil sold in this state
38 shall be a [biodiesel blend] low-carbon fuel blend containing not less
39 than [twenty] fifty per cent biodiesel.

40 [(2) The provisions of subparagraphs (A) to (E), inclusive, of
41 subdivision (1) of this subsection shall not take effect until the states of
42 New York, Massachusetts and Rhode Island each have adopted
43 requirements that are substantially similar to the provisions of
44 subparagraphs (A) to (E), inclusive, of subdivision (1) of this

45 subsection.]

46 (c) Unless the commissioner issues a waiver pursuant to subsection
47 [(f)] (e) of this section, any [biodiesel] low-carbon fuel blended with
48 heating oil shall be produced in accordance with industry-accepted
49 quality control standards. A certificate of analysis that verifies
50 conformity with the critical specifications of designation D6751 of
51 ASTM International, as defined by the National Biodiesel Accreditation
52 Program, or other applicable ASTM specification for low-carbon fuel
53 blends, shall be provided by the marketers or producers of any such
54 [biodiesel] low-carbon fuel prior to the blending of such [biodiesel] low-
55 carbon fuel with heating oil. The Department of Consumer Protection,
56 within available appropriations, shall verify that [biodiesel] low-carbon
57 fuel offered for sale in this state conforms to the critical specifications of
58 designation D6751 of ASTM International, as defined by the National
59 Biodiesel Accreditation Program for biodiesel, or other applicable
60 ASTM standards for low-carbon fuel blends, and to the [biodiesel] fuel
61 quality compliance protocol currently accepted by the Department of
62 Consumer Protection.

63 [(d) On or before April 1, 2011, and on or before April 1, 2012, the
64 Commissioner of Consumer Protection, in consultation with the
65 Distillate Advisory Board established pursuant to subsection (e) of this
66 section, shall, within available appropriations, determine whether there
67 is sufficient in-state production of biodiesel, to comply with the
68 provisions of subparagraphs (A) and (B) of subdivision (1) of subsection
69 (b) of this section, respectively. If the commissioner determines that such
70 production is not sufficient, the commissioner, in consultation with the
71 board, may delay the implementation date contained in said
72 subparagraph until July 1, 2012, or earlier, and July 1, 2013, or earlier,
73 respectively, provided the commissioner: (1) Not later than three
74 business days after such determination, posts a notice specifying the
75 duration of such delay on the department's Internet web site, and (2) not
76 later than thirty days after such posting, reports, in accordance with the
77 provisions of section 11-4a, the reasons for such delay to the joint
78 standing committees of the General Assembly having cognizance of

79 matters relating to the environment, general law and energy and
80 technology.]

81 [(e)] (d) (1) There is established a [Distillate] Bioheat Advisory Board.
82 Such board shall be located in the Department of Consumer Protection
83 and shall consist of the following members appointed by the
84 Commissioner of Consumer Protection: (A) Two representatives of the
85 producers or suppliers of biodiesel in this state, (B) two representatives
86 of the retail heating oil industry in this state, and (C) two representatives
87 of the wholesale distillate supply industry in this state. Each member of
88 the board shall serve at the pleasure of the commissioner and without
89 compensation. No funds shall be allocated or made available to the
90 board.

91 (2) The board shall advise the commissioner on industry and market
92 [progress in meeting and enabling compliance with the requirements of
93 subsections (b) and (c) of this section] capabilities concerning the
94 blending of home heating oil and identify opportunities for, or barriers
95 to, increasing the low-carbon fuel blend requirements of this section.

96 [(f)] (e) (1) The Commissioner of Consumer Protection, upon the
97 receipt of a petition submitted by the [Distillate] Bioheat Advisory
98 Board in compliance with the provisions of subdivision (2) of this
99 subsection, shall temporarily waive the requirements of subsections (b)
100 and (c) of this section when: (A) The United States Department of
101 Energy authorizes a release from the Northeast Heating Oil Reserve, (B)
102 there is an inadequate supply of low-sulfur distillate products, [or] (C)
103 there is an inadequate supply of [biodiesel] low-carbon fuel blending
104 stocks or an operational problem that affects the supply of [biodiesel]
105 low-carbon fuel blending stocks, or (D) the cost of low-carbon fuel
106 blends, relative to traditional distillate fuels, is such that achieving the
107 minimum low-carbon fuel blends required by this section materially
108 increases, on an annual basis, the heating fuel cost for consumers. Any
109 such waiver shall be for a period of not less than thirty days and not
110 more than forty-five days, provided such waiver may be renewed after
111 the expiration of such period of time.

112 (2) Any petition from the [Distillate] Bioheat Advisory Board that
113 requests a waiver of any requirement of subsection (b) or (c) of this
114 section shall include, at a minimum: (A) A statement of the immediate
115 threat to the health and safety of the citizens of this state posed by the
116 inadequate supply of low-sulfur distillate products, [biodiesel] low-
117 carbon fuel blending stocks or operational problems that affect the
118 supply of [biodiesel] low-carbon fuel blending stocks, as applicable, (B)
119 the cause and nature of such inadequate supply or operational problem,
120 as applicable, (C) the expected duration of such inadequate supply or
121 operational problem, and (D) as applicable, a description of any
122 alternative distillate supply that temporarily is needed to take the place
123 of the applicable distillate supply described in subsection (b) or (c) of
124 this section. Not later than three business days after receipt of any such
125 petition, the commissioner shall issue a waiver of the requirements of
126 subsection (b) or (c) of this section, as applicable.

127 [(g)] (f) Not later than February 1, [2012] 2022, and each year
128 thereafter, the Commissioner of Consumer Protection, in consultation
129 with the [Distillate] Bioheat Advisory Board, shall submit a report, in
130 accordance with the provisions of section 11-4a, to the joint standing
131 committees of the General Assembly having cognizance of matters
132 relating to energy and the environment on (1) the status and progress in
133 meeting the requirements of this section, [and on] (2) any effect that such
134 requirements may have on the price or supply of heating oil in this state,
135 and (3) opportunities for, or barriers to, increasing the low-carbon fuel
136 blend requirements of this section.

137 (g) Not later than July 1, 2022, the Commissioner of Consumer
138 Protection shall adopt regulations, in accordance with chapter 54,
139 concerning the requirement of retailers of heating oil to disclose the
140 percentage of low-carbon fuel blend contained in the home heating oil
141 delivered to consumers or an approximate range of such percentage.

142 Sec. 2. Section 16a-3d of the general statutes is amended by adding
143 subsection (e) as follows (*Effective July 1, 2021*):

144 (NEW) (e) For the Comprehensive Energy Strategy next approved

145 after October 1, 2021, and every Comprehensive Energy Strategy
 146 prepared thereafter, the Commissioner of Energy and Environmental
 147 Protection shall consider (1) the reductions in greenhouse gas emissions
 148 resulting from low-carbon fuel blends used in home heating oil on a life-
 149 cycle basis, (2) possible contributions to the state's greenhouse gas
 150 emissions mandated levels, pursuant to section 22a-200a, in connection
 151 with the reduction of greenhouse gas emissions on a life-cycle basis, (3)
 152 the ability of a thermal portfolio standard to further reductions in
 153 greenhouse gas emissions on a life-cycle basis, and (4) the relative value
 154 of the reductions in greenhouse gas emissions on a life-cycle basis
 155 achieved by biodiesel and other low-carbon fuel blends used currently
 156 in the state compared with the value of future projected greenhouse gas
 157 emissions reductions achieved by the retail heating oil industry on a life-
 158 cycle basis five, ten, and twenty years into the future using the
 159 Department of Energy and Environmental Protections'
 160 contemporaneous projection of renewable energy utilized.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2021	16a-21b
Sec. 2	July 1, 2021	16a-3d

ET *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 22 \$	FY 23 \$
Consumer Protection, Dept.	GF - Cost	75,913	66,913
State Comptroller - Fringe Benefits ¹	GF - Cost	27,222	27,222

Note: GF=General Fund

Municipal Impact: None

Explanation

Section 1 requires the Department of Consumer Protection (DCP) to regulate and annually report on the conversion to low-carbon fuel blend for heating oil resulting in a cost of \$103,135 in FY 22 and \$94,135 in FY 23. The bill requires a certain percentage of the low carbon fuel blend to be biodiesel by specific dates, requires DCP to regulate the market and annually report on: 1) the progress of the bill's requirements, 2) the effect the requirements have on the price and supply of heating oil, and 3) opportunities or barriers to increasing the requirements of the bill. To meet the requirements of the bill DCP will have to hire one inspector (\$65,913 annual salary and \$27,222 fringe benefits) and purchase testing materials (\$10,000 in FY 22 and \$1,000 in FY 23).

Section 2 requires the Department of Energy and Environmental Protection to study the long-term use of low-carbon fuel blends as part of its Comprehensive Energy Strategy, and results in no fiscal impact.

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 41.3% of payroll in FY 22 and FY 23.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 6412*****AN ACT CONCERNING A LOW-CARBON FUEL BLEND OF HEATING OIL AND THE ESTABLISHMENT OF A BIOHEAT ADVISORY BOARD.*****SUMMARY**

This bill requires heating oil sold in the state to be a low-carbon fuel blend with a specified percentage of biodiesel that increases over time, beginning July 1, 2022. The bill sets the minimum amount of biodiesel in heating oil at 5% in 2022 and increases it on a schedule to 50% in 2035. These requirements replace a similar provision in current law that requires an increasing proportion of biodiesel in heating oil, but only if surrounding states adopt a similar requirement, a condition that was never met.

The bill renames the Distillate Advisory Board as the “Bioheat Advisory Board” and requires it to advise the Department of Consumer Protection (DCP) on industry and market capabilities concerning home heating oil blending and identify opportunities for, or barriers to, increasing low-carbon fuel blend requirements.

Under the bill, DCP may waive biodiesel requirements in certain circumstances upon receiving a petition from the board, including if the cost of low-carbon fuel blends, relative to traditional distillate fuels, is such that achieving the minimum low-carbon fuel blends increases consumers’ heating fuel costs on an annual basis.

The bill requires DCP to adopt regulations on heating oil retailer disclosure requirements by July 1, 2022. It requires DCP to report annually on biodiesel requirements.

The bill also requires the Department of Energy and Environmental Protection’s (DEEP) Comprehensive Energy Strategy (CES) to consider

several factors related to low-carbon fuel blends for heating oil and effects on greenhouse gas emissions, beginning with the next CES approved after October 1, 2021.

Lastly, the bill makes conforming changes and removes an obsolete provision.

EFFECTIVE DATE: July 1, 2021

BIODIESEL REQUIREMENT SCHEDULE

Under the bill, minimum biodiesel percentage requirements take effect on the following schedule, each July 1:

1. 5% in 2022,
2. 10% in 2025,
3. 15% in 2030,
4. 20% in 2034, and
5. 50% in 2035.

Under the bill, heating oil meeting these requirements is a low-carbon fuel blend, meaning a fuel meeting the standards for advanced biofuels under the federal Renewable Fuel Standard Program, requiring a 50% reduction in lifecycle greenhouse gas emissions, including qualifying biodiesel meeting the most recent version of ASTM International designation D6751 (see BACKGROUND).

BIOHEAT ADVISORY BOARD

The bill renames the Distillate Advisory Board as the “Bioheat Advisory Board” and retains its current membership and location within DCP. The bill requires the board to (1) advise the DCP commissioner on industry and market capabilities concerning home heating oil blending and (2) identify opportunities for, or barriers to, increasing low-carbon fuel blend requirements.

ADMINISTRATION AND WAIVERS

Under the bill, low-carbon fuel blended with heating oil must be produced in accordance with industry-accepted quality control standards. The bill requires low-carbon fuel marketers and producers to provide a certificate of analysis before blending low-carbon fuel with heating oil. The certificate must verify conformity with critical specifications of designation D6751 of ASTM International or another applicable ASTM specification for low-carbon fuel blends (see BACKGROUND). Under the bill, within available appropriations, DCP must verify that low-carbon fuel offered for sale in the state conforms to these specifications and to the fuel qualify compliance protocol currently accepted by DCP.

Under the bill, if the DCP commissioner receives a petition from the board, she must temporarily waive the biodiesel percentage requirements in the following circumstances:

1. the U.S. Department of Energy authorizes a release from the Northeast Heating Oil Reserve;
2. there is an inadequate supply of low-sulfur distillate products;
3. there is an inadequate supply of low-carbon fuel blending stocks or an operational problem that affects supply; or
4. the cost of low-carbon fuel blends, relative to traditional distillate fuels, is such that achieving the bill's minimum low-carbon fuel blends materially increases consumers' annual heating fuel costs.

Waivers last at least 30 days and no more than 45 days but may be renewed after they expire. The board's petition for a waiver must include the following information:

1. a statement of the immediate threat to the health and safety of state citizens posed by inadequate supply of low-sulfur distillate products, low-carbon fuel blending stocks, or operational problems that affect the supply of low-carbon fuel blending stocks;

2. the cause and nature of the inadequate supply or operational problem, and its expected duration; and
3. a description of any alternative distillate supply needed to temporarily replace the applicable distillate supply otherwise required under the bill.

After receiving a petition, the commissioner has three business days to issue a waiver.

The bill requires the DCP commissioner to adopt regulations, by July 1, 2022, on disclosure requirements for heating oil retailers regarding the percentage or approximate range of low-carbon fuel blend contained in the home heating oil delivered to consumers.

REPORTING REQUIREMENTS

Annual DCP Report to Committees

The bill requires the DCP commissioner, in consultation with the board, to report to the Energy and Technology Committee annually by February 1, 2022, on (1) the status and progress in meeting the bill's requirements; (2) any effect the requirements may have on heating oil prices and supply in the state; and (3) opportunities for, and barriers to, increasing the low-carbon fuel blend requirements.

Comprehensive Energy Strategy (CES)

Beginning with the next CES approved after October 1, 2021, the bill requires DEEP's CES to consider the following:

1. the reduction in greenhouse gas emissions resulting from low-carbon fuel blends used in home heating oil on a life-cycle basis and its possible contributions to the state's greenhouse gas emissions mandated levels;
2. the ability of a thermal portfolio standard to further emission reductions on a lifecycle basis;
3. the relative value of the life-cycle emissions reductions achieved by biodiesel and other low-carbon blends used currently in the

state compared to the value of future projected life-cycle emissions reductions achieved by the retail heating oil industry five, 10, and 20 years into the future using DEEP’s contemporaneous projection of renewable energy utilized.

By law, the CES is required every four years and must be submitted to the Energy and Technology Committee.

BACKGROUND

Federal Renewable Fuel Standard Program

The federal Renewable Fuel Standard program is a national policy that requires a certain volume of renewable fuel to replace or reduce the quantity of petroleum-based transportation fuel, heating oil, or jet fuel. The program designates four renewable fuel categories, including “advanced biofuels,” which are renewable fuels, other than ethanol derived from cornstarch, that have lifecycle greenhouse gas emissions that are 50% less than a 2005 petroleum baseline (40 CFR § 80.1401). Advanced biofuels include fuels derived from soybean oil, distillers corn oil and sorghum, and oil from annual cover crops.

ASTM International Designation D6751

ASTM International (formerly known as the American Society for Testing and Materials) is a standards development organization. Designation D6751 covers biodiesel fuel blend stock for use as a blend component with certain distillate fuels. The specification generally prescribes the fuel’s required properties at the time and place of delivery.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute

Yea 25 Nay 1 (03/02/2021)