



Acts
2008

CHAPTER 206 AN ACT RELATIVE TO CLEAN ENERGY BIOFUELS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the immediate production and use of clean biofuels to reduce oil dependence and greenhouse gas emissions in the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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 2 sections:-

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 energy resources 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 compounds fuel, as herein defined, or any person who operates a port or pipe line terminal within the commonwealth for the receipt of fuel, as herein defined; and (2) any person who elects to qualify as a distributor by importing into the commonwealth or by receiving within the commonwealth fuel, as herein defined, by pipe line, vessel, tank car or tank truck lots, for resale in pipe line, vessel, tank car or tank truck lots; provided, that no person under clause (2) shall qualify as a distributor unless his facilities is regularly used for the receipt and storage of fuel, as herein defined, are such that not less than 25,000 gallons may be stored in the aggregate, at 1 location within the commonwealth; and provided, further, that at least 75 per cent of the fuel imported or received by him is sold to others for resale exclusive of sales to government instrumentalities.

“Eligible cellulosic biofuel”, cellulosic biofuel that yields at least a 60 per cent reduction in lifecycle greenhouse gas emissions relative to average lifecycle greenhouse gas emissions for petroleum based fuel sold in 2005, as determined by the department in consultation with the department of environmental protection and the executive office of energy and environmental affairs.

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

“Fuel”, all products commonly or commercially known or sold as gasoline, including casing-head and absorption or natural gasoline, regardless of their classification or uses; and any liquid prepared, for American Society Testing Materials Method D-86, not more than 9 per cent at 176° Fahrenheit, and which have a distillation range of 150° Fahrenheit, or less, or liquefied gases which would not exist as advertised, offered for sale, or sold for use as or commonly and commercially used as a fuel in internal combustion engines, which when subjected to distillation in accordance with the standard method of test for distillation of gasoline, naphtha, kerosene and similar petroleum products (American Society for Testing Materials Designation D-86) show not less than 10 per cent distilled (recovered) below 347° Fahrenheit (175° Centigrade) and not less than 95 per cent distilled (recovered) below 464° Fahrenheit (240° Centigrade); provided, that the term “fuel” shall not include industrial solvents or naphthas which distill, by said American Society liquids at a temperature of 60° Fahrenheit and a pressure of 14.7 pounds per square inch absolute. For the purposes of this chapter, “fuel” shall include products sold or used as fuel for aircraft, except aircraft fuel as defined in section 1 of chapter 64J.

“Lifecycle greenhouse gas emissions”, the aggregate quantity of greenhouse gas emissions, including direct emissions and significant indirect emissions such as significant emissions from and use changes, as determined by the department in consultation with the department of environmental protection and the executive office of energy and environmental affairs, related to the full fuel lifecycle, including all stages of fuel and feedstock production and distribution, from feedstock generation or extraction through the distribution and delivery and use of the finished fuel to the ultimate consumer, where the mass values for all greenhouse gases are adjusted to account for their relative global warming potential.

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

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

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

“Renewable biomass”, non-fossil fuel based material, including: planted crops; crop residues; planted trees and tree residues from sustainably managed forests; waste materials including animal waste, animal by-products, organic portions of municipal solid waste, grease trap waste, construction and

demolition debris; and algae, or as otherwise determined by the department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs. "Sale", shall include, in addition to its usual meaning, the transfer of fuel by a distributor or an unclassified importer into a motor vehicle or into a receptacle from which fuel is supplied by him to his own or other motor vehicles.

"Tax per gallon", shall be 21 cents per gallon. For aviation fuel, "tax per gallon" shall mean 7½ per cent of the average price, as determined by the commissioner, for each calendar quarter, computed to the nearest tenth of a cent per gallon; provided, however, that such tax shall not be less than 10 cents per gallon.

"To sell", in all of its moods and tenses, shall refer to a sale as herein defined.

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

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

"Waste feedstock", previously used or discarded solid, liquid or contained gaseous material with heating value resulting from industrial, commercial or household food service activities that would otherwise be stored, treated, transferred or disposed. Waste feedstock shall include, but not be limited to: waste vegetable oils, waste animal fats, substances derived from wastewater and the treatment of wastewater or grease trap waste. Waste feedstock shall not include petroleum-based waste or waste that otherwise meets the definition of hazardous waste, unless otherwise determined by the department of environmental protection.

Section 1A. Notwithstanding the definition of "tax per gallon" in section 1 and subject to section 20 of chapter 29, for fuel consisting of eligible cellulosic biofuel or of a blend of gasoline and eligible cellulosic biofuel, the tax per gallon shall be reduced in proportion to the percentage of the fuel content consisting of eligible cellulosic biofuel, measured by available energy content, as determined by the department of energy resources, hereinafter referred to as the department.

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

In determining the percentage reduction in lifecycle greenhouse gas emissions relative to petroleum-based fuel achieved by particular supplies of cellulosic biofuel, the department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, shall use information and best practices available from other sources, including other states, the federal government, foreign governments, academic research and private and non-profit organizations.

If the department determines through an initial review that a waste feedstock will yield at least a 60 per

cent lifecycle greenhouse gas reduction, is free of hazardous materials and hazardous waste and meets any other conditions established by the department, the department may exempt fuel produced from such a feedstock from a full lifecycle greenhouse gas emissions analysis.

The department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, shall promulgate rules and regulations necessary to carry out the provisions of this section.

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

Section 249H1/2. (1) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“BQ-9000”, the National Biodiesel Accreditation Program for producers and marketers of biodiesel fuel, operated by the National Biodiesel Accreditation Commission.

“Commissioner”, the commissioner of the department of energy resources.

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

“Eligible petroleum distillate substitute fuel”, petroleum distillate substitute fuel that yields at least a 50 per cent reduction in lifecycle greenhouse gas emissions relative to average lifecycle greenhouse gas emissions for petroleum distillate fuel sold in 2005, as determined by the department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs.

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

“Lifecycle greenhouse gas emissions”, the aggregate quantity of greenhouse gas emissions, including direct emissions and significant indirect emissions such as significant emissions from land use changes, as determined by the department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, related to the full fuel lifecycle, including all stages of fuel and feedstock production and distribution, from feedstock generation or extraction through the distribution and delivery and use of the finished fuel to the ultimate consumer, where the mass values for all greenhouse gases are adjusted to account for their relative global warming potential.

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

“Petroleum distillate substitute fuel”, fuel that is derived predominantly from renewable biomass; and meets American Society for Testing and Materials specifications for use in home heating applications, or such other quality certification standards as are approved by the department. For industrial and commercial applications, the department may substitute operational performance requirements that it determines are acceptable.

“Renewable biomass”, non-fossil fuel based material, including: planted crops; crop residues; planted trees and tree residues from sustainably managed forests; waste materials including animal waste, animal by-products, organic portions of municipal solid waste, grease trap waste, construction and demolition debris; and algae, or as otherwise determined by the department in consultation with the department of environmental protection and the executive office of energy and environmental affairs.

“Waste feedstock”, previously used or discarded solid, liquid or contained gaseous material with heating value resulting from industrial, commercial or household food service activities that would otherwise be stored, treated, transferred or disposed. Waste feedstock shall include, but not be limited to: waste vegetable oils, waste animal fats, substances derived from wastewater and the treatment of wastewater or grease trap waste. Waste feedstock shall not include petroleum-based waste or waste that otherwise meets the definition of hazardous waste, unless otherwise determined by the department of environmental protection.

(2) Manufacturers and wholesale distributors of petroleum distillate substitute fuel who seek to have their fuel classified as eligible petroleum distillate substitute fuel shall provide documentation satisfactory to the department that such fuel yields at least a 50 per cent reduction in lifecycle greenhouse gas emissions per unit of delivered energy, in comparison to the petroleum distillate fuel displaced.

In determining the percentage lifecycle greenhouse gas reductions achieved by particular fuels, the department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, shall use information and best practices available from other sources, including other states, the federal government, foreign governments, academic research and private and non-profit organizations.

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

For supplies that the department determines meet the criteria above for reductions in greenhouse gas emissions, the department shall certify the supplies as eligible petroleum distillate substitute fuel and shall provide documentation or certificates to suppliers of such fuel showing the number of gallons of neat eligible petroleum distillate substitute fuel supplied. The department shall, by regulation, determine which suppliers the documentation shall apply to, and shall create a mechanism for tracking such supplies.

(3) Except as provided in paragraph (4), the following shall apply to all number 2 petroleum distillate fuel and all other liquid fuel sold as a substitute for number 2 distillate fuel, offered for sale to end-users, retail sellers or to any other entity that will be providing such fuel directly to end-users in the commonwealth for use in residential, commercial or industrial heating applications. Such fuel must contain at least 2 per cent eligible petroleum distillate substitute fuel, measured by available energy content or as otherwise provided by the department, no later than July 1, 2010. Except as provided in subsection (4), all such fuel must contain at least 3 per cent eligible petroleum distillate substitute fuel no later than July 1, 2011, 4 per cent eligible petroleum distillate substitute fuel no later than July 1, 2012, and 5 per cent eligible petroleum distillate substitute fuel no later than July 1, 2013.

The department shall study the feasibility of applying the percentage requirements above to number 4 and number 6 petroleum distillate fuel, including whether blends of eligible petroleum distillate substitute fuel with number 4 or number 6 petroleum distillate fuel will operate correctly in applicable heating equipment. If the department determines that doing so is feasible, it shall extend the percentage requirements above to number 4 and number 6 petroleum distillate fuel.

The department may delay these implementation dates for the period of time which it determines, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, that providing sufficient supplies of the required eligible petroleum distillate substitute fuel to end-use consumers is not feasible due to lack of supply, lack of blending facilities or unreasonable cost. If the department delays implementation as provided in the preceding sentence, the commissioner shall file a report within 30 days of such decision with the clerks of the house of representatives and senate who shall forward the same to the house and senate committees on ways and means, the joint committee on telecommunications, utilities and energy, the joint committee on environment, natural resources and agriculture and the joint committee on transportation explaining the reasons for any such decision to delay implementation.

If a low carbon fuel standard or a similar standard or system, that will achieve equal or greater reductions in greenhouse gas emissions to the minimum content requirement for eligible petroleum distillate substitute fuel specified by this section, is adopted by the commonwealth, or a standard applying to the commonwealth is adopted by the federal government; then at least 60 days prior to the effective date of the standard the department of environmental protection shall submit a statement to the general court that the standard will become effective on the particular date, and the department of environmental protection's determination that the standard will achieve the specified reduction in emissions. If the general court takes no action, the minimum content requirement specified by this section shall expire on the date that the regulations implementing the standard or system becomes effective, or at such other date specified by the department, but in any case within 1 year of implementation of the regulations. If the department chooses an expiration date other than the effective date of the regulations it shall submit a statement to the general court explaining its reasons for doing so prior to said effective date.

(4) The department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, shall study the feasibility, benefits and costs, including benefits and costs to consumers, producers and the state government, of making the percentage mandates in subsection (3) apply on a statewide average basis rather than for every gallon of petroleum distillate fuel sold for heating purposes. If the department determines that such a system is feasible and that its benefits substantially exceed its costs, the department shall have the authority to implement such a system. The department shall determine on which entities the percentage requirements shall be applied. If the department implements such a system, the department shall promulgate regulations allowing and tracking sales of certificates or other documentation from the department that show use of eligible petroleum distillate substitute fuel in the commonwealth. Entities may meet their percentage requirements for use of eligible petroleum distillate substitute fuel by purchasing certificates or other documentation, and such certificates may be re-sold.

(5) Manufacturers and wholesale distributors of eligible petroleum distillate substitute fuel, and of fuel blended from petroleum distillate and eligible petroleum distillate substitute, doing business in the commonwealth shall furnish samples of such products to the department, shall permit the entry and inspection by the department or the department of environmental protection of the premises of such manufacturers or distributors, and the inspection and sampling of fuel stored thereon.

(6) Manufacturers of eligible petroleum distillate substitute fuel that is sold in the commonwealth shall meet quality assurance criteria or accreditation requirements determined by the department, in consultation with the department of environmental protection. Manufacturers shall submit documentation of quality assurance or accreditation to the department by November 1, 2009, or at least 3 months prior to the date on which the department certifies their fuel as eligible petroleum distillate substitute fuel, and shall submit documentation to the department showing that their accreditation remains current every 2 years thereafter.

(7) The department shall evaluate the feasibility and desirability of requiring BQ-9000 or other comparable accreditation requirement for producers and wholesale distributors of petroleum distillate substitute fuel and petroleum distillate fuel blended with petroleum distillate substitute fuel operating in the commonwealth. If the department concludes that such accreditation is feasible and desirable in order to protect consumers and the environment, the department shall promulgate regulations to implement an accreditation requirement.

(8) The department shall promulgate regulations to implement the provisions of this section.

(9) No person shall sell or offer to sell petroleum distillate heating fuel in the commonwealth, including eligible petroleum distillate substitute fuel that does not conform to the provisions of this section.

(10) Notwithstanding section 249H, failure to comply with subsection (9) of this section shall constitute

an unfair or deceptive act under chapter 93A, and may be enforced as provided therein.

SECTION 3. Said chapter 94 is hereby further amended by inserting after section 295G the following section:—

Section 295G¹/₂. (1) As used in this section, the following words shall have the following meanings:—

“BQ-9000”, the National Biodiesel Accreditation Program for producers and marketers of biodiesel fuel, operated by the National Biodiesel Accreditation Commission.

“Commissioner”, the commissioner of the department of energy resources.

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

“Diesel substitute fuel”, fuel that is derived predominantly from renewable biomass; that meets American Society for Testing and Materials specifications for use in diesel engines, or that meets such other quality certification standards as are approved by the department for the application involved. For diesel substitute fuel used in on-road motor vehicles, the fuel shall meet the registration requirements for fuels and fuel additives established by the United States Environmental Protection Agency under section 211C of the Clean Air Act, 42 USC section 7545.

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

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

“Lifecycle greenhouse gas emission”, the aggregate quantity of greenhouse gas emissions, including direct emissions and significant indirect emissions such as significant emissions from land use changes, as determined by the department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, related to the full fuel lifecycle, including all stages of fuel and feedstock production and distribution, from feedstock generation or extraction through the distribution and delivery and use of the finished fuel to the ultimate consumer, where the mass values for all greenhouse gases are adjusted to account for their relative global warming potential.

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

“Renewable biomass”, non-fossil fuel based material, including: planted crops; crop residues; planted trees and tree residues from sustainably managed forests; waste materials including animal waste, animal by-products, organic portions of municipal solid waste, grease trap waste, construction and

demolition debris; and algae, or as otherwise determined by the department in consultation with the department of environmental protection and the executive office of energy and environmental affairs. "Waste feedstock", previously used or discarded solid, liquid or contained gaseous material with heating value resulting from industrial, commercial or household food service activities that would otherwise be stored, treated, transferred or disposed. Waste feedstock shall include, but not be limited to: waste vegetable oils, waste animal fats, substances derived from wastewater and the treatment of wastewater and grease trap waste. Waste feedstocks shall not include petroleum-based waste or waste that otherwise meets the definition of hazardous waste, unless otherwise determined by the department of environmental protection.

(2) Manufacturers and wholesale distributors of diesel substitute fuel doing business in the commonwealth who wish to have their fuel classified as eligible diesel substitute fuel shall provide documentation satisfactory to the department that such fuel yields at least a 50 per cent reduction in lifecycle greenhouse gas emissions per unit of delivered energy, in comparison to the petroleum-based diesel fuel displaced.

In determining the percentage lifecycle greenhouse gas reductions achieved by particular fuels, the department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, shall use information and best practices available from other sources, including other states, the federal Environmental Protection Agency, foreign governments, academic research and private and non-profit organizations.

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

For supplies that the department determines meet the criteria above for reductions in greenhouse gas emissions, the department shall, by regulation, certify the supplies as eligible diesel substitute fuel and shall provide documentation or certificates to suppliers of such fuel showing the number of gallons of neat eligible diesel substitute fuel supplied. The department shall, by regulation, determine which suppliers the documentation shall apply to, and create a mechanism for tracking such supplies.

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

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

The department may delay these implementation dates for the period of time which it determines, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, that providing sufficient supplies of the required eligible diesel substitute fuel to end-use consumers is not feasible due to lack of supply, lack of blending facilities or unreasonable cost. If the department delays implementation as provided in the preceding sentence, the commissioner shall file a report within 30 days of such decision with the clerks of the house of representatives and senate who shall forward the same to the house and senate committees on ways and means, the joint committee on telecommunications, utilities and energy, the joint committee on environment, natural resources and agriculture and the joint committee on transportation explaining the reasons for any such decision to delay implementation.

If a low carbon fuel standard or a similar standard or system, that will achieve equal or greater reductions in greenhouse gas emissions to the minimum content requirement specified by this section is adopted by the commonwealth, or a standard applying to the commonwealth is adopted by the federal government, then at least 60 days prior to the effective date of the standard, the department shall submit a statement to the general court that the standard shall become effective on the particular date, and the department of environmental protection's determination that the standard will achieve the specified reduction in emissions. If the general court takes no action, the minimum content requirement specified by this section shall expire on the date that the regulations implementing the standard or system becomes effective, or at such other date specified by the department, but in any case within 1 year of implementation of the regulations. If the department chooses an expiration date other than the effective date of the regulations it shall submit a statement to the general court explaining its reasons for doing so prior to said effective date.

(4) The department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, shall study the feasibility, benefits and costs, including benefits and costs to consumers, producers and the commonwealth, of making the percentage mandates in subsection (3) apply on a statewide average basis rather than for every gallon of diesel motor fuel sold. If the department implements such a system, the department shall promulgate regulations allowing and tracking sales of certificates or other documentation from the department that show use of eligible diesel substitute fuel in the commonwealth. Entities may meet their percentage requirements for use of eligible diesel substitute fuel by purchasing certificates or other documentation, and such certificates may be re-sold.

(5) Manufacturers and wholesale distributors of eligible diesel substitute fuel, and of fuel blended from petroleum diesel and eligible diesel substitute, doing business in the commonwealth shall furnish samples of such products to the department, shall permit the entry and inspection by the division and department of the premises of such manufacturers or distributors and the inspection and sampling of

fuel stored thereon.

(6) Manufacturers of eligible diesel substitute fuel that is sold in the commonwealth shall meet quality assurance criteria or accreditation requirements determined by the department, in consultation with the department of environmental protection. Manufacturers shall submit documentation of quality assurance or accreditation to the department on or before November 1, 2009, or at least 3 months prior to the date on which the department certifies their fuel as eligible diesel substitute fuel, and must submit documentation to the department showing that their accreditation remains current every 2 years thereafter.

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

(8) The department shall promulgate regulations to implement the provisions of this section.

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

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

SECTION 4. The division of energy resources, in consultation with the department of revenue, shall promulgate regulations concerning the timing and form of documentation that will enable the department to determine the appropriate tax revenue to be collected pursuant to this act.

SECTION 5. There is hereby established a special commission to study the feasibility and effectiveness of various forms of incentives to promote the development and use of advanced biofuels in the commonwealth including, but not limited to: production credits, the production and harvesting of woody biomass or woody residue, feedstock incentives and direct consumer credits for the use of advanced biofuels in various applications. The commission shall be comprised of 11 members: 3 of whom shall be appointed by the speaker of the house of representatives, 1 of whom shall be the house chair of the joint committee on telecommunication, utilities and energy, who shall serve as co-chair; 1 of whom shall be appointed by the house minority leader; 3 of whom shall be appointed by the senate president, 1 of whom shall be the senate chair of the joint committee on telecommunication, utilities and energy, who shall serve as co-chair; 1 of whom shall be appointed by the senate minority leader; and 3 of whom shall be appointed by the governor, 1 of whom shall be the secretary of the executive office of energy and environmental affairs, or his designee, and 1 of whom shall be

employed by a company that works in the field of advanced biofuels. In conducting its investigation and study, the commission shall consider biofuel incentive programs in other states and the commonwealth's relative competitiveness in the field.

The commission shall report to the general court the results of its investigation and study and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect, by filing the same with the clerks of the house of representatives and the senate, who shall forward the same to the joint committee on telecommunications, utilities and energy and the house and senate committees on ways and means on or before March 31, 2009 .

SECTION 6. The governor and the secretary of energy and environmental affairs shall develop and enter into, to the extent possible, an agreement among those states participating in the Regional Greenhouse Gas Initiative, for the purpose of implementing a low carbon fuel standard hereinafter referred to as LCFS, for transportation fuels; provided, however, that when possible:

- (1) the LCFS shall be measured on a full fuels cycle basis;
- (2) the LCFS may be met through market-based methods by which providers exceeding the performance required by an LCFS shall receive credits that may be applied to future obligations or traded to providers not meeting the LCFS;
- (3) the agreement shall establish a declining standard for greenhouse gas emissions measured in CO₂-equivalent grams per unit of fuel energy sold, sufficient to achieve a 10 per cent reduction in the carbon content of all passenger vehicle fuels sold in participating states; and
- (4) the commonwealth shall, with the other states participating in the agreement, examine the regulations and implementation of a low carbon fuel standard in California and other states and shall consider ways to coordinate and issue public findings on both such matters, and shall, if applicable, use in the agreement the life-cycle analysis methods employed by the California Air Resources Board to determine the carbon intensity of fuel.

SECTION 7. There shall be a special commission to investigate and develop a strategy to increase the use of advanced biofuels as alternatives to conventional carbon-based fuels by the commonwealth, its agencies and political subdivisions and regional transit authorities.

The commission shall consist of the secretary of administration and finance or his designee, the secretary of energy and environmental affairs, who shall serve as the chair, the commissioner of energy resources, commissioner of the department of public utilities, the commissioner of revenue or his designee, the general manager of the Massachusetts Bay Transportation Authority or his designee, and 6 members to be appointed by the governor, 2 of whom shall represent the Massachusetts Municipal Association, 2 of whom shall represent regional transit authorities, 1 of whom shall represent environmental organizations in the commonwealth, and 1 of whom shall represent suppliers of motor fuels in the commonwealth.

The commission shall develop strategies to increase the use of advanced biofuels by the commonwealth, its agencies and political subdivisions and regional transit authorities and methods to advance those strategies. Methods to be considered shall include, but not be limited to: financing mechanisms including grants, loans and other incentive programs for group procurement of advanced biofuels, vehicles using advanced biofuels and distribution infrastructure and technical assistance.

The commission shall file a report detailing its strategies and methods and its recommendations, if any, and cost estimates together with drafts of legislation necessary to carry those recommendations into effect by filing the same with the clerks of the senate and house of representatives on or before April 15, 2009.

SECTION 8. Section 1 shall be effective for tax years beginning January 1, 2009 and ending December 31, 2017.

Approved July 28, 2008
