

HOUSE BILL 1262

M4, M3

71r3030
CF SB 829

By: **Delegates Haddaway, Aumann, Boteler, Cane, Eckardt, Elmore, Frank, Impallaria, Jennings, Mathias, McDonough, Shewell, Smigiel, Sossi, and Walkup**

Introduced and read first time: February 22, 2007

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Renewable Fuels – Production Credits – British Thermal Units**

3 FOR the purpose of expanding certain production credits to include British Thermal
4 Units that are produced from certain renewable resources; establishing certain
5 application procedures for certification of the production credits; requiring a
6 certain application to contain certain information; prohibiting the Renewable
7 Fuels Incentive Board from paying for production credits after a certain date;
8 establishing certain limits on the amount of production credits the Board may
9 certify; requiring a claim for a certain production credit payment to include
10 certain information; defining certain terms; and generally relating to production
11 credits for renewable fuels.

12 BY repealing and reenacting, with amendments,
13 Article – Agriculture
14 Section 10–1501 and 10–1504 through 10–1506
15 Annotated Code of Maryland
16 (1999 Replacement Volume and 2006 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article – Agriculture**

20 10–1501.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) In this subtitle the following words have the meanings indicated.

2 (b) “Biodiesel” means an alternative motor fuel produced from a renewable
3 resource such as vegetable oil or animal fat.

4 (c) “Board” means the Renewable Fuels Incentive Board.

5 (D) **“BTU” MEANS A BRITISH THERMAL UNIT THAT IS THE QUANTITY**
6 **OF HEAT REQUIRED TO RAISE THE TEMPERATURE OF 1 POUND OF WATER 1**
7 **DEGREE FAHRENHEIT.**

8 [(d)] (E) “Ethanol” means fermented ethyl alcohol derived from agricultural
9 or forest products.

10 (F) **“OLD GROWTH TIMBER” HAS THE MEANING STATED IN § 7-701 OF**
11 **THE PUBLIC UTILITY COMPANIES ARTICLE.**

12 (G) **“POULTRY LITTER” HAS THE MEANING STATED IN § 7-701 OF THE**
13 **PUBLIC UTILITY COMPANIES ARTICLE.**

14 (H) (1) **“QUALIFYING BIOMASS” MEANS A NONHAZARDOUS ORGANIC**
15 **MATERIAL THAT IS AVAILABLE ON A RENEWABLE OR RECURRING BASIS, AND IS:**

16 (I) **WASTE MATERIAL THAT IS SEGREGATED FROM**
17 **INORGANIC WASTE MATERIAL AND IS DERIVED FROM SOURCES, INCLUDING:**

18 1. **EXCEPT FOR OLD-GROWTH TIMBER, ANY OF THE**
19 **FOLLOWING FOREST-RELATED RESOURCES:**

20 A. **MILL RESIDUE, EXCEPT SAWDUST AND WOOD**
21 **SHAVINGS;**

22 B. **FOREST IMPROVEMENT THINNING;**

23 C. **SLASH;**

24 D. **BRUSH;**

25 E. **YARD WASTE; OR**

1 (4) **METHANE FROM THE ANAEROBIC DECOMPOSITION OF**
2 **ORGANIC MATERIALS;**

3 (5) **GEOHERMAL;**

4 (6) **BIODIESEL;**

5 (7) **ETHANOL; OR**

6 (8) **ENERGY FROM THE OCEAN, INCLUDING ENERGY FROM**
7 **WAVES, TIDES, CURRENTS, AND THERMAL DIFFERENCES.**

8 [(e)] (J) (1) “Small grains” means a winter grain crop.

9 (2) “Small grains” includes wheat, rye, triticale, oats, and hulled or
10 hull-less barley.

11 10–1504.

12 (a) To be eligible for credits under this subtitle, an ethanol [or biodiesel],
13 **BIODIESEL, OR RENEWABLE BTU** producer shall apply to the Board for certification
14 on an application provided by the Board.

15 (b) An applicant shall show in the application to the satisfaction of the
16 Board:

17 (1) That the applicant will construct or operate a facility capable of
18 producing ethanol [or biodiesel], **BIODIESEL, OR RENEWABLE BTUS;**

19 (2) That the applicant will invest or has invested substantial resources
20 in the State in connection with the facility;

21 (3) That the facility will constitute a permanent fixture in the State;

22 (4) For an ethanol production facility, information demonstrating:

23 (i) The production capacity of the facility; and

24 (ii) The quantity and availability of small grains and other
25 suitable agricultural products in the vicinity of the production facility that may be
26 used by the facility;

1 (5) For a biodiesel production facility, information demonstrating:

2 (i) The production capacity of the facility; and

3 (ii) The quantity and availability of soybean oil and other
4 suitable bio-based oils in the vicinity of the production facility that may be used by the
5 facility;

6 **(6) FOR A PRODUCTION FACILITY THAT RELIES ON RENEWABLE**
7 **FUELS OTHER THAN FROM SOLAR, WIND, OCEANIC, OR GEOTHERMAL SOURCES,**
8 **INFORMATION DEMONSTRATING:**

9 **(I) THE PRODUCTION CAPACITY OF THE FACILITY; AND**

10 **(II) THE QUANTITY AND AVAILABILITY OF FUELS IN THE**
11 **VICINITY OF THE PRODUCTION FACILITY THAT MAY BE USED BY THE FACILITY;**

12 ~~[(6)]~~ **(7)** Information demonstrating:

13 (i) The availability and cost of energy sufficient to operate the
14 facility;

15 (ii) The availability of sufficient water and waste disposal
16 systems for the facility;

17 (iii) The availability of sufficient labor and a qualified site
18 manager for the facility; and

19 (iv) That the facility will meet all State and federal
20 environmental standards;

21 ~~[(7)]~~ **(8)** Any proposed marketing agreements for the ethanol or
22 biodiesel products;

23 ~~[(8)]~~ **(9)** A plan to give farmers in the State the opportunity to invest
24 in the facility; and

25 ~~[(9)]~~ **(10)** That the applicant will meet any other requirement
26 established by the Board.

1 (c) The Board shall:

2 (1) Review each application submitted under this subtitle;

3 (2) Approve or deny the application within 60 days of receipt of the
4 application; and

5 (3) For an approved application, certify the producer as eligible for a
6 credit in an amount that is:

7 (i) Based on the production capacity of the facility, as
8 determined by the Board; and

9 (ii) Consistent with subsection (d) of this section.

10 (d) (1) The Board may not certify ethanol production credits for more than
11 a total of 15,000,000 gallons per calendar year, of which at least 10,000,000 gallons
12 shall be produced from small grains.

13 (2) The Board may not certify biodiesel production credits for more
14 than a total of 5,000,000 gallons per calendar year, of which at least 2,000,000 gallons
15 shall be from soybean oil produced:

16 (i) In a facility that began operating after December 31, 2004;
17 or

18 (ii) Under the expanded capacity of a facility, the expansion of
19 which occurred after December 31, 2004.

20 **(3) THE BOARD MAY NOT CERTIFY RENEWABLE BTU**
21 **PRODUCTION CREDITS FOR MORE THAN:**

22 **(I) 6,249,750 THERMS PER PRODUCER PER CALENDAR**
23 **YEAR; OR**

24 **(II) A TOTAL OF 37,498,500 THERMS PER CALENDAR YEAR.**

25 (e) (1) If eligible, a producer may apply to the Board for certification for
26 additional credits if the producer increases the production capacity of the facility.

1 (2) If a facility does not achieve its certified production capacity for 2
2 consecutive years, the Board may revise the stated production capacity of the facility
3 and the corresponding credit certification of the producer to reflect actual production.

4 (f) An application submitted to the Board under this section is not subject to
5 disclosure under the Maryland Public Information Act.

6 10–1505.

7 (a) (1) The Board may pay credits as calculated under this section to
8 certified producers of ethanol [or biodiesel], **BIODIESEL, OR RENEWABLE BTUS** in
9 the State for ethanol [or biodiesel], **BIODIESEL, OR RENEWABLE BTUS** produced on
10 or after December 31, 2007.

11 (2) (i) For the purposes of this subtitle, a person that holds a
12 controlling interest in more than one ethanol production facility is considered to be a
13 single ethanol producer.

14 (ii) For the purposes of this subtitle, a person that holds a
15 controlling interest in more than one biodiesel production facility is considered to be a
16 single biodiesel producer.

17 **(III) FOR THE PURPOSES OF THIS SUBTITLE, A PERSON THAT**
18 **HOLDS A CONTROLLING INTEREST IN MORE THAN ONE FACILITY PRODUCING**
19 **RENEWABLE BTUS IS CONSIDERED TO BE A SINGLE RENEWABLE BTU**
20 **PRODUCER.**

21 (b) (1) For an ethanol producer, a credit may not exceed the maximum
22 amount certified by the Board and shall be:

23 (i) 20 cents per gallon of ethanol produced from small grains;
24 and

25 (ii) 5 cents per gallon of ethanol produced from other
26 agricultural products.

27 (2) For a biodiesel producer, a credit may not exceed the maximum
28 amount certified by the Board and shall be:

29 (i) 20 cents per gallon of biodiesel produced from soybean oil
30 produced:

1 1. In a facility that began operating after December 31,
2 2004; or

3 2. Under the expanded capacity of a facility, the
4 expansion of which occurred after December 31, 2004; and

5 (ii) 5 cents per gallon of biodiesel produced from other feedstock,
6 including soybean oil produced in a facility that began operating on or before
7 December 31, 2004.

8 **(3) FOR A RENEWABLE BTU PRODUCER, A CREDIT MAY NOT**
9 **EXCEED THE MAXIMUM AMOUNT CERTIFIED BY THE BOARD AND MAY NOT**
10 **EXCEED 0.167 CENTS PER THERM.**

11 (c) **(1)** The Board may not pay a credit for ethanol or biodiesel produced
12 after December 31, 2017.

13 **(2) THE BOARD MAY NOT PAY A CREDIT FOR RENEWABLE BTUS**
14 **PRODUCED AFTER DECEMBER 31, 2019.**

15 10–1506.

16 (a) After February 1, 2008, to receive a credit payment a certified ethanol or
17 biodiesel producer shall file a claim with the Board by the end of January, April, July,
18 and October of each year.

19 (b) A claim filed under this section shall state:

20 (1) (i) The producer's total ethanol production in the State during
21 the previous quarter, categorized by ethanol produced from small grains and ethanol
22 produced from other agricultural products; [or]

23 (ii) The producer's total biodiesel production in Maryland during
24 the previous quarter, categorized by biodiesel produced from:

25 1. Soybean oil produced in a facility that began
26 operating after December 31, 2004, or under the expanded capacity of a facility, the
27 expansion of which occurred after December 31, 2004; and

28 2. Other feedstock, including soybean oil produced in a
29 facility that began operating on or before December 31, 2004; **OR**

1 **(III) THE PRODUCER’S TOTAL BTU PRODUCTION IN THE**
2 **STATE DURING THE PREVIOUS QUARTER, CATEGORIZED BY BTUS PRODUCED**
3 **FROM:**

4 **1. QUALIFIED AND NONQUALIFIED FEEDSTOCKS;**

5 **2. FEEDSTOCKS USED; AND**

6 **3. THE LOCATION FROM WHICH THE FEEDSTOCKS**
7 **WERE DERIVED;**

8 (2) The location of the producer;

9 (3) The average number of Maryland citizens employed by the
10 producer in the previous quarter;

11 (4) (i) For an ethanol producer, the number of bushels of
12 Maryland–grown small grains and other agricultural commodities used by the
13 producer in the previous quarter; or

14 (ii) For a biodiesel producer, the number of gallons of
15 Maryland–produced soybean oil and other bio–based oils used by the producer in the
16 previous quarter; and

17 (5) Any other information that the Board requires.

18 (c) A claim filed under this section shall be reviewed by an independent
19 certified public accountant with respect to, as appropriate:

20 (1) The total ethanol production;

21 (2) The breakdown between ethanol produced from small grains and
22 ethanol produced from other agricultural products;

23 (3) The total biodiesel production; [and]

24 (4) The breakdown between biodiesel produced from:

25 (i) Soybean oil produced in a facility that began operating after
26 December 31, 2004, or under the expanded capacity of a facility, the expansion of
27 which occurred after December 31, 2004; and

1 (ii) Other feedstock, including soybean oil produced in a facility
2 that began operating on or before December 31, 2004; AND

3 **(5) THE TOTAL BTU PRODUCTION;**

4 **(6) THE BREAKDOWN BETWEEN VARIOUS FEEDSTOCKS IN BTU**
5 **PRODUCTION; AND**

6 **(7) THE LOCATION OF ORIGIN FOR THE FEEDSTOCKS IN BTU**
7 **PRODUCTION.**

8 (d) A claim submitted to the Board under this section is not subject to
9 disclosure under the Maryland Public Information Act.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2007.