

SENATE BILL 829

M4, M3

71r2776

By: **Senator Colburn**

Introduced and read first time: February 19, 2007

Assigned to: Rules

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.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 (c) "Board" means the Renewable Fuels Incentive Board.

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

7 [(d)] (E) "Ethanol" means fermented ethyl alcohol derived from agricultural
8 or forest products.

9 (F) "OLD GROWTH TIMBER" HAS THE MEANING STATED IN § 7-701 OF
10 THE PUBLIC UTILITY COMPANIES ARTICLE.

11 (G) "POULTRY LITTER" HAS THE MEANING STATED IN § 7-701 OF THE
12 PUBLIC UTILITY COMPANIES ARTICLE.

13 (H) (1) "QUALIFYING BIOMASS" MEANS A NONHAZARDOUS ORGANIC
14 MATERIAL THAT IS AVAILABLE ON A RENEWABLE OR RECURRING BASIS, AND IS:

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

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

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

21 B. FOREST IMPROVEMENT THINNING;

22 C. SLASH;

23 D. BRUSH;

24 E. YARD WASTE; OR

25 F. PELLETS;

1 **2. A PALLET, CRATE, DUNNAGE, OR SIMILAR SOLID**
2 **WOOD PACKING MATERIALS;**

3 **3. AGRICULTURAL AND SILVICULTURAL SOURCES,**
4 **INCLUDING TREE CROPS, VINEYARD MATERIALS, GRAIN, LEGUMES, SUGAR, AND**
5 **OTHER CROP BY-PRODUCTS OR RESIDUES;**

6 **4. GAS PRODUCED FROM THE ANAEROBIC**
7 **DECOMPOSITION OF ANIMAL WASTE OR POULTRY WASTE;**

8 **5. POULTRY LITTER;**

9 **6. PELLETS DERIVED FROM QUALIFYING BIOMASS;**
10 **OR**

11 **(II) A PLANT THAT IS CULTIVATED EXCLUSIVELY FOR**
12 **PURPOSES OF BEING USED IN THE PRODUCTION OF BTUS.**

13 **(2) QUALIFYING BIOMASS DOES NOT INCLUDE:**

14 **(I) UNSEGREGATED SOLID WASTE OR POSTCONSUMER**
15 **WASTEPAPER; OR**

16 **(II) AN INVASIVE EXOTIC PLANT SPECIES.**

17 **(I) “RENEWABLE ON-SITE GENERATOR” MEANS A PERSON THAT**
18 **GENERATES BTUS ON SITE FROM ONE OR MORE OF THE FOLLOWING**
19 **RENEWABLE SOURCES FOR THE PERSON’S OWN USE, BUT NOT FOR THE**
20 **PRODUCTION OF ELECTRICITY:**

21 **(1) SOLAR ENERGY;**

22 **(2) WIND POWER;**

23 **(3) QUALIFYING BIOMASS;**

24 **(4) METHANE FROM THE ANAEROBIC DECOMPOSITION OF**
25 **ORGANIC MATERIALS;**

- 1 **(5) GEOTHERMAL;**
2 **(6) BIODIESEL;**
3 **(7) ETHANOL; OR**
4 **(8) ENERGY FROM THE OCEAN, INCLUDING ENERGY FROM**
5 **WAVES, TIDES, CURRENTS, AND THERMAL DIFFERENCES.**

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

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

9 10–1504.

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

13 (b) An applicant shall show in the application to the satisfaction of the
14 Board:

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

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

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

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

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

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

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

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

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

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

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

11 **[(6)] (7) Information demonstrating:**

- 12 (i) The availability and cost of energy sufficient to operate the
13 facility;
- 14 (ii) The availability of sufficient water and waste disposal
15 systems for the facility;
- 16 (iii) The availability of sufficient labor and a qualified site
17 manager for the facility; and
- 18 (iv) That the facility will meet all State and federal
19 environmental standards;

20 **[(7)] (8) Any proposed marketing agreements for the ethanol or**
21 **biodiesel products;**

22 **[(8)] (9) A plan to give farmers in the State the opportunity to invest**
23 **in the facility; and**

24 **[(9)] (10) That the applicant will meet any other requirement**
25 **established by the Board.**

26 (c) The Board shall:

- 27 (1) Review each application submitted under this subtitle;

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

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

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

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

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

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

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

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

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

20 **(I) 6,249,750 THERMS PER PRODUCER PER CALENDAR**
21 **YEAR; OR**

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

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

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

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

3 10-1505.

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

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

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

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

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

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

22 (ii) 5 cents per gallon of ethanol produced from other
23 agricultural products.

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

26 (i) 20 cents per gallon of biodiesel produced from soybean oil
27 produced:

28 1. In a facility that began operating after December 31,
29 2004; or

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

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

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

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

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

13 10–1506.

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

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

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

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

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

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

28 **(III) THE PRODUCER'S TOTAL BTU PRODUCTION IN THE**
29 **STATE DURING THE PREVIOUS QUARTER, CATEGORIZED BY BTUS PRODUCED**
30 **FROM:**

- 1 **1. QUALIFIED AND NONQUALIFIED FEEDSTOCKS;**
- 2 **2. FEEDSTOCKS USED; AND**
- 3 **3. THE LOCATION FROM WHICH THE FEEDSTOCKS**
4 **WERE DERIVED;**
- 5 (2) The location of the producer;
- 6 (3) The average number of Maryland citizens employed by the
7 producer in the previous quarter;
- 8 (4) (i) For an ethanol producer, the number of bushels of
9 Maryland-grown small grains and other agricultural commodities used by the
10 producer in the previous quarter; or
- 11 (ii) For a biodiesel producer, the number of gallons of
12 Maryland-produced soybean oil and other bio-based oils used by the producer in the
13 previous quarter; and
- 14 (5) Any other information that the Board requires.
- 15 (c) A claim filed under this section shall be reviewed by an independent
16 certified public accountant with respect to, as appropriate:
- 17 (1) The total ethanol production;
- 18 (2) The breakdown between ethanol produced from small grains and
19 ethanol produced from other agricultural products;
- 20 (3) The total biodiesel production; [and]
- 21 (4) The breakdown between biodiesel produced from:
- 22 (i) Soybean oil produced in a facility that began operating after
23 December 31, 2004, or under the expanded capacity of a facility, the expansion of
24 which occurred after December 31, 2004; and
- 25 (ii) Other feedstock, including soybean oil produced in a facility
26 that began operating on or before December 31, 2004; **AND**

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

2 **(6) THE BREAKDOWN BETWEEN VARIOUS FEEDSTOCKS IN BTU**
3 **PRODUCTION; AND**

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

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

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