

Liquid Fuel Supply (Ethanol and Other Biofuels Mandate) Amendment Bill 2015

Explanatory Notes

FOR

Amendments To Be Moved During Consideration In Detail By The Honourable Mark Bailey MP

Title of the Bill

Liquid Fuel Supply (Ethanol and Other Biofuels Mandate) Amendment Bill 2015.

Objectives of the Amendments

On 15 September 2015, the Liquid Fuel Supply (Ethanol and Other Biofuels Mandate) Amendment Bill 2015 (the Bill) was introduced into Parliament. The Bill was referred to the Utilities, Science and Innovation Committee (the Committee) for examination.

The Committee tabled its report (No. 8) on the Bill in Parliament on 17 September 2015. The report made a number of recommendations to amend the Bill.

The objective of the amendments is to implement a number of the Committee's recommendations which the Queensland Government accepts.

Low aromatic fuel

First, recommendation 3 the Committee is that the Bill be amended to ensure there are no unintended consequences for fuel retailers in areas where low aromatic fuel is sold.

The Australian Government is currently expanding the rollout of low aromatic fuel under its Petrol Sniffing Strategy in north and north-west Queensland in locations where petrol sniffing is a problem. In locations where low aromatic fuel is supplied, regulator unleaded petrol (RULP) is removed from sale, including any regular blends such as E10, but premium petrol and diesel can continue to be offered. Low aromatic fuel is a substitute for RULP and is not currently produced as a blend.

Low aromatic fuel complies with the Australian Government's fuel quality standards for RULP but is specifically designed to contain low levels of aromatic compounds such as benzene, toluene and xylene. As it is more expensive to produce, a subsidy is provided to fuel producers and distributors so that low aromatic fuel can be sold at the bowser for the same price as RULP would otherwise sell for.

To date, fuel sellers supplying low aromatic fuel have introduced it on a voluntarily basis. However, if an area were declared under the *Low Aromatic Fuel Act 2013* (Cwlth), it would be an offence for a corporation to supply RULP, or transport or possess RULP for supply to another person who is in a 'low aromatic fuel area'.

Low aromatic fuel is currently available in a number of Indigenous communities in Queensland including Doomadgee, Aurukun, Pormpuraaw, Kowanyama, and Mornington Island and was previously available on Palm Island. The further locations targeted for low aromatic fuel include communities in Cape York Peninsula, including Weipa and the Gulf of Carpentaria, including Camooweal, Mount Isa, Cloncurry, Normanton, Karumba and Burketown.

Given the potential inconsistency between the Bill's requirements and the Australian Government's Petrol Sniffing Strategy and its *Low Aromatic Fuel Act 2013* (Cwlth), it is intended to expressly exempt those retail sites supplying low aromatic fuel from the biofuels mandate for biobased petrol.

The amendments will exempt fuel retailers and the sites where low aromatic fuel is sold from imposition of the biobased petrol mandate. However, a number of reporting obligations will apply to the fuel retailers and the sites selling the low aromatic fuel. This includes the requirement to provide an initial report on fuel sales volumes at each of the fuel seller's fuel facilities.

Commencing mandate for biobased petrol

The Committee noted concerns that the starting mandate percentage of 2 per cent for the ethanol mandate is not sufficient, by itself, to encourage additional investment in Queensland's biofuels industry. Therefore the commencing mandate will be 3 per cent for biobased petrol.

Minimum mandate percentages

The Committee also recommended that (recommendation 4) to provide assurance to existing ethanol and biodiesel producers that the Bill be amended to prevent a future regulation from prescribing a lower mandate percentage for biobased petrol and biobased diesel, and that decreases to the mandates be made only by an amendment the Act.

While the Government accepts the starting percentages should not be reduced by subordinate legislation, it may at some point in future be necessary or desirable to marginally adjust a mandate percentage downwards, for example because of technology disruption or other changes in the fuel market dynamics. The Government needs a mechanism to respond to such changes in a timely manner and therefore will retain the ability to do so through a regulation.

Suspension declarations

Recommendation 5 of the Committee is that the Bill should be amended if the suspension powers would allow the making of a further suspension declaration after the initial 12 months, and further, that suspension of a biofuel mandate for a period beyond 12 months should only occur through an amendment to the Act. The Government partially accepts this recommendation. The amendments to the current suspension powers in the Bill will limit the Minister's ability to make a suspension declaration for a period of more than one year in a two-year period, where the reasons for the suspension are stated in sections 35J(1)(a) or (c), that is:

- there is an industry-wide shortage of sustainable biofuel or blends; or there is not enough demand; or

- there are, or may be, adverse impacts on Queensland's economy from requiring compliance with the mandate from all or a class of fuel sellers.

This will leave in place the ability for the Minister to make sequential suspension declarations, if necessary, to protect public health and safety or because there are extraordinary circumstances, such as natural disasters.

Achievement of the Objectives

The policy objectives will be achieved by the passage of the amendments.

Alternative Ways of Achieving Policy Objectives

There are no other methods of achieving these policy objectives.

Estimated Cost for Government Implementation

No cost is expected to be associated with the passage of these amendments.

Consistency with Fundamental Legislative Principles

No fundamental legislative principle issues have been identified in relation to these amendments.

Consultation

There has been consultation with the Commonwealth Department of Prime Minister and Cabinet in relation to the amendments to exempt fuel retailers selling low aromatic fuel from the biobased petrol mandate.

NOTES ON PROVISIONS

Amendment 1 - Clause 4 (Amendment of s 5 (Interpretation))

Amendment 1 amends clause 4 to insert new definitions for 'low aromatic fuel' and 'low aromatic fuel service station' into the Bill.

It is noted the definition of low aromatic fuel includes the possibility of it being a blended fuel in future; however low aromatic fuel is not available currently as a blended fuel. In its submission to the Committee, the Australian Institute of Petroleum noted that it would not be feasible to produce low aromatic fuel blended with ethanol because of the inherently more pleasant odour of ethanol in fuel.

Amendment 2 - Clause 4 (Amendment of s 5 (Interpretation))

Amendment 2 amends clause 4 to insert a new definition for 'standard service station' to differentiate between service stations which do not sell low aromatic fuel from those that do.

Amendment 3 - Clause 6 (Replacement of pt 5A (Ethanol substitution))

Amendment 3 amends clause 6 to:

- insert the word 'standard' before 'service station' in new section 35A(3)(a) to provide that only 'standard service stations' will be considered in determining whether a fuel retailer owns or operates 10 or more service stations and;
- insert the word 'standard' before 'service station' in new section 35A(3)(b) to provide that only 'standard service stations' will be considered in determining whether a service station sells more than the threshold amount of petrol fuel in a calendar quarter.

Amendment 4 – Clause 6 (Replacement of pt 5A (Ethanol substitution))

Amendment 4 amends clause 6 to insert the word 'standard' before 'service station' in new section 35B(3)(b) to provide that only the volume of regular petrol and regular petrol-biobased petrol blend that the fuel seller sells in a calendar quarter at the seller's standard service stations, is used to calculate the retail percentage. New section 35B(3)(b) applies to a fuel retailer who owns or operates less than 10 standard service stations.

Amendment 5 – Clause 6 (Replacement of pt 5A (Ethanol substitution))

Amendment 5 amends clause 6 to insert the words 'at the fuel seller's standard service stations' after 'quarter' in new section 35B(3)(c) to provide that only the volume of regular petrol and regular petrol-biobased petrol blend that the fuel seller sells in a calendar quarter at the seller's standard service stations, is used to calculate the retail percentage. New section 35B(3)(c) applies to a fuel retailer who owns or operates 10 or more standard service stations.

Amendment 6 – Clause 6 (Replacement of pt 5A (Ethanol substitution))

Amendment 6 amends clause 6 in new section 35B(3) to replace the definition of 'retail percentage' to increase the starting percentage for biobased petrol to 3 per cent and prevent a future regulation from prescribing a lower percentage for the biobased petrol mandate than the starting percentage stated in the Bill.

Amendment 7 – Clause 6 (Replacement of pt 5A (Ethanol substitution))

Amendment 7 amends clause 6 in new section 35C(3), in the definition of 'minimum amount' to prevent a future regulation from prescribing a lower percentage for the biobased diesel mandate than the 0.5 per cent stated in the Bill.

Amendment 8 – Clause 6 (Replacement of pt 5A (Ethanol substitution))

Amendment 8 amends clause 6 in new section 35E(2) to clarify that a fuel seller's quarterly return must state the volumes of specified fuel types sold for each of the fuel seller's fuel facilities. This includes a low aromatic fuel service station.

Amendment 9 – Clause 6 (Replacement of pt 5A (Ethanol substitution))

Amendment 9 amends clause 6 in new section 35E(2) (Quarterly returns) to provide that fuel sellers must report separately on the volume of sales of premium petrol and low aromatic fuel if they are subject to the biofuels mandate for biobased petrol. Although no low aromatic fuel service station is subject to the biobased petrol mandate, that retail site could sell and count a premium petrol-biobased petrol blend towards meeting the mandate.

Amendment 10 – Clause 6 (Replacement of pt 5A (Ethanol substitution))

Amendment 10 amends clause 6 in new section 35F to correct a spelling error in the provision.

Amendment 11 – Clause 6 (Replacement of pt 5A (Ethanol substitution))

Amendment 11 amends clause 6 in new section 35J to limit the Minister's power to make suspension declarations for more than one year in a two-year period where the reasons for suspension are either those stated in subsection (1)(a) or (c) that is:

- where there is an industry-wide shortage of sustainable biofuel or blends; or there is not enough demand; or
- there are, or may be, adverse impacts on Queensland's economy from requiring compliance with the mandate from all or a class of fuel sellers.

Amendment 12 – Clause 6 (Replacement of pt 5A (Ethanol substitution))

Amendment 12 amends clause 6 in new section 35J to renumber subsection (5) as subsection (6) as a consequence of inserting new subsection (5) under amendment number 11.

Amendment 13 – Clause 9 (Insertion of new pt 8)

Amendment 13 amends clause 9 in new section 60 to correctly reference the offence of providing false or misleading information in section 35Q of the Bill, to the information provided in the initial report on fuel sales required under section 60.