



Queensland

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



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2015

A Bill

for

An Act to amend the *Liquid Fuel Supply Act 1984* to introduce a mandate for biofuels including ethanol and biodiesel, and for other particular purposes

The Parliament of Queensland enacts—	1	
Clause 1	Short title	2
	This Act may be cited as the <i>Liquid Fuel Supply (Ethanol and Other Biofuels Mandate) Amendment Act 2015</i> .	3 4
Clause 2	Commencement	5
	This Act commences on a day to be fixed by proclamation.	6
Clause 3	Act amended	7
	This Act amends the <i>Liquid Fuel Supply Act 1984</i> .	8
Clause 4	Amendment of s 5 (Interpretation)	9
	(1) Section 5, heading—	10
	<i>omit, insert—</i>	11
	5 Definitions	12
	(2) Section 5—	13
	<i>insert—</i>	14
	<i>approved form</i> means a form approved under section 56A.	15 16
	<i>biobased diesel</i> means—	17
	(a) biodiesel; or	18
	(b) other fuel for diesel engines produced from—	19 20
	(i) plant oils or animal oils; or	21
	(ii) biomass; or	22
	(iii) waste.	23

<i>biobased petrol</i> means—	1
(a) ethanol; or	2
(b) other fuel for petrol engines produced from—	3 4
(i) plant oils or animal oils; or	5
(ii) biomass; or	6
(iii) waste.	7
<i>biodiesel</i> has the meaning given under the <i>Fuel Quality Standards Act 2000</i> (Cwlth).	8 9
<i>calendar quarter</i> means a period of 3 calendar months starting on 1 January, 1 April, 1 July or 1 October of a year.	10 11 12
<i>diesel</i> means fuel for diesel engines produced from petroleum.	13 14
<i>diesel-biobased diesel blend</i> means a blend of diesel and biobased diesel.	15 16
<i>fuel facility</i> means a place from which a fuel seller supplies petrol or diesel sold by the fuel seller.	17 18 19
<i>Example for a fuel retailer—</i>	20
a service station	21
<i>Examples for a fuel wholesaler—</i>	22
a depot, refinery or terminal	23
<i>fuel retailer</i> means a person who sells petrol or diesel to the public other than for resale by members of the public.	24 25 26
<i>fuel seller</i> means a fuel retailer or fuel wholesaler.	27 28
<i>fuel wholesaler</i> means a person who sells petrol or diesel to fuel retailers for resale by the fuel retailers, whether or not the person also sells petrol or diesel to another person for the person's own use.	29 30 31 32 33

[s 4]

<i>petrol</i> does not include aviation fuel or liquid petroleum gas.	1 2
<i>petrol-biobased petrol blend</i> means a blend of petrol and biobased petrol.	3 4
<i>premium petrol</i> means petrol that complies with the fuel standard for premium unleaded petrol under the <i>Fuel Quality Standards Act 2000</i> (Cwlth).	5 6 7 8
<i>premium petrol-biobased petrol blend</i> means a blend of premium petrol and biobased petrol.	9 10
<i>registration information</i> , for a fuel seller, means—	11 12
(a) the fuel seller’s name, business address, phone number, and email address (if any); and	13 14 15
(b) the address of each of the fuel seller’s fuel facilities; and	16 17
(c) the type of fuel supplied from each of the fuel seller’s fuel facilities.	18 19
<i>regular petrol</i> means petrol that is not premium petrol.	20 21
<i>regular petrol-biobased petrol blend</i> means a blend of regular petrol and biobased petrol.	22 23
<i>service station</i> means a place where petrol or diesel is sold to the public, whether or not the place is used for another purpose, including, for example, for selling other products.	24 25 26 27
<i>stakeholder</i> means an entity with expertise or an interest in biobased diesel or biobased petrol, including, for example—	28 29 30
(a) a government agency of Queensland, another State or the Commonwealth; and	31 32
(b) an entity involved in, or representing, the biofuel industry, feedstock industry, fuel	33 34

	industry, motor vehicle industry, consumers of feedstock or motor vehicle users.	1 2
	<i>sustainable biobased diesel</i> means biobased diesel that complies with the sustainability criteria for biobased diesel prescribed by regulation.	3 4 5 6
	<i>sustainable biobased petrol</i> means biobased petrol that complies with the sustainability criteria for biobased petrol prescribed by regulation.	7 8 9 10
	<i>sustainable biofuel</i> means—	11
	(a) sustainable biobased diesel; or	12
	(b) sustainable biobased petrol.	13
	<i>sustainable biofuel blend</i> means—	14
	(a) a diesel-biobased diesel blend containing sustainable biobased diesel; or	15 16
	(b) a petrol-biobased petrol blend containing sustainable biobased petrol.	17 18
	<i>sustainable biofuel requirement</i> means a requirement under section 35B or 35C.	19 20
(3)	Section 5, ‘In this Act—’—	21
	<i>omit, insert—</i>	22
	The dictionary in schedule 1 defines particular words used in this Act.	23 24
(4)	Section 5, all definitions—	25
	<i>relocate</i> to schedule 1, as inserted by this Act.	26
Clause 5	Amendment of s 26 (Application for permit)	27
	Section 26(1), ‘prescribed’—	28
	<i>omit, insert—</i>	29
	approved	30

[s 6]

Clause 6	Replacement of pt 5A (Ethanol substitution)	1
	Part 5A—	2
	<i>omit, insert—</i>	3
	Part 5A	
	Sustainable biofuel in petrol or diesel	4
		5
	Division 1	
	Sale of sustainable biofuel	6
	Subdivision 1	
	Application of div 1	7
	35A Application of div 1	8
	(1) This division applies to the sale of petrol or a petrol-biobased petrol blend (<i>petrol fuel</i>), and the sale of diesel or a diesel-biobased diesel blend (<i>diesel fuel</i>), by a fuel seller—	9 10 11 12
	(a) to a person in Queensland; or	13
	(b) for delivery in Queensland, whether or not the sale is made in Queensland.	14 15
	(2) However, this division does not apply to the sale of—	16 17
	(a) petrol fuel or diesel fuel by a fuel wholesaler to another fuel wholesaler; or	18 19
	(b) diesel fuel by a fuel retailer.	20
	(3) Also, this division applies to the sale of petrol fuel by a fuel retailer only if the fuel retailer—	21 22
	(a) owns or operates 10 or more service stations; or	23 24
	(b) sells more than the threshold amount of petrol fuel in a calendar quarter at any 1 of the service stations that the fuel retailer owns or operates.	25 26 27 28

-
- (4) For subsection (1)(b), a sale of petrol fuel or diesel fuel is for delivery in Queensland if the terms of the sale—
- (a) require a party to the sale to deliver, or arrange delivery of, the petrol fuel or diesel fuel into or within Queensland; or
 - (b) provide for delivery of the petrol fuel or diesel fuel into or within Queensland.
- (5) In this section—
- threshold amount* means—
- (a) the amount prescribed by regulation; or
 - (b) if an amount is not prescribed—250,000L.

Subdivision 2 Sustainable biofuel requirements for fuel sellers

35B Sustainable biobased petrol requirement

- (1) This section applies to the sale of sustainable biobased petrol in—
- (a) a regular petrol-biobased petrol blend; or
 - (b) a premium petrol-biobased petrol blend.
- (2) A fuel seller must sell at least the minimum amount of sustainable biobased petrol in each calendar quarter.
- Maximum penalty—
- (a) for a first offence—200 penalty units; or
 - (b) for a second or later offence—2000 penalty units.
- (3) In this section—
- minimum amount* means—

[s 6]

- (a) if the fuel seller is a fuel wholesaler—the volume of regular petrol and regular petrol-biobased petrol blend that the fuel seller sells in the calendar quarter, multiplied by the wholesale percentage; or
- (b) if this section applies to the fuel seller under section 35A(3)(b)—the volume of regular petrol and regular petrol-biobased petrol blend that the fuel seller sells in the calendar quarter at the service stations for which section 35A(3)(b) is satisfied, multiplied by the retail percentage; or
- (c) otherwise—the volume of regular petrol and regular petrol-biobased petrol blend that the fuel seller sells in the calendar quarter, multiplied by the retail percentage.
- retail percentage* means—
- (a) the percentage prescribed by regulation for this definition; or
- (b) if a percentage is not prescribed—2%.
- wholesale percentage* means the percentage prescribed by regulation for this definition.

35C Sustainable biobased diesel requirement

- (1) This section applies to the sale of sustainable biobased diesel in a diesel-biobased diesel blend.
- (2) A fuel seller must sell at least the minimum amount of sustainable biobased diesel in each calendar quarter.
- Maximum penalty—
- (a) for a first offence—200 penalty units; or
- (b) for a second or later offence—2000 penalty units.
- (3) In this section—

-
- minimum amount* means the volume of diesel and diesel-biobased diesel blend that the fuel seller sells in the calendar quarter, multiplied by—
- (a) the percentage prescribed by regulation; or
 - (b) if a percentage is not prescribed—0.5%.

35D Defence for sustainable biofuel requirement

- (1) In a proceeding for an offence against section 35B or 35C, it is a defence for the person charged with the offence to prove that the person took all reasonable steps to prevent the offence.
- (2) When deciding whether the person took all reasonable steps to prevent the offence, the court may consider the following—
 - (a) efforts the person made to secure enough supply of a sustainable biofuel blend;
 - (b) efforts the person made to promote the sale of a sustainable biofuel blend;
 - (c) any upgrade of infrastructure the person arranged to enable enough sales of a sustainable biofuel blend;
 - (d) facilities the person made available for the sale of a sustainable biofuel blend.

Subdivision 3 Returns and record keeping

35E Quarterly returns

- (1) A fuel seller must give a return, in the approved form, to the chief executive within 1 month after the end of each calendar quarter, unless the fuel seller has a reasonable excuse.

[s 6]

Maximum penalty—100 penalty units.	1
(2) The return must state the volume of the following that the fuel seller sold in the calendar quarter—	2
(a) petrol and petrol-biobased petrol blend;	3
(b) regular petrol;	4
(c) regular petrol-biobased petrol blend;	5
(d) premium petrol-biobased petrol blend;	6
(e) sustainable biobased petrol sold in petrol-biobased petrol blend;	7
(f) for a fuel wholesaler—	8
(i) diesel and diesel-biobased diesel blend; and	9
(ii) diesel-biobased diesel blend; and	10
(iii) sustainable biobased diesel sold in diesel-biobased diesel blend.	11
35F Record keeping	12
(1) This section applies to a sale of petrol, a petrol-biobased petrol blend, diesel or a diesel-biobased diesel blend.	13
(2) A fuel seller must keep a record of each sale for at least 2 years after the end of the calendar quarter in which the sale happened, unless the fuel seller has a reasonable excuse.	14
<i>Examples of a record—</i>	15
an invoice or receipt	16
Maximum penalty—100 penalty units.	17

Subdivision 4 Exemption from sustainable biofuel requirement

- 35G Granting exemption**
- (1) The Minister may, on application by a fuel seller in the approved form, exempt the fuel seller from complying with a sustainable biofuel requirement for a stated period if the Minister is satisfied—
- (a) the fuel seller can not get enough sustainable biofuel or sustainable biofuel blend to comply with the requirement because of a shortage in the supply of the biofuel or blend; or
 - (b) complying with the requirement would threaten the viability of the fuel seller's business; or
 - (c) there are other extraordinary circumstances justifying the grant of the exemption.
- (2) The Minister may do the following before granting the exemption—
- (a) consult with stakeholders;
 - (b) arrange for the fuel seller's business to be audited;
 - (c) ask the fuel seller to give further information relevant to the application.
- (3) If the fuel seller does not comply with subsection (2)(c) within 14 days after being asked for the further information, the application is taken to have been withdrawn.
- (4) The Minister may grant an exemption on stated conditions.
- (5) Without limiting subsection (4), a condition may require the fuel seller to sell a stated amount of

[s 6]

sustainable biofuel, in a calendar quarter, that is 1
less than the amount required under the 2
sustainable biofuel requirement. 3

35H Complying with conditions of exemption 4

A person who is granted an exemption must comply 5
with the conditions of the exemption. 6

Maximum penalty—200 penalty units. 7

35I Cancelling exemption 8

(1) The Minister may, by written notice to a fuel 9
seller, cancel an exemption if the Minister is 10
satisfied— 11

(a) the reasons for the grant of the exemption no 12
longer apply; or 13

(b) the fuel seller has contravened a condition of 14
the exemption. 15

(2) However, the Minister must do the following 16
before giving the notice— 17

(a) give the fuel seller an opportunity to make 18
written submissions about the proposed 19
cancellation; 20

(b) consider any written submissions the fuel 21
seller makes. 22

(3) Also, the Minister may do the following before 23
cancelling the exemption— 24

(a) consult with stakeholders; 25

(b) arrange for the fuel seller's business to be 26
audited. 27

(4) The Minister must ensure that the cancellation of 28
an exemption takes effect from the end of a 29
calendar quarter. 30

Subdivision 5 Suspension of sustainable biofuel requirement 1
2

35J Suspending sustainable biofuel requirement 3

- (1) This section applies if the Minister is satisfied— 4
- (a) all fuel sellers, or a class of fuel sellers, can not comply with a sustainable biofuel requirement because there is— 5
6
7
- (i) an industry-wide shortage in the supply of sustainable biofuel or a sustainable biofuel blend; or 8
9
10
- (ii) not enough demand for sustainable biofuel or a sustainable biofuel blend; or 11
12
13
- (b) a supply of sustainable biofuel or a sustainable biofuel blend poses a risk to public health or safety; or 14
15
16
- (c) that requiring all fuel sellers, or a class of fuel sellers, to comply with a sustainable biofuel requirement is having, or may have, an adverse impact on Queensland's economy; or 17
18
19
20
21
- (d) there are other extraordinary circumstances that justify suspending the operation of section 35B or 35C. 22
23
24
- Example of extraordinary circumstances for paragraph (d)—* 25
- all fuel sellers, or a class of fuel sellers, can not get a supply of a sustainable biofuel blend because of road closures resulting from a natural disaster 26
27
28
- (2) The Minister may, by declaration, suspend the operation of section 35B or 35C for all fuel sellers, or a stated class of fuel sellers, for a stated period of not more than 1 year. 29
30
31
32
- (3) The Minister may consult with stakeholders before making the declaration. 33
34

[s 6]

(4)	The Minister may, in the same declaration, also suspend the operation of all or stated provisions of this part, other than this subdivision.	1 2 3
(5)	A declaration under this section is subordinate legislation.	4 5
35K Cancelling suspension		6
(1)	The Minister may, by declaration, cancel a suspension if the Minister is satisfied the suspension is no longer necessary.	7 8 9
(2)	The Minister may consult with stakeholders before cancelling a suspension.	10 11
(3)	A declaration under this section is subordinate legislation.	12 13
Division 2 Register of fuel sellers		14
35L Establishing register		15
(1)	The chief executive must establish a register of fuel sellers.	16 17
(2)	The chief executive may keep the register in the form the chief executive considers appropriate, including, for example, in electronic form.	18 19 20
(3)	The chief executive must record the following information in the register—	21 22
(a)	a fuel seller’s registration information;	23
(b)	changes to a fuel seller’s registration information;	24 25
(c)	other information that a fuel seller is required to give to the chief executive under this division.	26 27 28

-
- 35M Giving registration information** 1
- A fuel seller must give the fuel seller’s registration 2
information, in the approved form, to the chief 3
executive within 1 month after becoming a fuel seller, 4
unless the fuel seller has a reasonable excuse. 5
- Maximum penalty—100 penalty units. 6
- 35N Notifying changes** 7
- (1) A fuel seller must notify the chief executive of 8
any change to the fuel seller’s registration 9
information within 1 month after the change 10
happens, unless the fuel seller has a reasonable 11
excuse. 12
- Maximum penalty—100 penalty units. 13
- (2) If a person stops being a fuel seller, the person 14
must notify the chief executive of that fact within 15
1 month after the person stops being a fuel seller, 16
unless the fuel seller has a reasonable excuse. 17
- Maximum penalty—100 penalty units. 18
- 35O Obtaining complete and clear information** 19
- (1) This section applies if— 20
- (a) a fuel seller gives registration information or 21
other information to the chief executive 22
under this division; and 23
- (b) the chief executive considers the 24
information is not complete or clear. 25
- (2) The chief executive may, by written notice, 26
require the fuel seller to give stated information 27
to the chief executive within a stated reasonable 28
period of not less than 14 days. 29
- (3) The fuel seller must comply with the notice 30
unless the fuel seller has a reasonable excuse. 31
- Maximum penalty—100 penalty units. 32
-

Division 3	Other provisions	1
35P Reporting fuel sold		2
(1)	A fuel seller must give a report, in the approved form, to the chief executive before 31 July each year, unless the fuel seller has a reasonable excuse.	3 4 5 6
	Maximum penalty—100 penalty units.	7
(2)	The report must state the volume of petrol, petrol-biobased petrol blend, diesel, and diesel-biobased diesel blend, that the fuel seller supplied from each of the fuel seller’s fuel facilities—	8 9 10 11 12
	(a) in the last financial year; and	13
	(b) in each calendar quarter of the last financial year.	14 15
(3)	This section does not apply to a fuel seller if the fuel seller gives the information mentioned in subsection (2) to the chief executive in or with returns given under section 35E.	16 17 18 19
35Q False or misleading information		20
(1)	A person must not give the chief executive information under this part the person knows is false or misleading in a material particular.	21 22 23
	Maximum penalty—100 penalty units.	24
(2)	Subsection (1) does not apply to information in a document if the person, when giving the information—	25 26 27
	(a) tells the chief executive, to the best of the person’s ability, how the document is false or misleading; and	28 29 30

-
- (b) if the person has, or can reasonably obtain, the correct information—gives the correct information to the chief executive. 1
2
3
 - (3) Section 47 does not apply to a document containing information to which subsection (1) applies. 4
5
6

35R Publishing information 7

The chief executive may publish, on the department's website, the following information about sustainable biofuel sold in a calendar quarter— 8
9
10

- (a) the amount of sustainable biofuel sold by all fuel sellers; 11
12
- (b) the amount of sustainable biobased petrol, stated as a percentage of the combined volume of regular petrol and regular petrol-biobased petrol blend, sold by— 13
14
15
16
 - (i) all fuel sellers; or 17
 - (ii) stated fuel sellers; 18
- (c) the amount of sustainable biobased diesel, stated as a percentage of the combined volume of diesel and diesel-biobased diesel blend, sold by— 19
20
21
22
 - (i) all fuel sellers; or 23
 - (ii) stated fuel sellers. 24

35S Compensation 25

- (1) Section 50 does not apply to a fuel seller complying with, or giving effect to— 26
27
 - (a) a provision of this part; or 28
 - (b) a direction, prohibition or requisition directed to the fuel seller for this part. 29
30

[s 7]

	(2) Subsection (1)(b) applies only if the person giving or making the direction, prohibition or requisition acted in good faith and without negligence.	1 2 3 4
Clause 7	Amendment of s 52 (Exemption from Act)	5
	Section 52—	6
	<i>insert—</i>	7
	(6) An exemption under subsection (1) must not be granted for a provision of part 5A.	8 9
Clause 8	Insertion of new s 56A	10
	After section 56—	11
	<i>insert—</i>	12
	56A Approved forms	13
	The chief executive may approve forms for use under this Act.	14 15
Clause 9	Insertion of new pt 8	16
	After section 57—	17
	<i>insert—</i>	18
	Part 8	Transitional provisions
		for Liquid Fuel Supply
		(Ethanol and Other
		Biofuels Mandate)
		Amendment Act 2015
		19 20 21 22 23
	58 Application of particular provisions to sale of petrol or petrol-biobased petrol blend by fuel wholesalers	24 25 26
	(1) This section applies until the start of—	27

-
- (a) the day on which a percentage is prescribed 1
for section 35B(3), definition *wholesale* 2
percentage; or 3
- (b) if the day mentioned in paragraph (a) is not 4
the first day of a calendar quarter—the first 5
day of the next calendar quarter. 6
- (2) Sections 35B, 35E and 35F do not apply to the 7
sale of petrol or petrol-biobased petrol blend by a 8
fuel wholesaler. 9

59 Giving registration information 10

- (1) This section applies to a person who is a fuel 11
seller on the day (the *commencement day*) this 12
section commences. 13
- (2) The fuel seller must give the fuel seller's 14
registration information, in the approved form, to 15
the chief executive within 1 month after the 16
commencement day, unless the fuel seller has a 17
reasonable excuse. 18
- Maximum penalty—100 penalty units. 19

60 Giving initial report 20

- (1) A fuel seller must give a report, in the approved 21
form, to the chief executive within 1 month after 22
the day (the *commencement day*) this section 23
commences, unless the fuel seller has a 24
reasonable excuse. 25
- Maximum penalty—100 penalty units. 26
- (2) The report must state the volume of petrol, 27
petrol-biobased petrol blend, diesel, and 28
diesel-biobased diesel blend, that the fuel seller 29
supplied from each of the fuel seller's fuel 30
facilities in the calendar quarter just before the 31
commencement day. 32
- (3) Section 35R applies to information in the report. 33

[s 10]

61 Reporting fuel sold

- (1) This section applies if section 35P commences on a day (the *commencement day*) that is not 1 July. 1
2
3
- (2) Section 35P applies to a fuel seller as if— 4
- (a) the period that starts on the commencement day and ends on the next 30 June were a financial year; and 5
6
7
- (b) if the commencement day is not the first day of a calendar quarter—the period that starts on the commencement day and ends at the end of the quarter were a calendar quarter. 8
9
10
11

Clause 10 Insertion of new sch 1

After part 8, as inserted by this Act— 12
13

insert— 14

Schedule 1 Dictionary 15

section 5 16

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