An Act To Facilitate the State's Existing Commitment to the Production of Liquid Biofuels

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 10 MRSA §997-A, as amended by PL 2007, c. 395, §§5 and 6, is repealed.

Sec. 2. 10 MRSA §1023-K, as amended by PL 2003, c. 537, §§25 and 26 and affected by §53, is further amended to read:

§ 1023-K.Clean Fuel Vehicle Fund

1. Established. The Clean Fuel Vehicle Fund, referred to in this section as the "fund," is established under the jurisdiction of the authority with oversight from the Governor's Office of Energy Independence and Security within the Executive Department to support production, distribution and consumption of clean fuels and biofuels.

1-A. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Clean fuel" means all products or energy sources used to propel motor vehicles, as defined in Title 29-A, section 101, other than conventional gasoline, diesel or reformulated gasoline, that, when compared to conventional gasoline, diesel or reformulated gasoline, result in lower emissions of oxides of nitrogen, volatile organic compounds, carbon monoxide or particulates or any combination of these. "Clean fuel" includes, but is not limited to, compressed natural gas; liquefied natural gas; liquefied petroleum gas; hydrogen; hythane, which is a combination of compressed natural gas and hydrogen; dynamic flywheels; solar energy; alcohol fuels containing not less than 85% alcohol by volume; and electricity.

B. "Biofuel" means any liquid or gas used to propel motor vehicles, as defined in Title 29-A, section 101, if the liquid or gas is produced by a pulp and paper facility in existence on October 1, 2009.

2. Sources of money. The following money must be paid into the fund:

A. All money appropriated for inclusion in the fund;

B. Subject to any pledge, contract or other obligation, all interest, dividends or other pecuniary gains from investment of money from the fund;

C. Subject to any pledge, contract or other obligation, any money that the authority receives in repayment of advances from the fund;

D. Any sums designated for deposit into the fund from any source, public or private, including, but not limited to, grants, air pollution penalties ~~and~~, bond issues and voluntary contributions through income tax forms or vehicle registration; and

E. Any other money available to the authority and directed by the authority to be paid into the fund.

3. Application of fund. ~~The fund may be applied to carry out any power of the authority under or in connection with section 1026-A, subsection 1, paragraph A, subparagraph (1), division (c), including, but not limited to, the pledge or transfer and deposit of money in the fund as security for and the application of the fund to pay principal, interest and other amounts due on insured loans. The fund may be used for direct loans to finance all or part of any clean fuel vehicle project when the authority determines that:~~

~~A. The applicant demonstrates a reasonable likelihood that the applicant will be able to repay the loan;~~

~~B. The applicant demonstrates a reasonable likelihood that the applicant will not be able to obtain the funds necessary to undertake all or any part of the project from any other source, including a loan insured under section 1026-A, subsection 1, paragraph A, subparagraph (1), division (c);~~

~~C. The project is technologically feasible; and~~

~~D. The project will contribute to a reduction of or more efficient use of fossil fuels.~~

~~The authority shall adopt rules for determining eligibility, project feasibility, terms, conditions and security for loans under this section. Rules adopted pursuant to this section are routine technical rules under Title 5, chapter 375, subchapter 2-A. Money in the fund not currently needed to meet the obligations of the authority as provided in this section may be invested in such a manner as permitted by law.~~

3-B. Application of fund. The fund may be used in accordance with this subsection.

A. The fund may be applied to carry out any power of the authority under or in connection with section 1026-A, subsection 1, paragraph A, subparagraph (1), division (c), including, but not limited to, the pledge or transfer and deposit of money in the fund as security for and the application of the fund to pay principal, interest and other amounts due on insured loans.

B. The fund may be used for direct loans to finance all or part of any clean fuel or biofuel vehicle project when the authority determines that:

(1) The applicant demonstrates a reasonable likelihood that the applicant will be able to repay the loan;

(2) The project is technologically feasible; and

(3) The project will contribute to a reduction of or more efficient use of fossil fuels.

C. The fund may be used for grants to support biofuel and clean fuel production, distribution and consumption. The authority, in consultation with the Governor's Office of Energy Independence and Security within the Executive Department, shall establish a formula and method for the awarding of grants under this paragraph.

The authority, in consultation with the Governor's Office of Energy Independence and Security within the Executive Department, shall adopt rules for determining eligibility, project feasibility, terms, conditions and security for loans under this section. Rules adopted pursuant to this subsection are routine technical rules under Title 5, chapter 375, subchapter 2-A.

4. Accounts within fund. The authority may divide the fund into separate accounts as it determines necessary or convenient for carrying out this section, including, but not limited to, accounts reserved for direct loan funds, accounts reserved for grants and accounts segmented to support production, distribution and supply of clean fuels and biofuels.

5. Revolving fund. The fund is a nonlapsing, revolving fund. The fund must be continuously applied by the authority to carry out this section and section 1026-A, subsection 1, paragraph A, subparagraph (1), division (c).

Sec. 3. 10 MRSA §1026-A, sub-§1, ¶A, as amended by PL 2003, c. 537, §30 and affected by §53, is further amended to read:

A. Loan insurance may not exceed:

(1) One hundred percent of the principal amount of the loan made to any borrower including related entities for any of the following types of loans or projects:

(a) Loans to veterans and wartime veterans, except that the authority may not at any time have, in the aggregate amount of the principal and interest outstanding, loan insurance obligations pursuant to this division exceeding $5,000,000;

(b) Underground and aboveground oil storage facility projects and projects to install equipment related to the improvement of air quality pursuant to requirements for gasoline service station vapor control and petroleum liquids transfer vapor recovery, except that the authority may not at any time have, in the aggregate amount of the principal and interest outstanding, loan insurance obligations pursuant to this division exceeding $5,000,000;

(c) Clean fuel vehicle projects and biofuel vehicle projects, except that the authority may not at any time have, in the aggregate amount of the principal and interest outstanding, loan insurance obligations pursuant to this division exceeding $5,000,000;

(d) Waste oil disposal site clean-up projects, except that the authority may not at any time have, in the aggregate amount of the principal and interest outstanding, loan insurance obligations pursuant to this division exceeding $1,000,000; or

(e) The Plymouth waste oil remedial study, except that the authority may not at any time have, in the aggregate amount of the principal and interest outstanding, loan insurance obligations pursuant to this division exceeding $1,000,000; and

(2) Ninety percent of the principal amount of the loan made to any borrower, including related entities for any other manufacturing enterprise, industrial enterprise, recreational enterprise, fishing enterprise, agricultural enterprise, natural resource enterprise or any other eligible business enterprise;

Sec. 4. 10 MRSA §1454, sub-§1-A is enacted to read:

1-A. Dealer's right to deal with alternative motor fuel suppliers other than the franchisor. A retail dealer's right to deal with suppliers of alternative motor fuel other than the distributor pursuant to a franchise agreement is governed by this subsection.

A. For purposes of this subsection, "alternative motor fuel" means a blend of 85% ethanol and 15% gasoline; a blend of at least 2% methyl ester, commonly referred to as biodiesel, and diesel motor fuel; motor fuel composed primarily of methane, stored in either a gaseous or liquid state and suitable for use and consumption in the engine of a motor vehicle; or hydrogen.

B. A franchise agreement may not:

(1) Prohibit a retail dealer from purchasing or selling alternative motor fuel from a person or firm other than the distributor;

(2) Limit the quantity of alternative motor fuel to be purchased from a person or firm other than the distributor; or

(3) Directly or indirectly discourage a retail dealer from purchasing or selling alternative motor fuel from a person or firm other than the distributor.

C. A provision of a franchise agreement that violates this subsection is void as it pertains to a particular alternative motor fuel if the distributor does not supply or offer to supply to the retail dealer that alternative motor fuel. Nothing in this paragraph grants to a retail dealer any rights, authority or obligation with respect to the permissible uses of the premises or facilities owned, leased or controlled by a distributor pursuant to the terms of the franchise agreement.

D. A distributor, or an officer, agent or employee of a distributor, who threatens, harasses, coerces or attempts to coerce a retail dealer for the purpose of compelling that dealer to refrain from purchasing or selling alternative motor fuel from a person or firm other than the distributor commits a civil violation for which a fine of not more than $1,000 may be adjudged.

Sec. 5. 29-A MRSA §527 is enacted to read:

§ 527. Clean Fuel Vehicle Fund voluntary contribution

In addition to the regular motor vehicle registration fee prescribed by law for the particular class of vehicle registered, a person may contribute to the Clean Fuel Vehicle Fund established in Title 10, section 1023-K. The Secretary of State shall determine annually the total amount contributed pursuant to this section. Prior to the beginning of the next year, the Secretary of State shall report the amount contributed pursuant to this section to the Treasurer of State, who shall forward that amount to the Clean Fuel Vehicle Fund.

Sec. 6. 36 MRSA §5291 is enacted to read:

§ 5291. Clean Fuel Vehicle Fund voluntary checkoff

1. Clean Fuel Vehicle Fund. When filing a return, a taxpayer entitled to a refund under this Part may designate that a portion of that refund be paid into the Clean Fuel Vehicle Fund established in Title 10, section 1023-K. A taxpayer who is not entitled to a refund under this Part may contribute to the Clean Fuel Vehicle Fund by including with that taxpayer's return sufficient funds to make the contribution. The contribution may not be less than $1. Each individual income tax return form must contain a designation in substantially the following form: "Clean Fuel Vehicle Fund: ( ) $1, ( ) $5, ( ) $10, ( ) $25 or ( ) Other $... ."

2. Contributions credited to Clean Fuel Vehicle Fund. The State Tax Assessor shall determine annually the total amount contributed pursuant to subsection 1. Prior to the beginning of the next year, the State Tax Assessor shall deduct the cost, up to $2,000 annually, of administering the Clean Fuel Vehicle Fund checkoff and report the remainder to the Treasurer of State, who shall forward that amount to the Clean Fuel Vehicle Fund.

Sec. 7. Biofuels sustainability study.

1. Study. The Governor's Office of Energy Independence and Security within the Executive Department, in consultation with the Executive Department, State Planning Office, the Department of Environmental Protection and the Department of Conservation, shall study and make recommendations regarding policies to encourage the sustainability of biofuels.

2. Report. The Governor's Office of Energy Independence and Security within the Executive Department shall submit a report with its findings and policy recommendations to the Legislature no later than January 15, 2010. The report must address, but is not limited to:

A. The benefits and detriments of restricting state support to sustainability-certified biofuels;

B. A review of biofuels sustainability programs and related policies in the European Union and other states and other countries, including, but not limited to, California's low-carbon fuel standard;

C. A review of research related to sustainability certification of biofuels and their feedstocks, including, but not limited to, forest feedstocks; and

D. Policy options for sustainability measures for biofuels based on, but not limited to, land use practices, particularly sustainable forestry, and life cycle greenhouse gas emissions.

SUMMARY

This bill eliminates the Agriculturally Derived Fuel Fund and amends the Clean Fuel Vehicle Fund to include biofuel projects. The bill also prohibits franchise agreements that infringe on a retail dealer's ability to deal with suppliers of alternative motor fuel other than the franchisor. The bill also directs the Governor's Office of Energy Independence and Security within the Executive Department, in consultation with the Executive Department, State Planning Office, the Department of Environmental Protection and the Department of Conservation, to study and make recommendations to the Legislature regarding policies to encourage the sustainability of biofuels.