

## BILL ANALYSIS

Senate Research Center  
80R8599 SGA-F

S.B. 1337  
By: Estes  
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As Filed

### AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, it is questioned whether biodiesel negatively affects nitrous oxide emissions in Texas nonattainment areas. The Environmental Protection Agency (EPA) has not indicated whether nitrous oxide increases or decreases by the use of biodiesel. As a result, the Texas Commission on Environmental Quality's (TCEQ) policies reflect that nitrous oxide negatively affects nonattainment areas to meet state implementation plan requirements. This bill allows TCEQ to authorize the use on biodiesel until the EPA presents a clear policy of the effects of biodiesel.

As proposed, S.B. 1337 prohibits TCEQ from pursuing rules through the Texas Low Emission Diesel program (TexLED) that are more stringent than EPA standards.

### RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 16.002, Agriculture Code, as follows:

Sec. 16.002. PLANT REGISTRATION. (a) Requires a producer to apply to the Texas Department of Agriculture (TDA), rather than the Texas Economic Development and Tourism Office (office) for registration of a plant that produces fuel ethanol or biodiesel to be eligible for a grant.

(b) Makes a conforming change.

(c) Requires TDA, rather than the office after consultation with TDA, to register each plant that qualifies under this section. Deletes existing text requiring the office to notify TDA of plants registered under this section.

SECTION 2. Amends Section 16.003(a), Agriculture Code, to make a conforming change.

SECTION 3. Amends Section 16.004, Agriculture Code, as follows:

Sec. 16.004. FUEL ETHANOL AND BIODIESEL PRODUCTION ACCOUNT. (a) Makes a conforming change.

(b) Provides that the fuel ethanol and biodiesel production account is composed of money transferred to the account by an act of the legislature, rather than under Subsection (c).

(c) Deletes existing text requiring the comptroller of public accounts (comptroller) to transfer from the undedicated portion of the general revenue fund to the account an amount of money equal to 5.25 times the amount of the fees collected under Section 16.005.

SECTION 4. Amends Sections 16.005(a), (b), (c), and (d), Agriculture Code, to make conforming changes.

SECTION 5. Amends Sections 16.006(a), (d), and (e), Agriculture Code, to make conforming changes.

SECTION 6. Amends Chapter 16, Agriculture Code, by adding Section 16.007, as follows:

Sec. 16.007. REGULATION OF FUEL ETHANOL OR BIODIESEL IN A MANNER MORE STRINGENT THAN FEDERAL LAW. (a) Defines "state agency."

(b) Prohibits a state agency from adopting or implementing rules in a manner that restricts the production or distribution of fuel ethanol or biodiesel if the rules impose a restriction more stringent than federal law provides, unless the agency determines that the restriction is necessary to maintain delegated authority under a federal program, except as provided by this section.

(c) Provides that Subsection (b) does not apply after May 1, 2009, to a rule adopted by the Texas Commission on Environmental Quality (TCEQ) if TCEQ determines that, without imposing the restriction provided by the rule, emissions generated by using fuel ethanol or biodiesel will materially jeopardize compliance with the state implementation plan for attaining national ambient air quality standards.

SECTION 7. Amends Section 390.001, Health and Safety Code, by amending Subdivisions (1) and (4) and adding Subdivision (1-a), as follows:

(1) Defines "biodiesel."

(1-a) Creates this subdivision from existing text.

(4) Redefines "qualifying fuel."

SECTION 8. Repealer: Section 16.001(5) (Definition of "Office"), Section 16.003(c) (relating to a certain report sent to TDA), and Section 16.005(e) (relating to the reduction of the amount of certain grants), Agriculture Code.

SECTION 9. Makes application of Sections 1 through 6 and Section 8 of this Act contingent upon passage of House Bill No. 1, Acts of the 80th Legislature, Regular Session, 2007.

SECTION 10. Effective date: upon passage or September 1, 2007.