

SENATE BILL NO. 295—SENATOR SCHNEIDER

MARCH 15, 2007

Referred to Committee on Natural Resources

SUMMARY—Provides for the regulation of the price of gasoline and diesel fuel. (BDR 51-1170)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to fuel; providing for the regulation of the maximum pretax wholesale price of gasoline and diesel fuel; making it unlawful for a manufacturer or wholesaler to sell gasoline or diesel fuel at a price above the maximum pretax wholesale price; authorizing the Governor to suspend the maximum pretax wholesale price in certain situations; providing that the district attorney may investigate or file a criminal complaint against a manufacturer or wholesaler who sells gasoline or diesel fuel at a price above the maximum pretax wholesale price; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that the State Board of Agriculture shall adopt and enforce regulations relating to the standards for motor vehicle fuel and petroleum products and prohibits the sale, delivery or offering of any petroleum product unless it conforms to the Board's standards. Existing law also provides that the Board may request the district attorney to investigate or file a criminal complaint against any person who the Board suspects may have sold a petroleum product or motor vehicle fuel in violation of the Board's regulations. (NRS 590.070, 590.071)

Section 2 of this bill requires the Board to set the maximum pretax wholesale price for gasoline and diesel fuel on a weekly basis, based on the aggregate average of the average price of gasoline and diesel fuel in the states west of the Mississippi, including adjustments for midgrade and premium gasoline. **Section 3** of this bill makes it a gross misdemeanor for any manufacturer or wholesaler to sell gasoline



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or diesel fuel at a price above the maximum pretax wholesale price set by the Board.

Section 4 of this bill gives the Governor the authority to suspend the maximum pretax wholesale price for gasoline and diesel vehicle fuel set by the Board if the set price is having an adverse impact on the economy, public order or the health, welfare or safety of the people of this State. **Section 5** of this bill provides that such suspension must be reviewed and acted upon in the next regular or special session of the Legislature or the maximum pretax wholesale price will revert to what it was before the suspension.

Section 8 of this bill provides that the Board may request the district attorney to investigate or file a criminal complaint against a manufacturer or wholesaler who sells gasoline or diesel fuel at a price above the maximum pretax wholesale price set by the Board.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 590 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. 1. *On a weekly basis, the State Board of Agriculture shall determine the maximum pretax wholesale price of regular unleaded, midgrade and premium gasoline and diesel fuel, and shall publish the maximum pretax wholesale prices by means which must include the Internet website of the Board.*

2. *The Board shall determine the maximum pretax wholesale prices of regular unleaded, midgrade and premium gasoline and diesel fuel in the following manner:*

(a) The maximum pretax wholesale price of regular unleaded gasoline must not exceed the aggregate average price per gallon at which regular unleaded gasoline is sold, based on the weekly average of the spot daily price for regular unleaded gasoline, in each of the following states: Arizona, Arkansas, California, Colorado, Idaho, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington and Wyoming.

(b) The maximum pretax wholesale price of midgrade gasoline must be 5 cents per gallon more than the maximum pretax wholesale price of regular unleaded gasoline, unless otherwise determined by the Board.

(c) The maximum pretax wholesale price of premium gasoline must be 9 cents per gallon more than the maximum pretax wholesale price of regular unleaded gasoline, unless otherwise determined by the Board.

(d) The maximum pretax wholesale price of diesel fuel must not exceed the aggregate average price per gallon at which diesel fuel is sold, based on the weekly average of the spot daily price for



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1 diesel fuel, in each of the following states: Arizona, Arkansas,
2 California, Colorado, Idaho, Iowa, Kansas, Louisiana, Minnesota,
3 Missouri, Montana, Nebraska, New Mexico, North Dakota,
4 Oklahoma, Oregon, South Dakota, Texas, Utah, Washington and
5 Wyoming.

6 3. The Board shall adopt regulations to carry out the
7 provisions of this section.

8 Sec. 3. 1. Notwithstanding any law to the contrary, a
9 manufacturer or wholesaler may not sell gasoline or diesel fuel to
10 a dealer or to another wholesaler at a price above the maximum
11 pretax wholesale price established by regulation pursuant to
12 section 2 of this act.

13 2. A manufacturer or wholesaler who violates subsection 1 is
14 guilty of a gross misdemeanor.

15 Sec. 4. 1. Notwithstanding any other provision of law, the
16 Governor may issue an executive order suspending, in whole or in
17 part, section 2 of this act or any regulation adopted pursuant
18 thereto if the Governor determines that compliance with the law
19 would cause an adverse impact on the economy, public order or
20 the health, welfare or safety of the people of this State.

21 2. In the executive order, the Governor shall state the
22 provision of the law that he is suspending and the reasons for
23 the suspension. The executive order must be made available to the
24 public immediately after being issued, and the suspension must
25 take effect upon the issuance of the executive order.

26 Sec. 5. 1. Except as otherwise provided in subsection 2, the
27 suspension issued pursuant to section 4 of this act must remain in
28 effect until:

29 (a) If the Legislature is in session when the executive order is
30 issued, the day after adjournment sine die of that session of the
31 Legislature;

32 (b) If the Legislature is not in session when the executive order
33 is issued, the day after adjournment sine die of the next regular or
34 special session of the Legislature; or

35 (c) The effective date of any legislative enactment that
36 addresses the suspension of law issued pursuant to section 4 of
37 this act.

38 2. If the Legislature passes legislation to address the
39 suspension of law issued pursuant to section 4 of this act, and the
40 Governor vetoes the legislation, the suspension will terminate on
41 the date of the veto. The maximum pretax wholesale gasoline and
42 diesel fuel prices in effect immediately prior to the issuance of the
43 executive order must take effect on the day after the date of the
44 veto.



1 **3. If no action is taken by the Legislature during the regular**
2 **or special session which addresses the suspension of law issued**
3 **pursuant to section 4 of this act, the maximum pretax wholesale**
4 **gasoline and diesel fuel prices in effect immediately prior to the**
5 **issuance of the executive order must take effect on the day after**
6 **adjournment sine die of the regular or special session of the**
7 **Legislature.**

8 **Sec. 6.** NRS 590.020 is hereby amended to read as follows:

9 590.020 As used in NRS 590.010 to 590.330, inclusive, **and**
10 **sections 2 to 5, inclusive, of this act,** unless the context otherwise
11 requires:

12 1. "Additives" means a substance to be added to a motor oil or
13 lubricating oil to impart or improve desirable properties or to
14 suppress undesirable properties.

15 2. "Advertising medium" means any sign, printed or written
16 matter, or device for oral or visual communication.

17 3. "Alternative fuel" includes, without limitation, premium
18 diesel fuel, B-5 diesel fuel, B-10 diesel fuel, B-20 diesel fuel, B-100
19 diesel fuel, M-85, M-100, E-85, E-100, liquefied petroleum gas,
20 natural gas, reformulated gasoline, gasohol and oxygenated fuel.

21 4. "Brand name" means a name or logo that is used to identify
22 a business or company.

23 5. **"Dealer" means any person engaged in the retail sale of**
24 **motor vehicle fuel in this State.**

25 6. "Grade" means:

26 (a) "Regular," "midgrade," "plus," "super," "premium" or words
27 of similar meaning when describing a grade designation for
28 gasoline.

29 (b) "Diesel" or words of similar meaning, including, without
30 limitation, any specific type of diesel, when describing a grade
31 designation for diesel motor fuel.

32 (c) "M-85," "M-100," "E-85," "E-100" or words of similar
33 meaning when describing a grade designation for alternative fuel.

34 (d) "Propane," "liquefied petroleum gas," "compressed natural
35 gas," "liquefied natural gas" or words of similar meaning when
36 describing pressurized gases.

37 ~~16-1~~ 7. **"Manufacturer" means every producer or refiner of**
38 **motor vehicle fuel and petroleum products, or any subsidiary of**
39 **that producer or refiner.**

40 8. **"Midgrade gasoline" means gasoline having an octane**
41 **rating greater than or equal to 88 and less than or equal to 90.**

42 9. "Motor vehicle fuel" means a petroleum product or
43 alternative fuel used for internal combustion engines in motor
44 vehicles.



~~[7-]~~ 10. "Performance rating" means the system adopted by the American Petroleum Institute for the classification of uses for which an oil is designed.

~~[8-]~~ 11. "Petroleum products" means gasoline, diesel fuel, burner fuel kerosene, lubricating oil, motor oil or any product represented as motor oil or lubricating oil. The term does not include liquefied petroleum gas, natural gas or motor oil additives.

~~[9-]~~ 12. *"Premium gasoline" means gasoline having an octane rating greater than 90.*

13. "Recycled oil" means a petroleum product which is prepared from used motor oil or used lubricating oil. The term includes rerefined oil.

~~[10-]~~ 14. *"Regular unleaded gasoline" means gasoline having an octane rating greater than or equal to 85 and less than 88.*

15. "Rerefined oil" means used oil which is refined after its previous use to remove from the oil any contaminants acquired during the previous use.

~~[11-]~~ 16. *"Spot daily price" means the price established daily for gasoline and diesel fuel by an organized commodity exchange.*

~~[11-]~~ 17. "Used oil" means any oil which has been refined from crude or synthetic oil and, as a result of use, has become unsuitable for its original purpose because of a loss of its original properties or the presence of impurities, but which may be suitable for another use or economically recycled.

~~[12-]~~ 18. "Viscosity grade classification" means the measure of an oil's resistance to flow at a given temperature according to the grade classification system of the Society of Automotive Engineers or other grade classification.

19. *"Wholesaler" means a person who buys petroleum products or motor vehicle fuel from manufacturers and sells those products to a dealer or to another wholesaler but does not sell them to a consumer or the general public.*

Sec. 7. NRS 590.070 is hereby amended to read as follows:

590.070 1. The State Board of Agriculture shall adopt regulations relating to the standards for motor vehicle fuel and petroleum products used in internal combustion engines.

2. ~~[H]~~ *Except as otherwise provided in section 3 of this act, it is unlawful for any person, or any officer, agent or employee thereof, to sell, offer for sale, assist in the sale of, deliver or permit to be sold or offered for sale, any petroleum or petroleum product as, or purporting to be, motor vehicle fuel, unless it conforms with the regulations adopted by the [State] Board [of Agriculture]* pursuant to this section.

3. This section does not apply to aviation fuel.



1 4. In addition to any criminal penalty that is imposed pursuant
2 to the provisions of NRS 590.150, any person who violates any
3 provision of this section may be further punished as provided in
4 NRS 590.071.

5 **Sec. 8.** NRS 590.071 is hereby amended to read as follows:

6 590.071 1. The State Board of Agriculture shall:

7 (a) Enforce the standards relating to motor vehicle fuel and
8 petroleum products adopted pursuant to NRS 590.070.

9 (b) *Enforce the standards relating to the sale of gasoline and*
10 *diesel fuel adopted pursuant to section 2 of this act.*

11 (c) Adopt regulations specifying a schedule of fines that it may
12 impose, upon notice and hearing, for each violation of the
13 provisions of NRS 590.070 ~~H~~ *and section 3 of this act.* The
14 maximum fine that may be imposed by the Board for each violation
15 must not exceed \$5,000 per day. All fines collected by the Board
16 pursuant to the regulations adopted pursuant to this subsection must
17 be deposited with the State Treasurer for credit to the State General
18 Fund.

19 2. The ~~{State}~~ Board ~~{of Agriculture}~~ may:

20 (a) In addition to imposing a fine pursuant to subsection 1, issue
21 an order requiring a violator to take appropriate action to correct the
22 violation.

23 (b) Request the district attorney of the appropriate county to
24 investigate or file a criminal complaint against any person that the
25 Board suspects may have violated any provision of NRS 590.070 ~~H~~
26 *or section 3 of this act.*

