

SENATE BILL NO. 146—COMMITTEE ON REVENUE

(ON BEHALF OF THE LEGISLATIVE COMMISSION’S COMMITTEE
TO STUDY THE PRODUCTION AND USE OF ENERGY)

FEBRUARY 14, 2011

Referred to Committee on Revenue

SUMMARY—Makes various changes relating to biodiesel.
(BDR 32-218)

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 special fuel; revising the definition of biodiesel;
requiring under certain circumstances that all diesel fuel
sold, offered for sale or delivered in this State contain a
certain percentage of biodiesel; providing a penalty; and
providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law defines “biodiesel” for purposes of the tax on special fuel. (NRS 366.022) **Section 1** of this bill revises the definition of biodiesel to make it consistent with federal law and the laws of other states.

Existing law provides for the regulation of petroleum products in this State. (NRS 590.010-590.150) **Section 2** of this bill requires that all diesel fuel sold, offered for sale or delivered in this State must contain not less than 5 percent biodiesel by volume, but this requirement does not become effective unless certain conditions set forth in **section 9** of this bill concerning the production of biodiesel in this State are satisfied. **Section 8** of this bill amends **section 2** to increase the amount of required biodiesel to 10 percent by volume, but similarly does not become effective unless certain other conditions set forth in **section 9** are satisfied. **Section 5** of this bill requires the State Board of Agriculture to enforce the provisions of **section 2** and authorizes the Board to impose fines for violations of that section, while **sections 4 and 7** of this bill make such violations punishable as misdemeanors.



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

Section 1. NRS 366.022 is hereby amended to read as follows:
366.022 “Biodiesel” means a fuel composed of mono-alkyl
esters of long-chain fatty acids ~~for any other fuel sold or labeled as
biodiesel which is suitable for use as a fuel in a motor vehicle.]~~
*derived from vegetable oils or animal fats which conform to
ASTM D6751 specifications for use in diesel engines.*

Sec. 2. Chapter 590 of NRS is hereby amended by adding
thereto a new section to read as follows:

*1. All diesel fuel sold, offered for sale or delivered in this
State must contain not less than 5 percent biodiesel by volume.*

*2. As used in this section, “biodiesel” means a fuel composed
of mono-alkyl esters of long-chain fatty acids derived from
vegetable oils or animal fats which conform to ASTM D6751
specifications for use in diesel engines.*

Sec. 3. NRS 590.020 is hereby amended to read as follows:
590.020 As used in NRS 590.010 to 590.330, inclusive, *and
section 2 of this act*, unless the context otherwise requires:

1. “Additives” means a substance to be added to a motor oil or
lubricating oil to impart or improve desirable properties or to
suppress undesirable properties.

2. “Advertising medium” means any sign, printed or written
matter, or device for oral or visual communication.

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

4. “Brand name” means a name or logo that is used to identify
a business or company.

5. “Grade” means:

(a) “Regular,” “midgrade,” “plus,” “super,” “premium” or words
of similar meaning when describing a grade designation for
gasoline.

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

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

(d) “Propane,” “liquefied petroleum gas,” “compressed natural
gas,” “liquefied natural gas” or words of similar meaning when
describing pressurized gases.



6. "Motor vehicle fuel" means a petroleum product or alternative fuel used for internal combustion engines in motor vehicles.

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

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

10. "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. "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. "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~~ **SAE International** or other grade classification.

Sec. 4. NRS 590.070 is hereby amended to read as follows:

590.070 1. The State Board of Agriculture shall adopt by regulation specifications for motor vehicle fuel:

(a) Based upon scientific evidence which demonstrates that any motor vehicle fuel which is produced in accordance with the specifications is of sufficient quality to ensure appropriate performance when used in a motor vehicle in this State; or

(b) Proposed by an air pollution control agency to attain or maintain national ambient air quality standards in any area of this State. As used in this paragraph, "air pollution control agency" means any federal air pollution control agency or any state, regional or local agency that has the authority pursuant to chapter 445B of NRS to regulate or control air pollution or air quality in any area of this State.

2. The State Board of Agriculture shall adopt by regulation procedures for allowing variances from the specifications for motor vehicle fuel adopted pursuant to this section.

3. It is unlawful for any person, or any officer, agent or employee thereof, to sell, offer for sale, assist in the sale of, deliver



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1 or permit to be sold or offered for sale, any petroleum or petroleum
2 product as, or purporting to be, motor vehicle fuel, unless ~~it~~ :

3 (a) It conforms with the regulations adopted by the State Board
4 of Agriculture pursuant to this section ~~it~~ ; and

5 (b) *If it is any type of diesel fuel, it conforms with the*
6 *requirements set forth in section 2 of this act.*

7 4. This section does not apply to aviation fuel.

8 5. In addition to any criminal penalty that is imposed pursuant
9 to the provisions of NRS 590.150, any person who violates any
10 provision of this section may be further punished as provided in
11 NRS 590.071.

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

13 590.071 1. The State Board of Agriculture shall:

14 (a) Enforce ~~the~~ :

15 (1) *The* specifications for motor vehicle fuel adopted by
16 regulation pursuant to NRS 590.070 ~~it~~ ; and

17 (2) *The requirements set forth in section 2 of this act.*

18 (b) Adopt regulations specifying a schedule of fines that it may
19 impose, upon notice and hearing, for each violation of the
20 provisions of NRS 590.070 ~~it~~ or *section 2 of this act*. The
21 maximum fine that may be imposed by the Board for each violation
22 must not exceed \$5,000 per day. All fines collected by the Board
23 pursuant to the regulations adopted pursuant to this subsection must
24 be deposited with the State Treasurer for credit to the State General
25 Fund.

26 2. The State Board of Agriculture may:

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

30 (b) Request the district attorney of the appropriate county to
31 investigate or file a criminal complaint against any person that the
32 Board suspects may have violated any provision of NRS 590.070 ~~it~~
33 *or section 2 of this act.*

34 **Sec. 6.** NRS 590.120 is hereby amended to read as follows:

35 590.120 1. Every person, or any officer, agent or employee
36 thereof, shipping or transporting any motor vehicle fuel or
37 lubricating oil into this State for sale or consignment, or with intent
38 to sell or consign the same, shall pay to the Department of Motor
39 Vehicles an inspection fee of 0.055 of a cent per gallon for every
40 gallon of motor vehicle fuel or lubricating oil so shipped or
41 transported into the State, or that is held for sale within this State.
42 This section does not require the payment of an inspection fee on
43 any shipment or consignment of motor vehicle fuel or lubricating oil
44 when the inspection fee has been paid.



2. The inspection fees collected pursuant to the provisions of subsection 1, together with any penalties and interest collected thereon, must be transferred quarterly to the account in the State General Fund created pursuant to NRS 561.412 for the use of the State Department of Agriculture.

3. On or before the last day of each calendar month, every person, or any officer, agent or employee thereof, required to pay the inspection fee described in subsection 1 shall send to the Department of Motor Vehicles a correct report of the motor vehicle fuel or oil volumes for the preceding month. The report must include a list of distributors or retailers distributing or selling the products and must be accompanied by the required fees.

4. Failure to send the report and remittance as specified in subsections 1 and 3 is a violation of NRS 590.010 to 590.150, inclusive, *and section 2 of this act*, and is punishable as provided in NRS 590.150.

5. The provisions of this section must be carried out in the manner prescribed in chapters 360A and 365 of NRS.

6. All expenses incurred by the Department of Motor Vehicles in carrying out the provisions of this section are a charge against the account created pursuant to NRS 561.412.

7. For the purposes of this section, "motor vehicle fuel" does not include diesel fuel, burner fuel or kerosene.

Sec. 7. NRS 590.150 is hereby amended to read as follows:

590.150 1. Any person, or any officer, agent or employee thereof, who violates any of the provisions of NRS 590.010 to 590.140, inclusive, *and section 2 of this act* is guilty of a misdemeanor.

2. Each such person, or any officer, agent or employee thereof, is guilty of a separate offense for each day during any portion of which any violation of any provision of NRS 590.010 to 590.140, inclusive, *and section 2 of this act* is committed, continued or permitted by such person, or any officer, agent or employee thereof, and shall be punished as provided in this section.

3. The selling and delivery of any petroleum product or motor vehicle fuel mentioned in NRS 590.010 to 590.140, inclusive, *and section 2 of this act* is prima facie evidence of the representation on the part of the vendor that the quality sold and delivered was the quality bought by the vendee.

Sec. 8. Section 2 of this act is hereby amended to read as follows:

Sec. 2. 1. All diesel fuel sold, offered for sale or delivered in this State must contain not less than ~~5~~ 10 percent biodiesel by volume.



2. As used in this section, "biodiesel" means a fuel composed of mono-alkyl esters of long-chain fatty acids derived from vegetable oils or animal fats which conform to ASTM D6751 specifications for use in diesel engines.

Sec. 9. 1. This section and section 1 of this act become effective on October 1, 2011.

2. Sections 2 to 7, inclusive, of this act become effective 1 year after the date on which the Governor declares by public proclamation that the production of biodiesel in Nevada:

(a) Has reached a volume of 30 million gallons; and

(b) Has equaled or exceeded a rate of 2.5 million gallons per month for 3 consecutive months.

3. Section 8 of this act becomes effective 1 year after the date on which the Governor declares by public proclamation that:

(a) The production of biodiesel in Nevada has reached a volume of 60 million gallons;

(b) The production of biodiesel in Nevada has equaled or exceeded a rate of 5 million gallons per month for 3 consecutive months; and

(c) Each of the three largest manufacturers of diesel-powered motor vehicles doing business in Nevada, as determined based on the total sales of such motor vehicles in Nevada during the immediately preceding calendar year, has certified in writing that the use of biodiesel blends of 10 percent or more in the engines of the diesel-powered motor vehicles produced by the manufacturer will not adversely affect the warranty provided by the manufacturer with respect to those motor vehicles.

