

Amendment No. 823

Assembly Amendment to Senate Bill No. 399 First Reprint (BDR 51-1052)

Proposed by: Assembly Committee on Natural Resources, Agriculture, and Mining**Amendment Box:** Replaces Amendment No. 742.**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date
Adopted	☐	Lost	☐ _____	Adopted	☐	Lost	☐ _____
Concurred In	☐	Not	☐ _____	Concurred In	☐	Not	☐ _____
Receded	☐	Not	☐ _____	Receded	☐	Not	☐ _____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

SJA/HAC



Date: 5/22/2013

S.B. No. 399—Revises provisions relating to special fuels. (BDR 51-1052)



SENATE BILL NO. 399—SENATOR KIHUEN

MARCH 18, 2013

Referred to Committee on Natural Resources

SUMMARY—Revises provisions relating to special fuels. (BDR 51-1052)

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 fuels; prohibiting certain conduct related to the sale of biodiesel, ***biomass-based diesel or biomass-based diesel blend*** that does not conform to certain specifications; amending the definition of “biodiesel” ***and defining “biomass-based diesel” and “biomass-based diesel blend”*** for the purpose of provisions relating to taxes imposed on special fuels; ~~specifying that the sale or use of certain special fuels is taxed at a certain rate;~~ ***amending the definition of “special fuel” for the purpose of provisions relating to taxes imposed on special fuels; revising the conversion factor of compressed natural gas for purposes of the taxation of the sale or use of compressed natural gas;*** providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that it is a misdemeanor 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. (NRS 590.070, 590.150) **Section 1** of this bill provides that it is also a misdemeanor to sell, offer for sale, assist in the sale of, deliver or permit to be sold or offered for sale biodiesel, ***biomass-based diesel or biomass-based diesel blend*** that does not conform to certain standards, ~~of ASTM International.~~

Under existing law, special fuels, which include, without limitation, biodiesel, biodiesel blend and an emulsion of water-phased hydrocarbon fuel, are taxed at the rate of 27 cents per gallon. (NRS 366.060, 366.190) ~~Section~~ **Sections 2.5 and 3** of this bill ~~specify~~ ***specify*** that diesel, ~~biodiesel and biodiesel blend~~, ***biomass-based diesel, biomass-based diesel blend, liquefied natural gas, kerosene and jet fuel*** are ***among the combustible gases or liquids taxed as special fuels*** ~~taxed at that~~ ***at a rate of 27 cents per gallon, as is any product used in lieu of or blended with the combustible gas or liquid.***

Existing law defines “biodiesel” as any fuel composed of mono-alkyl esters of long-chain fatty acids or any other fuel sold or labeled as biodiesel which is suitable for use as a fuel in a motor vehicle. (NRS 366.022) Biodiesel fuels are considered “special fuels” for the purpose of taxes imposed on fuels. (NRS 366.060, 366.190) **Section 2** of this bill revises the definition of “biodiesel” ~~so that fuels other than those~~ ***to provide that a fuel*** composed of mono-alkyl

esters of long-chain fatty acids ~~must be~~ derived from ~~renewable resources and must be suitable for use in a diesel engine to be considered~~ plant or animal matter and conforming to certain standards is a biodiesel for the purposes of taxes imposed on special fuel.

Section 3.5 of this bill amends the factor for conversion of volumetric measurement for purposes of taxing the sale or use of compressed natural gas.

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

Section 1. 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 or permit to be sold or offered for sale ~~any~~:

(a) *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.*

(b) *Any biodiesel unless it*

~~(1) Is composed of mono-alkyl esters of long chain fatty acids and conforms to~~ meets the registration requirements for fuels and fuel additives of 40 C.F.R. Part 79 and the requirements of ASTM International Standard D6751, "Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels."

~~(2) Conforms to ASTM International Standard D975, "Standard Specification for Diesel Fuel Oils"; or~~

~~(3) Conforms to a current standard of ASTM International for biodiesel.~~

(c) Any biomass-based diesel or biomass-based diesel blend unless it meets the registration requirements for fuels and fuel additives established by the Administrator of the Environmental Protection Agency pursuant to 42 U.S.C. § 7545.

4. This section does not apply to aviation fuel.

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

6. *As used in this section* ~~, "biodiesel" has the meaning ascribed to it in NRS 366.022.~~

(a) "Biodiesel" means a fuel that is composed of mono-alkyl esters of long-chain fatty acids derived from plant or animal matter.

(b) "Biomass-based diesel" means a diesel fuel substitute that is produced from nonpetroleum renewable resources, such as fuel derived from animal

wastes, including, without limitation, poultry fats, poultry wastes and other waste materials, or from municipal solid waste and sludge and oil derived from wastewater and the treatment of wastewater. The term does not include biodiesel.

(c) "Biomass-based diesel blend" means a blend of any biomass-based diesel and any petroleum-based product that is suitable for use as a motor vehicle fuel.

Sec. 1.2. Chapter 366 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.4 and 1.6 of this act.

Sec. 1.4. "Biomass-based diesel" means a diesel fuel substitute that is produced from nonpetroleum renewable resources and meets the registration requirements for fuels and fuel additives established by the Administrator of the United States Environmental Protection Agency pursuant to 42 U.S.C. § 7545, such as fuel derived from animal wastes, including, without limitation, poultry fats, poultry wastes and other waste materials, or from municipal solid waste and sludge and oil derived from wastewater and the treatment of wastewater. The term does not include biodiesel.

Sec. 1.6. "Biomass-based diesel blend" means a blend of any biomass-based diesel and any petroleum-based product that is suitable for use as a motor vehicle fuel.

Sec. 1.8. NRS 366.020 is hereby amended to read as follows:

366.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 366.022 to 366.100, inclusive, and sections 1.4 and 1.6 of this act have the meanings ascribed to them in those sections.

Sec. 2. NRS 366.022 is hereby amended to read as follows:

366.022 "Biodiesel" means a fuel that is composed of mono-alkyl esters of long-chain fatty acids ~~for any other fuel~~ ~~sold or labeled as biodiesel~~ ~~derived from renewable resources which is suitable for use as a fuel in a~~ ~~motor vehicle.~~ ~~diesel engine~~ derived from plant or animal matter and that meets the registration requirements for fuels and fuel additives of 40 C.F.R. Part 79 and the requirements of ASTM Standard D6751, "Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels."

Sec. 2.5. NRS 366.060 is hereby amended to read as follows:

366.060 "Special fuel" means any combustible gas or liquid used for the generation of power for the propulsion of motor vehicles, including, without limitation, diesel, biodiesel, biodiesel blend ~~and~~ , biomass-based diesel, biomass-based diesel blend, liquefied natural gas, an emulsion of water-phased hydrocarbon fuel ~~or~~ , kerosene or jet fuel or any other product used in lieu of or blended with the combustible gas or liquid. The term does not include motor vehicle fuel as defined in chapter 365 of NRS.

Sec. 3. NRS 366.190 is hereby amended to read as follows:

366.190 1. Except as otherwise provided in subsection 2, a tax is hereby imposed at the rate of 27 cents per gallon on the sale or use of special fuels ~~or~~ , including, without limitation:

(a) Diesel;

(b) Biodiesel;

(c) Biodiesel blend;

(d) Biomass-based diesel;

(e) Biomass-based diesel blend; and

(f) Liquefied natural gas.

2. A tax is hereby imposed at:

(a) ~~19~~ The rate of 19 cents per gallon on the sale or use of an emulsion of water-phased hydrocarbon fuel;

(b) ~~22~~ The rate of 22 cents per gallon on the sale or use of liquefied petroleum gas; and

1 ~~(c) *13.1*~~ The rate of 21 cents per gallon on the sale or use of compressed

2 natural gas, ~~it and~~

3 ~~4. The rate of 27 cents per gallon on the sale or use of:~~

4 ~~(a) Diesel;~~

5 ~~(b) Biodiesel; and~~

6 ~~(c) Biodiesel blend.~~

7 Sec. 3.5. NRS 366.197 is hereby amended to read as follows:

8 366.197 For the purpose of taxing the sale or use of ~~compressed~~ :

9 1. Compressed natural gas ~~for liquefied~~, 126.67 cubic feet of natural gas or

10 5.660 pounds of natural gas shall be deemed to equal 1 gallon of special fuel.

11 2. Liquefied petroleum gas, 125 cubic feet of natural gas or liquefied

12 petroleum gas shall be deemed to equal 1 gallon of special fuel.

13 **Sec. 4.** This act becomes effective upon passage and approval for the purpose

14 of adopting regulations and performing any other preparatory administrative tasks

15 that are necessary to carry out the provisions of this act, and on January 1, 2014, for

16 all other purposes.