

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HOUSE BILL 2590

AN ACT

AMENDING SECTIONS 41-2051, 41-2121 AND 41-2123, ARIZONA REVISED STATUTES;
AMENDING TITLE 41, CHAPTER 15, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING
SECTION 41-2122.01; RELATING TO MOTOR FUEL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 41-2051, Arizona Revised Statutes, is amended to
3 read:

4 41-2051. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Biodiesel" means a diesel fuel substitute that satisfies all of
7 the following:

8 (a) Is produced from nonpetroleum renewable resources if the
9 qualifying volume of nonpetroleum renewable resources meets the standards for
10 California diesel fuel as adopted by the California air resources board
11 pursuant to 13 California code of regulations sections 2281 and 2282 in
12 effect on January 1, 2000.

13 (b) Meets the registration requirement for fuels and additives
14 established by the environmental protection agency pursuant to section 211 of
15 the clean air act as defined in section 49-401.01.

16 (c) The use of the diesel fuel substitute complies with the
17 requirements listed in 10 Code of Federal Regulations part 490, as printed in
18 the federal register, volume 64, number 96, May 19, 1999.

19 (d) Is sold, offered or exposed for sale as a neat product or blended
20 with diesel fuel.

21 2. "Certification" means the process of determining the accuracy of a
22 commercial device to the standards of this state by a registered service
23 representative or the department.

24 3. "Commercial device" means any weighing, measuring, metering or
25 counting device that is used to determine the direct cost of things sold or
26 offered or exposed for sale, or used to establish a fee for service if the
27 cost is based on weight, measure or count, except that it does not include
28 those devices used for in-house packaging, inventory control or law
29 enforcement purposes.

30 4. "Commodity" means any merchandise, product or substance produced or
31 distributed for sale to or use by others.

32 5. "Correct" as used in connection with weights and measures means
33 conformance to all applicable requirements of this chapter.

34 6. "Department" means the department of weights and measures.

35 7. "Diesel" means a refined middle distillate for use as a fuel in a
36 compression-ignition internal combustion engine.

37 8. "Director" means the director of the department of weights and
38 measures.

39 9. "Inspector" means state officials of the department of weights and
40 measures.

41 10. "Limousine" means a motor vehicle providing prearranged ground
42 transportation service for an individual passenger, or a group of passengers,
43 that is arranged in advance or is operated on a regular route or between
44 specified points and includes ground transportation under a contract or
45 agreement for services that includes a fixed rate or time and is provided in

1 a motor vehicle with a seating capacity not exceeding fifteen passengers,
2 including the driver.

3 11. "Liquid fuel measuring device" means any meter, pump, tank, gauge
4 or apparatus used for volumetrically determining the quantity of any internal
5 combustion engine fuel, liquefied petroleum gas or low viscosity heating oil.

6 12. "Livery vehicle" means a motor vehicle that:

7 (a) Has a seating capacity not exceeding fifteen passengers, including
8 the driver.

9 (b) Provides passenger services for a fare determined by a flat rate
10 or flat hourly rate between geographic zones or within a geographic area.

11 (c) Is available for hire on an exclusive or shared ride basis.

12 (d) May do any of the following:

13 (i) Operate on a regular route or between specified places.

14 (ii) Offer prearranged ground transportation **SERVICE** as defined in
15 section 28-141.

16 (iii) Offer on demand ground transportation service pursuant to a
17 contract with a public airport, licensed business entity or organization.

18 13. "Motor fuel" means ~~biodiesel or~~ a petroleum or a petroleum based
19 substance that is motor gasoline, aviation gasoline, number one or number two
20 diesel fuel or any grade of oxygenated gasoline typically used in the
21 operation of a motor engine, **INCLUDING BIODIESEL BLENDS AND THE ETHANOL BLEND**
22 **E85 AS DEFINED IN ASTM D5798-99.**

23 14. "Package" means any commodity enclosed in a container or wrapped in
24 any manner in advance of sale in units suitable for either wholesale or
25 retail trade.

26 15. "Person" means both the plural and the singular, as the case
27 demands, and includes individuals, partnerships, corporations, companies,
28 societies and associations.

29 16. "Primary standards" means the physical standards of the state that
30 serve as the legal reference from which all other standards and weights and
31 measures are derived.

32 17. "Public weighmaster" means any person who is engaged in any of the
33 following:

34 (a) The business of weighing any object or thing for the public
35 generally for hire or for internal use and issuing for that weighing a weight
36 certificate intended to be accepted as an accurate weight upon which a
37 purchase or sale is to be based or on which a service fee is to be charged.

38 (b) The business of weighing for hire motor vehicles, trailers or
39 semitrailers and issuing weight certificates intended to be accepted as an
40 accurate weight for the purpose of determining the amount of any tax, fee or
41 other assessment on the vehicles.

42 18. "Registered service agency" means any agency, firm, company or
43 corporation that for hire, award, commission or any other payment of any kind
44 installs, services, repairs or reconditions a commercial device or tests or

1 repairs vapor recovery systems or vapor recovery components and that has been
2 issued a license by the department.

3 19. "Registered service representative" means any individual who for
4 hire, award, commission or any other payment of any kind installs, services,
5 repairs or reconditions a commercial device or tests or repairs vapor
6 recovery systems or vapor recovery components and who has been issued a
7 license by the department.

8 20. "Retail seller" means a person whose business purpose is to sell,
9 expose or offer for sale or use any package or commodity by weight, measure
10 or count.

11 21. "Sale from bulk" means the sale of commodities when the quantity is
12 determined at the time of sale.

13 22. "Secondary standards" means the physical standards that are
14 traceable to the primary standards through comparisons, using acceptable
15 laboratory procedures, and that are used in the enforcement of weights and
16 measures laws and rules.

17 23. "Taxi" means a motor vehicle that has a seating capacity not
18 exceeding fifteen passengers, including the driver, that is registered as a
19 taxi in this state or any other state, that provides passenger services and
20 that:

21 (a) Does not operate on a regular route or between specified places.

22 (b) Offers local transportation for a fare determined primarily on the
23 basis of the distance traveled.

24 24. "Taxi meter" means a commercial device that meets the requirements
25 of the national institute of standards and technology handbook 44 as
26 prescribed by section 41-2064.

27 25. "Weight" as used in connection with any commodity means net weight.

28 26. "Weights" or "measures", or both, means all weights, measures,
29 meters or counters of every kind, instruments and devices for weighing,
30 measuring, metering or counting and any appliance and accessories associated
31 with any or all such instruments and devices.

32 Sec. 2. Section 41-2121, Arizona Revised Statutes, is amended to read:

33 41-2121. Definitions

34 In this article, unless the context otherwise requires:

35 1. "Area A" has the same meaning prescribed in section 49-541.

36 2. "Area B" has the same meaning prescribed in section 49-541.

37 3. "Fleet owner" means a registered owner or lessee of at least
38 twenty-five vehicles.

39 4. "Gasoline" means a volatile, highly flammable liquid mixture of
40 hydrocarbons that does not contain more than five one-hundredths grams of
41 lead for each United States gallon, that is produced, refined, manufactured,
42 blended, distilled or compounded from petroleum, natural gas, oil, shale oils
43 or coal and other flammable liquids free from undissolved water, sediment or
44 suspended matter, with or without additives, and that is commonly used as a

1 fuel for spark ignition internal combustion engines. Gasoline does not
2 include diesel fuel OR THE ETHANOL BLEND E85 AS DEFINED IN ASTM D5798-99.

3 5. "Manufacturer's proving ground" means a facility whose sole purpose
4 is to develop complete advanced vehicles for an automotive manufacturer.

5 6. "Motor vehicle racing event" means a race that uses unlicensed
6 vehicles that are designed and manufactured specifically for racing purposes
7 and that is conducted on a public or private racecourse for the entertainment
8 of the general public. A motor vehicle racing event includes practice,
9 qualifying and demonstration laps conducted as part of the activities related
10 to a motor vehicle race.

11 7. "Oxygenate" means any oxygen-containing ashless, organic compound,
12 including aliphatic alcohols and aliphatic ethers, that may be used as a fuel
13 or as a gasoline blending component and that is approved as a blending agent
14 under the provisions of a waiver issued by the United States environmental
15 protection agency pursuant to 42 United States Code section 7545(f).

16 8. "Oxygenated fuel" means an unleaded motor fuel blend that consists
17 primarily of gasoline and at least one and one-half per cent by weight of one
18 or more oxygenates and that has been blended consistent with the provisions
19 of a waiver issued by the United States environmental protection agency
20 pursuant to 42 United States Code section 7545(f).

21 9. "Product transfer document" means any bill of lading, loading
22 ticket, manifest, delivery receipt, invoice or other documentation used on
23 any occasion when a person transfers custody or title of motor fuel other
24 than when motor fuel is sold or dispensed at a service station or fleet
25 vehicle fueling facility.

26 10. "Supplier" means any person who imports gasoline into a vehicle
27 emissions control area by means of a pipeline or in truckload quantities for
28 the person's own use within the vehicle emissions control area or any person
29 who sells gasoline intended for ultimate consumption within a vehicle
30 emissions control area, except that supplier does not mean a person with
31 respect to gasoline supplied or sold by the person to another for resale to a
32 retailer within a vehicle emissions control area or to a fleet owner for
33 consumption within a vehicle emissions control area.

34 11. "Vehicle emissions control area" has the same meaning prescribed in
35 section 49-541, except that such an area does not include a manufacturer's
36 proving ground that is located in the vehicle emissions control area.

37 Sec. 3. Title 41, chapter 15, article 6, Arizona Revised Statutes, is
38 amended by adding section 41-2122.01, to read:

39 41-2122.01. E85 ethanol blend; requirements; notice; reports

40 A. A PERSON WHO PRODUCES THE ETHANOL BLEND E85 OR WHO IS A RETAIL
41 SELLER OF THE ETHANOL BLEND E85 SHALL ENSURE THAT:

42 1. THE FUEL COMPLIES WITH ALL THE REQUIREMENTS OF ASTM D5798-99.

43 2. THE FUEL DISPENSER AND PUMP NOZZLE FOR THE ETHANOL BLEND E85 BEAR A
44 NOTICE STATING THAT THE ETHANOL BLEND E85 IS NOT GASOLINE AND THAT IT IS

1 INTENDED FOR USE ONLY IN FLEXIBLE FUEL VEHICLES AND THAT THE DRIVER SHOULD
2 REVIEW THE OWNER'S MANUAL FOR THAT VEHICLE BEFORE USING THIS FUEL.

3 B. A PERSON WHO PRODUCES MOTOR FUEL SHALL REPORT TO THE DEPARTMENT NOT
4 LATER THAN THE FIFTEENTH DAY OF EACH MONTH FOLLOWING THE MONTH IN WHICH THE
5 PERSON PRODUCED OR SOLD THE ETHANOL BLEND E85 ALL OF THE FOLLOWING
6 INFORMATION:

7 1. THE AMOUNT OF THE ETHANOL BLEND E85 PRODUCED IN THE PREVIOUS MONTH.

8 2. THE AMOUNT OF ETHANOL USED IN THE PREVIOUS MONTH.

9 3. THE AMOUNT OF GASOLINE USED IN THE PREVIOUS MONTH.

10 4. THE AMOUNT OF THE ETHANOL BLEND E85 SOLD IN THE PREVIOUS MONTH.

11 5. THE FUEL QUALITY PARAMETERS FOR THE ETHANOL AND GASOLINE THAT ARE
12 THE SUBJECT OF THE REPORT.

13 C. THE PERSON WHO OWNS OR OPERATES A MOTOR FUEL DISPENSING SITE
14 DISPENSING ETHANOL BLEND E85 SHALL ENSURE THAT THE EQUIPMENT DISPENSING
15 ETHANOL BLEND E85 IS COMPATIBLE WITH THE PRODUCT BEING DISPENSED AND THAT THE
16 DISPENSER HAS RECEIVED A NATIONAL TYPE EVALUATION PROGRAM CERTIFICATE OF
17 CONFORMANCE AS REQUIRED IN R20-2-203.

18 D. THE PERSON WHO PRODUCES ETHANOL BLEND E85 FOR SALE IN THE CBG
19 COVERED AREA IS REQUIRED TO USE CBG OR AZRBOB AS THE GASOLINE PORTION OF THE
20 ETHANOL BLEND E85.

21 E. A RETAIL SELLER OF THE ETHANOL BLEND E85, IN COMPLIANCE WITH THE
22 REQUIREMENTS SET FORTH IN SECTION 41-2122.01, SHALL NOT BE HELD LIABLE IF A
23 CONSUMER MISFUELS AND PLACES ETHANOL BLEND E85 IN A NON-FLEXIBLE FUEL
24 VEHICLE.

25 Sec. 4. Section 41-2123, Arizona Revised Statutes, is amended to read:

26 41-2123. Area A: sale of gasoline: oxygen content

27 A. From and after November 1 through January 31 of each year, all
28 gasoline that is supplied or sold by any person and that is intended as a
29 final product for the fueling of motor vehicles within a county with a
30 population of one million two hundred thousand or more persons and any
31 portion of a county contained in area A or that is consumed in a motor
32 vehicle in a county with a population of one million two hundred thousand or
33 more persons and any portion of a county contained in area A by a fleet
34 owner:

35 1. Shall contain, for a gasoline-ethanol blend, not less than ten per
36 cent by volume of ethanol nor more than the maximum percentage of oxygen
37 allowed by provisions of a waiver issued or other limits established by the
38 United States environmental protection agency.

39 ~~2. Shall contain, for a blend other than a gasoline-ethanol blend, not~~
40 ~~less than 2.7 per cent by weight of oxygen nor more than the maximum~~
41 ~~percentage of oxygen allowed by provisions of a waiver issued or other limits~~
42 ~~established by the United States environmental protection agency.~~

43 ~~3.~~ 2. May contain, for a gasoline-ethanol blend, less than ten per
44 cent by volume, **BUT NOT LESS THAN 2.7 WEIGHT PER CENT OF OXYGEN**, of ethanol
45 on approval by the director of a petition filed pursuant to section 41-2124,

1 subsection D. The approval applies to all registered suppliers and oxygenate
2 blenders, and for the duration of that approval, the supply or sale of
3 gasoline-ethanol blends that contain less than ten per cent by volume, **BUT**
4 **NOT LESS THAN 2.7 WEIGHT PER CENT OF OXYGEN**, of ethanol is not subject to
5 subsections B and C of this section.

6 B. Notwithstanding subsection A of this section, the director of the
7 department of weights and measures in consultation with the director of the
8 department of environmental quality shall approve alternate fuel control
9 measures that are submitted by manufacturers or suppliers of gasoline and
10 that the directors determine will result in motor vehicle carbon monoxide
11 emissions that are equal to or less than emissions that result under
12 compliance with subsection A of this section and section 41-2083. In making
13 this determination, the director of the department of weights and measures
14 and the director of the department of environmental quality shall compare the
15 emissions of the alternate fuel control measure with the emissions of a fuel
16 with a maximum vapor pressure standard as prescribed by section 41-2083 and
17 with the minimum oxygen content or percentage by volume of ethanol as
18 prescribed by this section.

19 C. Any alternate fuel control measures that are approved shall not
20 increase emissions of non-methane hydrocarbons, particulates, carbon monoxide
21 or oxides of nitrogen. Alternate fuel control measures approved pursuant to
22 subsection B of this section and this subsection may be used by any
23 manufacturer or supplier of gasoline unless the approval is rescinded more
24 than one hundred eighty days before the first day of a gasoline control
25 period. Manufacturers and suppliers who use an approved alternate fuel
26 control measure shall annually submit a compliance plan to the director of
27 the department of weights and measures no later than sixty days before the
28 first day of a gasoline control period.