

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HB 2621

Introduced by
Representative Boone

AN ACT

AMENDING SECTION 41-2051, ARIZONA REVISED STATUTES; AMENDING SECTION 41-2083, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2007, CHAPTER 292, SECTION 8; REPEALING SECTION 41-2122.01, ARIZONA REVISED STATUTES; RELATING TO THE DEPARTMENT OF WEIGHTS AND MEASURES.

(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~~ MOTOR fuel ~~substitute~~ OR FUEL ADDITIVE
7 that satisfies all of 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 (a) IS REGISTERED AS A MOTOR VEHICLE FUEL OR FUEL ADDITIVE PURSUANT TO
22 40 CODE OF FEDERAL REGULATIONS PART 79.

23 (b) IS A MONO-ALKYL ESTER.

24 (c) MEETS THE SPECIFICATIONS OF ASTM D6751.

25 (d) IS INTENDED FOR USE IN ENGINES THAT ARE DESIGNED TO RUN ON DIESEL
26 FUEL.

27 (e) IS DERIVED FROM NONPETROLEUM RENEWABLE RESOURCES AS DEFINED BY THE
28 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY.

29 2. "BIODIESEL BLEND" MEANS A BIOFUEL THAT CONSISTS OF BIODIESEL THAT
30 MEETS THE SPECIFICATIONS OF ASTM D6751 AND PETROLEUM-BASED DIESEL FUEL THAT
31 MEETS THE SPECIFICATIONS OF ASTM D975 AND THAT IS DESIGNATED AS "B__", IN
32 WHICH "__" REPRESENTS THE VOLUME PERCENTAGE OF BIODIESEL IN THE BLEND, EXCEPT
33 THAT BIODIESEL BLENDS OF B20 AND LESS SHALL MEET THE SPECIFICATIONS OF ASTM
34 D975 AND BIODIESEL BLENDS OF B99 AND GREATER SHALL MEET THE SPECIFICATIONS OF
35 ASTM D6751.

36 3. "BIOFUEL" MEANS A SOLID, LIQUID OR GASEOUS FUEL DERIVED FROM
37 BIOMASS AND USED FOR HEATING, POWER OR TRANSPORTATION AS A MOTOR FUEL.

38 4. "BIOMASS" MEANS BIOLOGICAL MATERIAL, SUCH AS PLANT OR ANIMAL
39 MATTER, EXCLUDING ORGANIC MATERIAL THAT HAS BEEN TRANSFORMED BY GEOLOGICAL
40 PROCESSES INTO SUBSTANCES SUCH AS COAL, PETROLEUM OR THEIR DERIVATIVES, THAT
41 MAY BE TRANSFORMED INTO BIOFUEL.

42 ~~2-~~ 5. "Certification" means the process of determining the accuracy
43 of a commercial device to the standards of this state by a registered service
44 representative or the department.

- 1 ~~3-~~ 6. "Commercial device" means any weighing, measuring, metering or
2 counting device that is used to determine the direct cost of things sold or
3 offered or exposed for sale, or used to establish a fee for service if the
4 cost is based on weight, measure or count, except that it does not include
5 those devices used for in-house packaging, inventory control or law
6 enforcement purposes.
- 7 ~~4-~~ 7. "Commodity" means any merchandise, product or substance
8 produced or distributed for sale to or use by others.
- 9 ~~5-~~ 8. "Correct" as used in connection with weights and measures means
10 conformance to all applicable requirements of this chapter.
- 11 ~~6-~~ 9. "Department" means the department of weights and measures.
- 12 ~~7-~~ 10. "Diesel FUEL" means a refined middle distillate ~~for use~~ THAT
13 IS USED as a fuel in a compression-ignition internal combustion engine AND
14 THAT MEETS THE SPECIFICATIONS OF ASTM D975.
- 15 ~~8-~~ 11. "Director" means the director of the department of weights and
16 measures.
- 17 12. "E85" MEANS A BIOFUEL COMPOSED OF FUEL ETHANOL AND GASOLINE THAT
18 MEETS THE SPECIFICATIONS OF ASTM D5798.
- 19 13. "FUEL ETHANOL" MEANS NOMINALLY ANHYDROUS ETHYL ALCOHOL THAT MEETS
20 THE SPECIFICATIONS OF ASTM D4806 AND THAT IS BLENDED WITH GASOLINE FOR USE AS
21 A FUEL IN A SPARK-IGNITION INTERNAL COMBUSTION ENGINE.
- 22 ~~9-~~ 14. "Inspector" means state officials of the department of weights
23 and measures.
- 24 ~~10-~~ 15. "Limousine" means a motor vehicle providing prearranged ground
25 transportation service for an individual passenger, or a group of passengers,
26 that is arranged in advance or is operated on a regular route or between
27 specified points and includes ground transportation under a contract or
28 agreement for services that includes a fixed rate or time and is provided in
29 a motor vehicle with a seating capacity not exceeding fifteen passengers,
30 including the driver.
- 31 ~~11-~~ 16. "Liquid fuel measuring device" means any meter, pump, tank,
32 gauge or apparatus used for volumetrically determining the quantity of any
33 internal combustion engine fuel, liquefied petroleum gas or low viscosity
34 heating oil.
- 35 ~~12-~~ 17. "Livery vehicle" means a motor vehicle that:
36 (a) Has a seating capacity not exceeding fifteen passengers, including
37 the driver.
38 (b) Provides passenger services for a fare determined by a flat rate
39 or flat hourly rate between geographic zones or within a geographic area.
40 (c) Is available for hire on an exclusive or shared ride basis.
41 (d) May do any of the following:
42 (i) Operate on a regular route or between specified places.
43 (ii) Offer prearranged ground transportation service as defined in
44 section 28-141.

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

3 ~~13.~~ 18. "Motor fuel" means a petroleum or a petroleum based substance
4 that is motor gasoline, aviation gasoline, number one or number two diesel
5 fuel, ~~or~~ any grade of oxygenated gasoline typically used in the operation of
6 a motor engine, ~~including biodiesel blends and the ethanol blend e85 as~~
7 ~~defined in ASTM D5798-99~~ AND BIOFUEL.

8 ~~14.~~ 19. "Package" means any commodity enclosed in a container or
9 wrapped in any manner in advance of sale in units suitable for either
10 wholesale or retail trade.

11 ~~15.~~ 20. "Person" means both the plural and the singular, as the case
12 demands, and includes individuals, partnerships, corporations, companies,
13 societies and associations.

14 ~~16.~~ 21. "Public weighmaster" means any person who is engaged in any of
15 the following:

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

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

24 ~~17.~~ 22. "Reference standards" means the physical standards of the
25 state that serve as the legal reference from which all other standards and
26 weights and measures are derived.

27 ~~18.~~ 23. "Registered service agency" means any agency, firm, company or
28 corporation that for hire, award, commission or any other payment of any kind
29 installs, services, repairs or reconditions a commercial device or tests or
30 repairs vapor recovery systems or vapor recovery components and that has been
31 issued a license by the department.

32 ~~19.~~ 24. "Registered service representative" means any individual who
33 for hire, award, commission or any other payment of any kind installs,
34 services, repairs or reconditions a commercial device or tests or repairs
35 vapor recovery systems or vapor recovery components and who has been issued a
36 license by the department.

37 ~~20.~~ 25. "Retail seller" means a person whose business purpose is to
38 sell, expose or offer for sale or use any package or commodity by weight,
39 measure or count.

40 ~~21.~~ 26. "Sale from bulk" means the sale of commodities when the
41 quantity is determined at the time of sale.

42 ~~22.~~ 27. "Secondary standards" means the physical standards that are
43 traceable to the reference standards through comparisons, using acceptable
44 laboratory procedures, and that are used in the enforcement of weights and
45 measures laws and rules.

1 ~~23-~~ 28. "Taxi" means a motor vehicle that has a seating capacity not
2 exceeding fifteen passengers, including the driver, that is registered as a
3 taxi in this state or any other state, that provides passenger services and
4 that:

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

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

8 ~~24-~~ 29. "Taxi meter" means a commercial device that meets the
9 requirements of the national institute of standards and technology handbook
10 44 as prescribed by section 41-2064.

11 ~~25-~~ 30. "Weight" as used in connection with any commodity means net
12 weight.

13 ~~26-~~ 31. "Weights" or "measures", or both, means all weights, measures,
14 meters or counters of every kind, instruments and devices for weighing,
15 measuring, metering or counting and any appliance and accessories associated
16 with any or all such instruments and devices.

17 Sec. 2. Section 41-2083, Arizona Revised Statutes, as amended by Laws
18 2007, chapter 292, section 8, is amended to read:

19 ~~41-2083.~~ Standards for motor fuel; exceptions; rules; liability

20 A. Except as provided in section 41-2083.01 and subsections C, D, E,
21 ~~F, AND G, K, L, M and N~~ of this section, a retail seller or fleet owner
22 shall not store, sell or expose or offer for sale any motor fuel, kerosene,
23 oil or other liquid or gaseous fuel or lubricating oil, lubricant, mixtures
24 of lubricants or other similar products if the product fails to meet the
25 standards specified in this section and in the rules adopted by the director.

26 B. A person shall not misrepresent the nature, origination, quality,
27 grade or identity of any product specified in subsection A of this section or
28 represent the nature, origination, quality, grade or identity of such product
29 in any manner calculated or tending to mislead or in any way deceive.

30 C. After consultation with the director of the department of
31 environmental quality, the standards and test methods for motor fuels shall
32 be established by the director of the department of weights and measures by
33 rule.

34 D. Maximum vapor pressure for gasoline that is supplied or sold by any
35 person and that is intended as a final product for the fueling of motor
36 vehicles in a county with a population of one million two hundred thousand or
37 more persons and any portion of a county contained in area A as defined in
38 section 49-541 shall be 9.0 pounds per square inch from and after September
39 30 through January 31 of each year. Fuel used in motor vehicles at a
40 manufacturer's proving ground or a motor vehicle racing event as defined by
41 section 41-2121 is exempt from this subsection.

42 E. From and after September 30 through March 31 of each year a person
43 shall not supply or sell gasoline that exceeds the ASTM D4814 class A vapor
44 pressure/distillation class ten volume per cent evaporated distillation
45 temperature.

1 F. Maximum vapor pressure for gasoline that is supplied or sold by any
2 person and that is intended as a final product for the fueling of motor
3 vehicles in a county with a population of one million two hundred thousand
4 persons or more and any portion of a county contained in area A as defined in
5 section 49-541 shall be 7.0 pounds per square inch from and after May 31
6 through September 30 of each year. Fuel used in motor vehicles at a
7 manufacturer's proving ground or a motor vehicle racing event as defined by
8 section 41-2121 is exempt from this subsection.

9 G. Exclusively for the purposes of transportation conformity and only
10 if the administrator of the United States environmental protection agency
11 fails to approve the applicable plan required pursuant to section 49-406,
12 maximum vapor pressure for gasoline that is supplied or sold by any person
13 and that is intended as a final product for the fueling of motor vehicles in
14 area B as defined in section 49-541 shall be ten pounds per square inch from
15 and after September 30 through March 31 of each year. Fuel used in motor
16 vehicles at a manufacturer's proving ground or a motor vehicle racing event
17 as defined by section 41-2121 is exempt from this subsection.

18 H. Notwithstanding subsections D, F and G of this section, the
19 director of the department of weights and measures in consultation with the
20 director of the department of environmental quality shall approve alternate
21 fuel control measures that are submitted by manufacturers or suppliers of
22 gasoline and that the directors determine will result in either of the
23 following:

24 1. Motor vehicle carbon monoxide emissions that are equal to or less
25 than emissions that result under compliance with subsection D of this section
26 and section 41-2123. In making this determination, the director of the
27 department of weights and measures and the director of the department of
28 environmental quality shall compare the emissions of the alternate fuel
29 control measure with the emissions of a fuel with a maximum vapor pressure
30 standard as prescribed by this section and with the minimum oxygen content or
31 percentage by volume of ethanol as prescribed by section 41-2123.

32 2. Motor vehicle non-methane hydrocarbon emissions that are equal to
33 or less than the emissions that result under compliance with subsection F of
34 this section. In making this determination, the director of the department
35 of weights and measures and the director of the department of environmental
36 quality shall compare the motor vehicle non-methane hydrocarbon emissions of
37 the alternate fuel control measure with the motor vehicle non-methane
38 hydrocarbon emissions of a fuel that complies with the maximum vapor pressure
39 standard as prescribed by subsection F of this section.

40 I. Any alternate fuel control measures that are approved shall not
41 increase emissions of non-methane hydrocarbons, particulates, carbon monoxide
42 or oxides of nitrogen. Alternate fuel control measures approved pursuant to
43 subsection H of this section and this subsection may be used by any
44 manufacturer or supplier of gasoline unless the approval is rescinded more
45 than one hundred eighty days before the first day of a gasoline control

1 period. Manufacturers and suppliers who use an approved alternate fuel
2 control measure shall annually submit a compliance plan to the director of
3 the department of weights and measures no later than sixty days before the
4 first day of a gasoline control period.

5 J. A person shall not sell or offer or expose for sale diesel fuel
6 grade 1, 2 or 4 as defined in ASTM D975 that contains sulfur in excess of:

7 1. For low sulfur diesel fuel, five hundred parts per million by
8 weight for use in area A as defined in section 49-541.

9 2. For ultra low sulfur diesel fuel, the amount that conforms with 40
10 Code of Federal Regulations section 80.520(a)(1).

11 ~~K. A person shall not sell or offer or expose for sale biodiesel that~~
12 ~~is not tested or does not meet the specifications established by ASTM D6751~~
13 ~~or any blend of biodiesel and diesel fuel that is not tested or does not meet~~
14 ~~the specifications established by ASTM D975 and that contains sulfur in~~
15 ~~excess of five hundred parts per million for use in area A as defined in~~
16 ~~section 49-541.~~

17 ~~L. A person who blends biodiesel that is intended as a final product~~
18 ~~for the fueling of motor vehicles shall report to the director by the~~
19 ~~fifteenth day of each month the quantity and quality of biodiesel shipped to~~
20 ~~or produced in this state during the preceding month. A person who supplies~~
21 ~~biodiesel subject to this subsection shall report the following by batch:~~

22 ~~1. The percentage of biodiesel in a final blend.~~

23 ~~2. The volume of the finished product.~~

24 ~~3. For neat biodiesel, the results of analysis for those parameters~~
25 ~~established by ASTM D6751.~~

26 ~~4. For biodiesel blended with any diesel fuel, the results of the~~
27 ~~analysis of the following motor fuel parameters as established by ASTM D975:~~

28 ~~(a) Sulfur content.~~

29 ~~(b) Aromatic hydrocarbon content.~~

30 ~~(c) Cetane number.~~

31 ~~(d) Specific gravity.~~

32 ~~(e) American petroleum institute gravity.~~

33 ~~(f) The temperatures at which ten per cent, fifty per cent and ninety~~
34 ~~per cent of the diesel fuel boiled off during distillation.~~

35 ~~M. The report required by subsection L of this section shall be on a~~
36 ~~form prescribed by the director and shall contain a certification of~~
37 ~~truthfulness and accuracy of the data submitted and a statement of the~~
38 ~~supplier's consent permitting the department or its authorized agent to~~
39 ~~collect samples and access records as provided in rules adopted by the~~
40 ~~department. A corporate officer who is responsible for operations at the~~
41 ~~facility that produces or ships the final product shall sign the report.~~

42 ~~N. A person shall label dispensers at which biodiesel is dispensed in~~
43 ~~such a manner as to notify other persons of the volume percentage of~~
44 ~~biodiesel in the finished product and that conforms with 40 Code of Federal~~

1 ~~Regulations sections 80.570, 80.571, 80.572, 80.573 and 80.574 to inform the~~
2 ~~customer of the sulfur content of the diesel fuel being dispensed.~~

3 ~~Q.~~ K. A person shall label each dispenser at which ultra low sulfur
4 diesel fuel is dispensed in a manner that conforms with 40 Code of Federal
5 Regulations sections 80.570, 80.571, 80.572, 80.573 and 80.574 to inform the
6 customer of the sulfur content of the diesel fuel being dispensed.

7 ~~P.~~ L. A person shall label each dispenser at which low sulfur diesel
8 fuel is dispensed in a manner that conforms with 40 Code of Federal
9 Regulations sections 80.570, 80.571, 80.572, 80.573 and 80.574 to inform the
10 customer of the sulfur content of the diesel fuel being dispensed.

11 ~~Q.~~ M. If any person transfers custody or title of a diesel fuel or
12 distillate, except if the diesel fuel is dispensed into a motor vehicle or
13 nonroad, locomotive or marine equipment, the transferor shall provide to the
14 transferee product transfer documents that conform with 40 Code of Federal
15 Regulations section 80.590.

16 ~~R.~~ N. If the transfer of a motor fuel is from a terminal, storage
17 facility, or transmix facility, the product transfer documents shall contain
18 the information prescribed in subsection ~~Q.~~ M of this section as well as the
19 name and address of the final destination for the shipment, as prescribed by
20 department rule, and must accompany the shipment to its final destination.

21 O. THE DIRECTOR SHALL ADOPT RULES REGARDING THE ESTABLISHMENT,
22 DEVELOPMENT AND ENFORCEMENT OF STANDARDS FOR BIOFUELS AS FOLLOWS:

- 23 1. STANDARDS AND TEST METHODS FOR INDIVIDUAL BIOFUELS.
- 24 2. REPORTING REQUIREMENTS.
- 25 3. LABELING REQUIREMENTS.
- 26 4. QUALITY ASSURANCE PROGRAMS FOR PRODUCERS OR SUPPLIERS OF A BIOFUEL.
- 27 5. ROUTINE QUALITY CONTROL SAMPLING AND TESTING REQUIREMENTS FOR
28 BIOFUELS.

29 P. A RETAIL SELLER OF E85 WHO IS IN COMPLIANCE WITH THIS SECTION AND
30 RULES ADOPTED PURSUANT TO THIS SECTION IS NOT LIABLE TO A CONSUMER IF A
31 CONSUMER MISFUELS A VEHICLE BY PLACING E85 IN A VEHICLE THAT IS NOT A
32 FLEXIBLE FUEL VEHICLE.

33 Sec. 3. Repeal

34 Section 41-2122.01, Arizona Revised Statutes, is repealed.