

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

HOUSE BILL 2621

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 fuel substitute AS DEFINED BY THE UNITED
7 STATES ENVIRONMENTAL PROTECTION AGENCY AND THAT MEETS THE REGISTRATION
8 REQUIREMENTS FOR FUELS AND FUEL ADDITIVES ESTABLISHED BY THE UNITED STATES
9 ENVIRONMENTAL PROTECTION AGENCY PURSUANT TO SECTION 211 OF THE CLEAN AIR ACT,
10 AS DEFINED IN SECTION 49-401.01. ~~that satisfies all of the following:~~

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

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

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

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

24 2. "BIOFUEL" MEANS A SOLID, LIQUID OR GASEOUS FUEL THAT IS DERIVED
25 FROM BIOMASS AND THAT CAN BE USED DIRECTLY FOR HEATING OR POWER OR AS A MOTOR
26 FUEL.

27 ~~2-~~ 3. "Certification" means the process of determining the accuracy
28 of a commercial device to the standards of this state by a registered service
29 representative or the department.

30 ~~3-~~ 4. "Commercial device" means any weighing, measuring, metering or
31 counting device that is used to determine the direct cost of things sold or
32 offered or exposed for sale, or used to establish a fee for service if the
33 cost is based on weight, measure or count, except that it does not include
34 those devices used for in-house packaging, inventory control or law
35 enforcement purposes.

36 ~~4-~~ 5. "Commodity" means any merchandise, product or substance
37 produced or distributed for sale to or use by others.

38 ~~5-~~ 6. "Correct" as used in connection with weights and measures means
39 conformance to all applicable requirements of this chapter.

40 ~~6-~~ 7. "Department" means the department of weights and measures.

41 ~~7-~~ 8. "Diesel FUEL" means a refined middle distillate ~~for use~~ THAT IS
42 USED as a fuel in a compression-ignition internal combustion engine AND THAT
43 MEETS THE SPECIFICATIONS OF ASTM D975.

- 1 ~~8-~~ 9. "Director" means the director of the department of weights and
2 measures.
- 3 ~~9-~~ 10. "Inspector" means state officials of the department of weights
4 and measures.
- 5 ~~10-~~ 11. "Limousine" means a motor vehicle providing prearranged ground
6 transportation service for an individual passenger, or a group of passengers,
7 that is arranged in advance or is operated on a regular route or between
8 specified points and includes ground transportation under a contract or
9 agreement for services that includes a fixed rate or time and is provided in
10 a motor vehicle with a seating capacity not exceeding fifteen passengers,
11 including the driver.
- 12 ~~11-~~ 12. "Liquid fuel measuring device" means any meter, pump, tank,
13 gauge or apparatus used for volumetrically determining the quantity of any
14 internal combustion engine fuel, liquefied petroleum gas or low viscosity
15 heating oil.
- 16 ~~12-~~ 13. "Livery vehicle" means a motor vehicle that:
17 (a) Has a seating capacity not exceeding fifteen passengers, including
18 the driver.
19 (b) Provides passenger services for a fare determined by a flat rate
20 or flat hourly rate between geographic zones or within a geographic area.
21 (c) Is available for hire on an exclusive or shared ride basis.
22 (d) May do any of the following:
23 (i) Operate on a regular route or between specified places.
24 (ii) Offer prearranged ground transportation service as defined in
25 section 28-141.
26 (iii) Offer on demand ground transportation service pursuant to a
27 contract with a public airport, licensed business entity or organization.
- 28 14. "MISFUEL" MEANS THE ACT OF DISPENSING INTO THE FUEL TANK OF A MOTOR
29 VEHICLE A MOTOR FUEL THAT WAS NOT INTENDED TO BE USED IN THE ENGINE OF THAT
30 MOTOR VEHICLE.
- 31 ~~13-~~ 15. "Motor fuel" means a petroleum or a petroleum based substance
32 that is motor gasoline, aviation gasoline, number one or number two diesel
33 fuel or any grade of oxygenated gasoline typically used in the operation of a
34 motor engine, including biodiesel blends and the ethanol blend E85 as defined
35 in ASTM D5798-99.
- 36 ~~14-~~ 16. "Package" means any commodity enclosed in a container or
37 wrapped in any manner in advance of sale in units suitable for either
38 wholesale or retail trade.
- 39 ~~15-~~ 17. "Person" means both the plural and the singular, as the case
40 demands, and includes individuals, partnerships, corporations, companies,
41 societies and associations.
- 42 ~~16-~~ 18. "Public weighmaster" means any person who is engaged in any of
43 the following:

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

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

9 ~~17-~~ 19. "Reference standards" means the physical standards of the
10 state that serve as the legal reference from which all other standards and
11 weights and measures are derived.

12 ~~18-~~ 20. "Registered service agency" means any agency, firm, company or
13 corporation that for hire, award, commission or any other payment of any kind
14 installs, services, repairs or reconditions a commercial device or tests or
15 repairs vapor recovery systems or vapor recovery components and that has been
16 issued a license by the department.

17 ~~19-~~ 21. "Registered service representative" means any individual who
18 for hire, award, commission or any other payment of any kind installs,
19 services, repairs or reconditions a commercial device or tests or repairs
20 vapor recovery systems or vapor recovery components and who has been issued a
21 license by the department.

22 ~~20-~~ 22. "Retail seller" means a person whose business purpose is to
23 sell, expose or offer for sale or use any package or commodity by weight,
24 measure or count.

25 ~~21-~~ 23. "Sale from bulk" means the sale of commodities when the
26 quantity is determined at the time of sale.

27 ~~22-~~ 24. "Secondary standards" means the physical standards that are
28 traceable to the reference standards through comparisons, using acceptable
29 laboratory procedures, and that are used in the enforcement of weights and
30 measures laws and rules.

31 ~~23-~~ 25. "Taxi" means a motor vehicle that has a seating capacity not
32 exceeding fifteen passengers, including the driver, that is registered as a
33 taxi in this state or any other state, that provides passenger services and
34 that:

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

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

38 ~~24-~~ 26. "Taxi meter" means a commercial device that meets the
39 requirements of the national institute of standards and technology handbook
40 44 as prescribed by section 41-2064.

41 ~~25-~~ 27. "Weight" as used in connection with any commodity means net
42 weight.

1 ~~26-~~ 28. "Weights" or "measures", or both, means all weights, measures,
2 meters or counters of every kind, instruments and devices for weighing,
3 measuring, metering or counting and any appliance and accessories associated
4 with any or all such instruments and devices.

5 Sec. 2. Section 41-2083, Arizona Revised Statutes, as amended by Laws
6 2007, chapter 292, section 8, is amended to read:

7 ~~41-2083.~~ Standards for motor fuel; exceptions

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

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

18 C. After consultation with the director of the department of
19 environmental quality, the standards and test methods for motor fuels shall
20 be established by the director of the department of weights and measures by
21 rule.

22 D. Maximum vapor pressure for gasoline that is supplied or sold by any
23 person and that is intended as a final product for the fueling of motor
24 vehicles in a county with a population of one million two hundred thousand or
25 more persons and any portion of a county contained in area A as defined in
26 section 49-541 shall be 9.0 pounds per square inch from and after September
27 30 through March 31 of each year. Fuel used in motor vehicles at a
28 manufacturer's proving ground or a motor vehicle racing event as defined by
29 section 41-2121 is exempt from this subsection.

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

34 F. 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
37 persons or more and any portion of a county contained in area A as defined in
38 section 49-541 shall be 7.0 pounds per square inch from and after May 31
39 through September 30 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 G. Exclusively for the purposes of transportation conformity and only
43 if the administrator of the United States environmental protection agency
44 fails to approve the applicable plan required pursuant to section 49-406,
45 maximum vapor pressure for gasoline that is supplied or sold by any person

1 and that is intended as a final product for the fueling of motor vehicles in
2 area B as defined in section 49-541 shall be ten pounds per square inch from
3 and after September 30 through March 31 of each year. Fuel used in motor
4 vehicles at a manufacturer's proving ground or a motor vehicle racing event
5 as defined by section 41-2121 is exempt from this subsection.

6 H. Notwithstanding subsections D, F and G of this section, the
7 director of the department of weights and measures in consultation with the
8 director of the department of environmental quality shall approve alternate
9 fuel control measures that are submitted by manufacturers or suppliers of
10 gasoline and that the directors determine will result in either of the
11 following:

12 1. Motor vehicle carbon monoxide emissions that are equal to or less
13 than emissions that result under compliance with subsection D of this section
14 and section 41-2123. In making this determination, the director of the
15 department of weights and measures and the director of the department of
16 environmental quality shall compare the emissions of the alternate fuel
17 control measure with the emissions of a fuel with a maximum vapor pressure
18 standard as prescribed by this section and with the minimum oxygen content or
19 percentage by volume of ethanol as prescribed by section 41-2123.

20 2. Motor vehicle non-methane hydrocarbon emissions that are equal to
21 or less than the emissions that result under compliance with subsection F of
22 this section. In making this determination, the director of the department
23 of weights and measures and the director of the department of environmental
24 quality shall compare the motor vehicle non-methane hydrocarbon emissions of
25 the alternate fuel control measure with the motor vehicle non-methane
26 hydrocarbon emissions of a fuel that complies with the maximum vapor pressure
27 standard as prescribed by subsection F of this section.

28 I. Any alternate fuel control measures that are approved shall not
29 increase emissions of non-methane hydrocarbons, particulates, carbon monoxide
30 or oxides of nitrogen. Alternate fuel control measures approved pursuant to
31 subsection H of this section and this subsection may be used by any
32 manufacturer or supplier of gasoline unless the approval is rescinded more
33 than one hundred eighty days before the first day of a gasoline control
34 period. Manufacturers and suppliers who use an approved alternate fuel
35 control measure shall annually submit a compliance plan to the director of
36 the department of weights and measures no later than sixty days before the
37 first day of a gasoline control period.

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

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

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

1 K. A person shall not sell or offer or expose for sale biodiesel that
2 is not tested or does not meet the specifications established by ASTM D6751
3 or any blend of biodiesel and diesel fuel that is not tested or does not meet
4 the specifications established by ASTM D975 and that contains sulfur in
5 excess of five hundred parts per million for use in area A as defined in
6 section 49-541.

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

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

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

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

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

18 ~~(a) Sulfur content.~~

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

20 ~~(c) Cetane number.~~

21 ~~(d) Specific gravity.~~

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

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

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

32 ~~N.~~ L. A person shall label dispensers at which biodiesel ~~is~~ OR BLENDS
33 OF DIESEL FUEL AND BIODIESEL ARE dispensed in such a manner as to notify
34 other persons of the volume percentage of biodiesel in the finished product
35 and that conforms with 40 Code of Federal Regulations sections 80.570,
36 80.571, 80.572, 80.573 and 80.574 to inform the customer of the sulfur
37 content of the diesel fuel being dispensed. IF NATIONAL STANDARDS OR FEDERAL
38 REGULATIONS ARE ESTABLISHED FOR THE LABELING OF BIODIESEL ON OR BEFORE
39 DECEMBER 31, 2009, THE DIRECTOR SHALL ADOPT OR MODIFY EXISTING RULES
40 REGARDING THE ENFORCEMENT OF BIODIESEL LABELING REQUIREMENTS TO CONFORM TO
41 THOSE NATIONAL STANDARDS OR FEDERAL REGULATIONS.

42 M. A PERSON SHALL PREPARE THE PRODUCT TRANSFER DOCUMENTS IN A MANNER
43 THAT NOTIFIES THE TRANSFEREE OF THE PERCENTAGE OF BIODIESEL IN THE FINISHED
44 PRODUCT.

1 N. THE DIRECTOR SHALL ADOPT RULES REGARDING THE ESTABLISHMENT AND
2 ENFORCEMENT OF ALL OF THE FOLLOWING:

- 3 1. NATIONAL OR FEDERAL STANDARDS FOR INDIVIDUAL BIOFUELS.
4 2. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND ASTM TEST METHODS
5 FOR INDIVIDUAL BIOFUELS.
6 3. REGISTRATION AND REPORTING REQUIREMENTS.
7 4. LABELING REQUIREMENTS FOR BIOFUELS OTHER THAN BIODIESEL.
8 5. QUALITY ASSURANCE AND QUALITY CONTROL PROGRAMS FOR PRODUCERS,
9 BLENDERS AND SUPPLIERS OF BIOFUELS ADDRESSING RACK, BATCH OR OTHER BLENDING.

10 O. A BIOFUELS PRODUCER, BLENDER, DISTRIBUTOR, SUPPLIER OR RETAIL
11 SELLER OF BIOFUELS THAT IS IN COMPLIANCE WITH THIS SECTION AND THE RULES
12 ADOPTED PURSUANT TO THIS SECTION IS NOT LIABLE TO A CONSUMER FOR ANY INJURIES
13 OR PROPERTY DAMAGE RELATED TO A CONSUMER WHO MISFUELS.

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

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

22 ~~Q.~~ R. If any person transfers custody or title of a diesel fuel or
23 distillate, except if the diesel fuel is dispensed into a motor vehicle or
24 nonroad, locomotive or marine equipment, the transferor shall provide to the
25 transferee product transfer documents that conform with 40 Code of Federal
26 Regulations section 80.590.

27 ~~R.~~ S. If the transfer of a motor fuel is from a terminal, storage
28 facility, or transmix facility, the product transfer documents shall contain
29 the information prescribed in subsection Q of this section as well as the
30 name and address of the final destination for the shipment, as prescribed by
31 department rule, and must accompany the shipment to its final destination.

32 Sec. 3. Repeal

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