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HOUSE BILL 218

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

John A. Heaton

AN ACT

RELATING TO ENERGY; REQUIRING BIODIESEL IN MOTOR VEHICLE DIESEL  
FUELS; AMENDING THE PETROLEUM PRODUCTS STANDARDS ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 57-19-27 NMSA 1978 (being Laws 1993,  
Chapter 98, Section 3) is amended to read:

"57-19-27. DEFINITIONS.--As used in the Petroleum  
Products Standards Act:

A. "biodiesel" means a renewable, biodegradable,  
mono alkyl ester combustible liquid fuel that is derived from  
agricultural plant oils or animal fats and that meets American  
society for test and materials specification for biodiesel  
fuel, B100, blend stock for distillate fuels;

~~A.~~ B. "board" means the board of regents ~~at~~ of  
New Mexico state university;

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1           ~~[B-]~~ C. "dealer" means a dealer as defined by the  
2 Special Fuels Supplier Tax Act;

3           ~~[G-]~~ D. "department" means the New Mexico  
4 department of agriculture;

5           E. "diesel fuel" means any diesel-engine fuel used  
6 for the generation of power to propel a motor vehicle;

7           ~~[D-]~~ F. "director" means the director of the New  
8 Mexico department of agriculture;

9           ~~[E-]~~ G. "distributor" means a distributor as  
10 defined by the Gasoline Tax Act;

11           ~~[F-]~~ H. "lubricating oil" means any oil used to  
12 lubricate transmissions, gears or axles;

13           ~~[G-]~~ I. "motor fuel" means any liquid product used  
14 for the generation of power in an internal combustion engine,  
15 excluding liquified petroleum gases and aviation fuels;

16           ~~[H-]~~ J. "motor oil" means oil for use in  
17 lubricating internal combustion engines;

18           ~~[I-]~~ K. "person" means any natural person, firm,  
19 partnership, association or corporation;

20           ~~[J-]~~ L. "petroleum product" means motor fuel,  
21 kerosene, lubricating oil, motor oil, anti-freeze or brake  
22 fluid; and

23           ~~[K-]~~ M. "retailer" means any person who sells motor  
24 fuel and delivers the motor fuel into the supply tanks of motor  
25 vehicles."

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1           Section 2. Section 57-19-28 NMSA 1978 (being Laws 1993,  
2 Chapter 98, Section 4) is amended to read:

3           "57-19-28. DUTIES OF THE BOARD--AUTHORITY OF THE  
4 DIRECTOR.--

5           A. The board [~~shall be~~] is responsible for the  
6 administration and enforcement of the provisions of the  
7 Petroleum Products Standards Act. The board shall adopt rules  
8 and regulations necessary to administer and enforce the  
9 provisions of that act. The board shall provide public notice  
10 and allow public comment on all proposed rules and regulations.

11           B. The director [~~shall have the authority to~~] may:

12                   (1) inspect, investigate, analyze and take  
13 appropriate actions to administer and enforce the provisions of  
14 the Petroleum Products Standards Act;

15                   (2) enter any commercial premises from which  
16 petroleum products are offered for sale during normal business  
17 hours. If the premises are not open to the public, the  
18 director shall present [~~his~~] the director's credentials and  
19 enter only with consent from the commercial entity. If no  
20 consent is given, the director shall obtain a search warrant;

21                   (3) collect or cause to be collected samples  
22 of petroleum products offered for sale and cause such samples  
23 to be tested or analyzed to determine if they are in compliance  
24 with the provisions of the Petroleum Products Standards Act and  
25 regulations adopted pursuant to that act;

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1 (4) issue and enforce stop-sale, hold and  
2 removal orders with respect to a petroleum product kept,  
3 offered or exposed for sale in violation of the provisions of  
4 the Petroleum Products Standards Act and regulations adopted  
5 pursuant to that act;

6 (5) require distributors and retailers to  
7 retain records pertaining to petroleum product purchases and  
8 sales for a period of not more than one year;

9 (6) maintain and operate a petroleum product  
10 testing laboratory to ensure that all petroleum products  
11 offered for sale in New Mexico meet standards prescribed in the  
12 Petroleum Products Standards Act and regulations adopted  
13 pursuant to that act;

14 (7) issue and enforce stop-use orders for  
15 measuring equipment or vehicle tanks that are used commercially  
16 and that do not conform to the provisions of the Petroleum  
17 Products Standards Act and regulations adopted pursuant to that  
18 act; [~~and~~]

19 (8) delegate to authorized representatives any  
20 of the responsibilities for the proper administration of the  
21 Petroleum Products Standards Act;

22 (9) in consultation with the secretary of  
23 energy, minerals and natural resources, determine that  
24 sufficient amounts of biodiesel are not available to meet the  
25 requirements of Section 57-19-29 NMSA 1978 or that the

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1 wholesale price per gallon of biodiesel exceeds the wholesale  
2 price per gallon of diesel fuel by more than five percent for  
3 at least two months and temporarily suspend those requirements  
4 for a period of up to six months; and

5 (10) propose rules to the board that increase  
6 the required percentage of biodiesel in diesel fuel not to  
7 exceed twenty percent by 2020."

8 Section 3. Section 57-19-29 NMSA 1978 (being Laws 1993,  
9 Chapter 98, Section 5) is amended to read:

10 "57-19-29. QUALITY STANDARDS.--

11 A. Unless modified by regulation of the board, the  
12 quality standards, tests and methods of conducting analyses on  
13 petroleum products manufactured, kept, stored, sold or offered  
14 for sale in New Mexico shall be those last adopted and  
15 published by the American society for testing and materials or  
16 the society of automotive engineers and shall be used to  
17 determine compliance with the Petroleum Products Standards Act  
18 and regulations adopted pursuant to that act. In the absence  
19 of a petroleum product quality standard, test or method from  
20 the American society for testing and materials or the society  
21 of automotive engineers, the board may adopt a regulation that  
22 establishes a quality standard, test or method to conduct  
23 analyses on petroleum products.

24 B. After July 1, 2012, all diesel fuel sold to  
25 consumers for use in motor vehicles on the streets and highways

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1 of this state shall contain five percent biodiesel, except that  
2 this standard may be increased by rule of the board or  
3 temporarily suspended by the director in accordance with  
4 Section 57-19-28 NMSA 1978."

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