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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 testing and materials specification for  
biodiesel fuel, B100, blend stock for distillate fuels;

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

C. "dealer" means a dealer as defined by the  
Special Fuels Supplier Tax Act;

D. "department" means the New Mexico department of  
agriculture;

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

F. "director" means the director of the New Mexico  
department of agriculture;

G. "distributor" means a distributor as defined by

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1 the Gasoline Tax Act;

2 H. "lubricating oil" means any oil used to  
3 lubricate transmissions, gears or axles;

4 I. "motor fuel" means any liquid product used for  
5 the generation of power in an internal combustion engine,  
6 excluding liquified petroleum gases and aviation fuels;

7 J. "motor oil" means oil for use in lubricating  
8 internal combustion engines;

9 K. "person" means any natural person, firm,  
10 partnership, association or corporation;

11 L. "petroleum product" means motor fuel, kerosene,  
12 lubricating oil, motor oil, anti-freeze or brake fluid; and

13 M. "retailer" means any person who sells motor  
14 fuel and delivers the motor fuel into the supply tanks of  
15 motor vehicles."

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

18 "57-19-28. DUTIES OF THE BOARD--AUTHORITY OF THE  
19 DIRECTOR.--

20 A. The board is responsible for the administration  
21 and enforcement of the provisions of the Petroleum Products  
22 Standards Act. The board shall adopt rules and regulations  
23 necessary to administer and enforce the provisions of that  
24 act. The board shall provide public notice and allow public  
25 comment on all proposed rules and regulations.

1           B. The director shall have the authority to:

2                   (1) inspect, investigate, analyze and take  
3 appropriate actions to administer and enforce the provisions  
4 of the Petroleum Products Standards Act;

5                   (2) enter any commercial premises from which  
6 petroleum products are offered for sale during normal  
7 business hours. If the premises are not open to the public,  
8 the director shall present the director's credentials and  
9 enter only with consent from the commercial entity. If no  
10 consent is given, the director shall obtain a search warrant;

11                  (3) collect or cause to be collected samples  
12 of petroleum products offered for sale and cause such samples  
13 to be tested or analyzed to determine if they are in  
14 compliance with the provisions of the Petroleum Products  
15 Standards Act and regulations adopted pursuant to that act;

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

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

24                  (6) maintain and operate a petroleum product  
25 testing laboratory to ensure that all petroleum products

1 offered for sale in New Mexico meet standards prescribed in  
2 the Petroleum Products Standards Act and regulations adopted  
3 pursuant to that act;

4 (7) issue and enforce stop-use orders for  
5 measuring equipment or vehicle tanks that are used  
6 commercially and that do not conform to the provisions of the  
7 Petroleum Products Standards Act and regulations adopted  
8 pursuant to that act; and

9 (8) delegate to authorized representatives  
10 any of the responsibilities for the proper administration of  
11 the Petroleum Products Standards Act.

12 C. If in consultation with the secretary of  
13 energy, minerals and natural resources and pursuant to  
14 regular, periodic monitoring, the director determines that  
15 sufficient amounts of biodiesel are not available to meet the  
16 requirements of Section 57-19-29 NMSA 1978 or that the price  
17 of the biodiesel blend significantly exceeds the price of  
18 diesel fuel for at least two months, the director shall  
19 suspend those requirements for a period of up to six months."

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

22 "57-19-29. QUALITY STANDARDS.--

23 A. Unless modified by regulation of the board, the  
24 quality standards, tests and methods of conducting analyses  
25 on petroleum products manufactured, kept, stored, sold or

1 offered for sale in New Mexico shall be those last adopted  
2 and published by the American society for testing and  
3 materials or the society of automotive engineers and shall be  
4 used to determine compliance with the Petroleum Products  
5 Standards Act and regulations adopted pursuant to that act.  
6 In the absence of a petroleum product quality standard, test  
7 or method from the American society for testing and materials  
8 or the society of automotive engineers, the board may adopt a  
9 regulation that establishes a quality standard, test or  
10 method to conduct analyses on petroleum products.

11 B. After July 1, 2010 and before July 1, 2012, all  
12 diesel fuel sold to state agencies, political subdivisions of  
13 the state and public schools for use in motor vehicles on the  
14 streets and highways of this state shall contain five percent  
15 biodiesel, except that this standard may be temporarily  
16 suspended by the director in accordance with Section 57-19-28  
17 NMSA 1978.

18 C. On or after July 1, 2012, all diesel fuel sold  
19 to consumers for use in motor vehicles on the streets and  
20 highways of this state shall contain five percent biodiesel,  
21 except that this standard may be temporarily suspended by the  
22 director in accordance with Section 57-19-28 NMSA 1978."