

1 SENATE CORPORATIONS AND TRANSPORTATION COMMITTEE SUBSTITUTE FOR
2 SENATE BILL 368

3 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

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10 AN ACT

11 RELATING TO TRADE PRACTICES; AMENDING SECTIONS OF THE PETROLEUM
12 PRODUCTS STANDARDS ACT TO PROVIDE FOR FIVE PERCENT BIODIESEL
13 STANDARDS IN DIESEL FUEL.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 57-19-28 NMSA 1978 (being Laws 1993,
17 Chapter 98, Section 4, as amended) 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 act.
24 The board shall provide public notice and allow public comment
25 on all proposed rules and regulations.

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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 of
4 the Petroleum Products Standards Act;

5 (2) enter any commercial premises from which
6 petroleum products are offered for sale during normal business
7 hours. If the premises are not open to the public, the
8 director shall present the director's credentials and enter
9 only with consent from the commercial entity. If no consent is
10 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 compliance
14 with the provisions of the Petroleum Products Standards Act and
15 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) require retailers to maintain records
25 verifying that diesel fuel sold in New Mexico contains at least

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1 five percent biodiesel;

2 [~~(6)~~] (7) maintain and operate a petroleum
3 product testing laboratory to ensure that all petroleum
4 products offered for sale in New Mexico meet standards
5 prescribed in the Petroleum Products Standards Act and
6 regulations adopted pursuant to that act;

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

12 [~~(8)~~] (9) delegate to authorized
13 representatives any of the responsibilities for the proper
14 administration of the Petroleum Products Standards Act.

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

23 SECTION 2. Section 57-19-29 NMSA 1978 (being Laws 1993,
24 Chapter 98, Section 5, as amended) is amended to read:

25 "57-19-29. QUALITY STANDARDS.--

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

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

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

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1 B. Beginning on January 1, 2017 and ending on
2 December 31, 2022, effective ninety days after the director has
3 announced in print that all criteria described below have been
4 met, all diesel fuel offered for sale in New Mexico for use in
5 motor vehicles on the streets and highways shall contain at
6 least five percent biodiesel by volume during each of the
7 months of March through October if the following conditions are
8 met:

9 (1) notice from the director that there is a
10 sufficient supply of biodiesel and infrastructure and protocols
11 are in place to meet anticipated demand; provided that the
12 price of the biodiesel blend does not significantly exceed the
13 price of diesel fuel for at least two months;

14 (2) the taxation and revenue department has
15 established a reporting system to the New Mexico department of
16 agriculture of total diesel sales, including biodiesel; and

17 (3) the blend stock is certified to meet
18 American society for testing and materials D6751
19 specifications.

20 C. The provisions of Subsection B of this section
21 shall be suspended if the director determines:

22 (1) biodiesel plants with the capacity to
23 produce fifteen million gallons of biodiesel per year are not
24 located and operating in the state by December 31, 2022;

25 (2) that the necessary biodiesel is

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1 unavailable;

2 (3) based on a comparison of New Mexico with
3 markets of adjacent states, that the use of biodiesel would be
4 uneconomic at the time notice is given;

5 (4) that the in-state biodiesel inventory
6 drops below one month's supply necessary, as reported by the
7 taxation and revenue department, for statewide blending, in
8 which case the director shall issue a waiver for one hundred
9 twenty days, with the director reserving the right to extend
10 the waiver for the balance of the blending season if it is
11 appropriate to do so; or

12 (5) that the federal renewable fuels standard
13 equals or exceeds five percent of biodiesel by volume."