

1 SENATE BILL 368

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

4 Stuart Ingle

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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.

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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 the months of  
7 April, May, June, July, August and September if the following  
8 conditions are met:

9                   (1) a sufficient supply of biodiesel is  
10 available to meet anticipated demand; provided that diesel fuel  
11 does not include number one diesel (D1);

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

15                   (3) adequate blending infrastructure is in  
16 place to ensure that biodiesel is available throughout New  
17 Mexico in a sufficient quantity to avoid any potential economic  
18 disruption and the necessary regulatory protocol is in place;  
19 and

20                   (4) the blend stock is certified to meet  
21 American society for testing and materials D6751  
22 specifications.

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

25                   (1) that the necessary biodiesel is

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1 unavailable;

2 (2) 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 (3) 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 until such time as  
9 the supply becomes adequate; or

10 (4) that the federal renewable fuels standard  
11 equals or exceeds five percent of biodiesel by volume."

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