

SENATE BILL NO. 399—SENATOR KIHUEN

MARCH 18, 2013

Referred to Committee on Natural Resources

SUMMARY—Revises provisions relating to special fuels.
(BDR 51-1052)

FISCAL NOTE: Effect on Local Government: Increases or Newly
Provides for Term of Imprisonment in County or City
Jail or Detention Facility.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to special fuels; prohibiting certain conduct related to the sale of biodiesel, biomass-based diesel or biomass-based diesel blend that does not conform to certain specifications; amending the definition of “biodiesel” and defining “biomass-based diesel” and “biomass-based diesel blend” for the purpose of provisions relating to taxes imposed on special fuels; amending the definition of “special fuel” for the purpose of provisions relating to taxes imposed on special fuels; revising the conversion factor of compressed natural gas for purposes of the taxation of the sale or use of compressed natural gas; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law provides that it is a misdemeanor to sell, offer for sale, assist in the
2 sale of, deliver or permit to be sold or offered for sale, any petroleum or petroleum
3 product as, or purporting to be, motor vehicle fuel, unless it conforms with the
4 regulations adopted by the State Board of Agriculture. (NRS 590.070, 590.150)
5 **Section 1** of this bill provides that it is also a misdemeanor to sell, offer for sale,
6 assist in the sale of, deliver or permit to be sold or offered for sale biodiesel,
7 biomass-based diesel or biomass-based diesel blend that does not conform to
8 certain standards.
9 Under existing law, special fuels, which include, without limitation, biodiesel,
10 biodiesel blend and an emulsion of water-phased hydrocarbon fuel, are taxed at the
11 rate of 27 cents per gallon. (NRS 366.060, 366.190) **Sections 2.5 and 3** of this bill
12 specify that diesel, biomass-based diesel, biomass-based diesel blend, liquefied



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13 natural gas, kerosene and jet fuel are among the combustible gases or liquids taxed
14 as special fuels at the rate of 27 cents per gallon, as is any product used in lieu of or
15 blended with the combustible gas or liquid.

16 Existing law defines "biodiesel" as any fuel composed of mono-alkyl esters of
17 long-chain fatty acids or any other fuel sold or labeled as biodiesel which is suitable
18 for use as a fuel in a motor vehicle. (NRS 366.022) Biodiesel fuels are considered
19 "special fuels" for the purpose of taxes imposed on fuels. (NRS 366.060, 366.190)
20 **Section 2** of this bill revises the definition of "biodiesel" to provide that a fuel
21 composed of mono-alkyl esters of long-chain fatty acids derived from plant or
22 animal matter and conforming to certain standards is a biodiesel for the purposes of
23 taxes imposed on special fuel.

24 **Section 3.5** of this bill amends the factor for conversion of volumetric
25 measurement for purposes of taxing the sale or use of compressed natural gas.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 590.070 is hereby amended to read as follows:
2 590.070 1. The State Board of Agriculture shall adopt by
3 regulation specifications for motor vehicle fuel:

4 (a) Based upon scientific evidence which demonstrates that any
5 motor vehicle fuel which is produced in accordance with the
6 specifications is of sufficient quality to ensure appropriate
7 performance when used in a motor vehicle in this State; or

8 (b) Proposed by an air pollution control agency to attain or
9 maintain national ambient air quality standards in any area of this
10 State. As used in this paragraph, "air pollution control agency"
11 means any federal air pollution control agency or any state, regional
12 or local agency that has the authority pursuant to chapter 445B of
13 NRS to regulate or control air pollution or air quality in any area of
14 this State.

15 2. The State Board of Agriculture shall adopt by regulation
16 procedures for allowing variances from the specifications for motor
17 vehicle fuel adopted pursuant to this section.

18 3. It is unlawful for any person, or any officer, agent or
19 employee thereof, to sell, offer for sale, assist in the sale of, deliver
20 or permit to be sold or offered for sale ~~any~~ :

21 (a) *Any* petroleum or petroleum product as, or purporting to be,
22 motor vehicle fuel, unless it conforms with the regulations adopted
23 by the State Board of Agriculture pursuant to this section.

24 (b) *Any biodiesel unless it meets the registration requirements*
25 *for fuels and fuel additives of 40 C.F.R. Part 79 and the*
26 *requirements of ASTM Standard D6751, "Standard Specification*
27 *for Biodiesel Fuel Blend Stock (B100) for Middle Distillate*
28 *Fuels."*

29 (c) *Any biomass-based diesel or biomass-based diesel blend*
30 *unless it meets the registration requirements for fuels and fuel*



1 *additives established by the Administrator of the Environmental*
2 *Protection Agency pursuant to 42 U.S.C. § 7545.*

3 4. This section does not apply to aviation fuel.

4 5. In addition to any criminal penalty that is imposed pursuant
5 to the provisions of NRS 590.150, any person who violates any
6 provision of this section may be further punished as provided in
7 NRS 590.071.

8 6. *As used in this section:*

9 (a) *“Biodiesel” means a fuel that is composed of mono-alkyl*
10 *esters of long-chain fatty acids derived from plant or animal*
11 *matter.*

12 (b) *“Biomass-based diesel” means a diesel fuel substitute that*
13 *is produced from nonpetroleum renewable resources, such as fuel*
14 *derived from animal wastes, including, without limitation, poultry*
15 *fats, poultry wastes and other waste materials, or from municipal*
16 *solid waste and sludge and oil derived from wastewater and the*
17 *treatment of wastewater. The term does not include biodiesel.*

18 (c) *“Biomass-based diesel blend” means a blend of any*
19 *biomass-based diesel and any petroleum-based product that is*
20 *suitable for use as a motor vehicle fuel.*

21 **Sec. 1.2.** Chapter 366 of NRS is hereby amended by adding
22 thereto the provisions set forth as sections 1.4 and 1.6 of this act.

23 **Sec. 1.4.** *“Biomass-based diesel” means a diesel fuel*
24 *substitute that is produced from nonpetroleum renewable*
25 *resources and meets the registration requirements for fuels and*
26 *fuel additives established by the Administrator of the United States*
27 *Environmental Protection Agency pursuant to 42 U.S.C. § 7545,*
28 *such as fuel derived from animal wastes, including, without*
29 *limitation, poultry fats, poultry wastes and other waste materials,*
30 *or from municipal solid waste and sludge and oil derived from*
31 *wastewater and the treatment of wastewater. The term does not*
32 *include biodiesel.*

33 **Sec. 1.6.** *“Biomass-based diesel blend” means a blend of any*
34 *biomass-based diesel and any petroleum-based product that is*
35 *suitable for use as a motor vehicle fuel.*

36 **Sec. 1.8.** NRS 366.020 is hereby amended to read as follows:

37 366.020 As used in this chapter, unless the context otherwise
38 requires, the words and terms defined in NRS 366.022 to 366.100,
39 inclusive, *and sections 1.4 and 1.6 of this act* have the meanings
40 ascribed to them in those sections.

41 **Sec. 2.** NRS 366.022 is hereby amended to read as follows:

42 366.022 “Biodiesel” means a fuel *that is* composed of mono-
43 alkyl esters of long-chain fatty acids ~~for any other fuel sold or~~
44 ~~labeled as biodiesel which is suitable for use as a fuel in a motor~~
45 ~~vehicle.] derived from plant or animal matter and that meets the~~



1 *registration requirements for fuels and fuel additives of 40 C.F.R.*
2 *Part 79 and the requirements of ASTM Standard D6751,*
3 *“Standard Specification for Biodiesel Fuel Blend Stock (B100) for*
4 *Middle Distillate Fuels.”*

5 **Sec. 2.5.** NRS 366.060 is hereby amended to read as follows:

6 366.060 “Special fuel” means any combustible gas or liquid
7 used for the generation of power for the propulsion of motor
8 vehicles, including, without limitation, *diesel*, biodiesel, biodiesel
9 blend ~~and~~, *biomass-based diesel, biomass-based diesel blend,*
10 *liquefied natural gas*, an emulsion of water-phased hydrocarbon
11 fuel ~~+~~, *kerosene or jet fuel or any other product used in lieu of or*
12 *blended with the combustible gas or liquid.* The term does not
13 include motor vehicle fuel as defined in chapter 365 of NRS.

14 **Sec. 3.** NRS 366.190 is hereby amended to read as follows:

15 366.190 1. Except as otherwise provided in subsection 2, a
16 tax is hereby imposed at the rate of 27 cents per gallon on the sale or
17 use of special fuels ~~+~~, *including, without limitation:*

- 18 (a) *Diesel;*
- 19 (b) *Biodiesel;*
- 20 (c) *Biodiesel blend;*
- 21 (d) *Biomass-based diesel;*
- 22 (e) *Biomass-based diesel blend; and*
- 23 (f) *Liquefied natural gas.*

24 2. A tax is hereby imposed at:

- 25 (a) The rate of 19 cents per gallon on the sale or use of an
26 emulsion of water-phased hydrocarbon fuel;
- 27 (b) The rate of 22 cents per gallon on the sale or use of liquefied
28 petroleum gas; and
- 29 (c) The rate of 21 cents per gallon on the sale or use of
30 compressed natural gas.

31 **Sec. 3.5.** NRS 366.197 is hereby amended to read as follows:

32 366.197 For the purpose of taxing the sale or use of
33 ~~compressed~~:

34 1. *Compressed* natural gas ~~for liquefied~~, *126.67 cubic feet of*
35 *natural gas or 5.660 pounds of natural gas shall be deemed to*
36 *equal 1 gallon of special fuel.*

37 2. *Liquefied* petroleum gas, 125 cubic feet of natural gas or
38 liquefied petroleum gas shall be deemed to equal 1 gallon of special
39 fuel.

40 **Sec. 4.** This act becomes effective upon passage and approval
41 for the purpose of adopting regulations and performing any other
42 preparatory administrative tasks that are necessary to carry out the
43 provisions of this act, and on January 1, 2014, for all other purposes.

