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HOUSE BILL 282

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

Hector H. Balderas

AN ACT

RELATING TO FUEL STANDARDS; ENACTING THE RENEWABLE FUELS
STANDARDS ACT; REQUIRING CONTENTS OF ETHANOL AND BIODIESEL FUEL
IN GASOLINE AND DIESEL FUEL; ESTABLISHING REPORTING
REQUIREMENTS FOR DISTRIBUTORS AND DEALERS; PROVIDING PENALTIES.

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

Section 1. SHORT TITLE.--This act may be cited as the
"Renewable Fuels Standards Act".

Section 2. DEFINITIONS.--As used in the Renewable Fuels
Standards Act:

A. "biodiesel fuel" 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
D6751 for biodiesel fuel, B100, blend stock for distillate

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1 fuels;

2 B. "dealer" means a dealer as defined by the
3 Special Fuels Supplier Tax Act;

4 C. "department" means the energy, minerals and
5 natural resources department;

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

8 E. "distributor" means a distributor as defined by
9 the Gasoline Tax Act;

10 F. "ethanol" means an agriculturally derived ethyl
11 alcohol that meets American society for testing and materials
12 specification D4806 for denatured fuel ethanol for blending
13 with gasolines for use as automotive spark-ignition engine
14 fuel;

15 G. "gasoline" means any flammable liquid
16 hydrocarbon used primarily as fuel for the propulsion of motor
17 vehicles, motorboats or aircraft except for diesel engine fuel,
18 kerosene, liquefied petroleum gas, compressed or liquefied
19 natural gas and products specially prepared and sold for use in
20 aircraft propelled by turboprop or jet-type engines; and

21 H. "secretary" means the secretary of energy,
22 minerals and natural resources or the secretary's delegate.

23 Section 3. GASOLINE--DIESEL FUEL--ETHANOL AND BIODIESEL
24 FUEL CONTENT REQUIRED.--

25 A. All gasoline sold to consumers for use in motor
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1 vehicles operated on the streets or highways of this state
2 shall contain ten percent denatured ethanol by volume,
3 exclusive of denaturants and permitted contaminants.

4 B. All diesel fuel sold to consumers for use in
5 motor vehicles operated on the streets or highways of this
6 state shall contain two percent biodiesel fuel.

7 C. The content requirements of this section shall
8 not apply when:

9 (1) the secretary, in consultation with the
10 secretary of taxation and revenue and the director of the New
11 Mexico department of agriculture, determines that sufficient
12 amounts of denatured ethanol or biodiesel fuel are not
13 available to meet the requirements of this section; or

14 (2) the governor determines by executive order
15 that an emergency or disaster has caused or appears likely to
16 cause a disruption in the price or supply of gasoline or diesel
17 fuel.

18 Section 4. REPORTING REQUIREMENTS--ETHANOL AND BIODIESEL
19 FUEL.--A distributor and a dealer shall file, at reporting
20 dates established by rule of the taxation and revenue
21 department and on forms prescribed and furnished by the
22 taxation and revenue department, a statement that includes:

23 A. the price and amount of ethanol and biodiesel
24 fuel available to the distributor or dealer for blending;

25 B. the amount of ethanol-blended gasoline and

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1 biodiesel-blended diesel fuel sold by the distributor or
2 dealer; and

3 C. any other information the taxation and revenue
4 department, in consultation with the energy, minerals and
5 natural resources department and the New Mexico department of
6 agriculture, deems necessary to determine that sufficient
7 amounts of ethanol and biodiesel fuel are available to comply
8 with the minimum content requirements of Section 3 of the
9 Renewable Fuels Standards Act.

10 Section 5. PENALTIES--ADMINISTRATIVE PROCEDURES--
11 APPEALS.--

12 A. A person who violates the provisions of the
13 Renewable Fuels Standards Act is guilty of a petty misdemeanor
14 and shall be sentenced in accordance with Section 31-19-1 NMSA
15 1978.

16 B. The department, in consultation with the
17 taxation and revenue department and the New Mexico department
18 of agriculture, shall establish a system of administrative
19 penalties for violations of the Renewable Fuels Standards Act.
20 The administrative penalties may be assessed by the department
21 in lieu of or in addition to other penalties provided by law.
22 In establishing the system of administrative penalties, the
23 department, after public notice and public hearing, shall adopt
24 rules that meet the following minimum requirements:

25 (1) the maximum amount of any administrative

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1 penalty shall not exceed one thousand dollars (\$1,000) for any
2 one violation of the Renewable Fuels Standards Act;

3 (2) violations for which administrative
4 penalties may be assessed shall be clearly defined, along with
5 a scale of administrative penalties relating the amount of the
6 administrative penalty to the severity and frequency of the
7 violation;

8 (3) provisions shall be included for due
9 process, including proper notification of administrative
10 proceedings, right to discovery of charges and evidence and
11 appeal procedures; and

12 (4) prior to assessing administrative
13 penalties pursuant to the provisions of the Renewable Fuels
14 Standards Act, the department shall comply with Paragraphs (2)
15 and (3) of this subsection.

16 C. Appeals from decisions of the department
17 regarding the assessment of an administrative penalty shall be
18 to the district court pursuant to the provisions of Section
19 39-3-1.1 NMSA 1978.

20 Section 6. EFFECTIVE DATE.--The effective date of the
21 provisions of this act is January 1, 2009.