

1 HOUSE BILL 492

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 Nathan P. Small

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10 AN ACT

11 RELATING TO PETROLEUM PRODUCTS; AGGREGATING THE TIME PERIOD
12 WHEN FIVE PERCENT OF BIODIESEL FUEL SHALL BE USED; PROVIDING
13 FOR THE REPORTING OF BIODIESEL FUEL SALES.

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) maintain and operate a petroleum product
- 25 testing laboratory to ensure that all petroleum products

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1 offered for sale in New Mexico meet standards prescribed in the
2 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 commercially
6 and that do not conform to the provisions of the Petroleum
7 Products Standards Act and regulations adopted pursuant to that
8 act; and

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

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

20 C. If the director, in consultation with the
21 secretary of energy, minerals and natural resources, determines
22 that biodiesel plants permitted by the state of New Mexico by
23 January 1, 2021 do not have the capacity to produce twelve
24 million gallons of biodiesel fuel per year, the director may
25 suspend the requirements of Section 57-19-29 NMSA 1978 until

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1 such production capacity is demonstrated."

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

4 "57-19-29. QUALITY STANDARDS.--

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

18 B. [~~After July 1, 2010 and before July 1, 2012~~] All
19 diesel fuel sold to state agencies, political subdivisions of
20 the state and public schools for use in motor vehicles on the
21 streets and highways of this state shall contain yearly, on an
22 aggregate basis, five percent biodiesel [~~except that this~~
23 ~~standard may be temporarily suspended by the director in~~
24 ~~accordance with Section 57-19-28 NMSA 1978~~].

25 C. [~~On or after July 1, 2012~~] All diesel fuel sold

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1 to consumers for use in motor vehicles on the streets and
2 highways of this state shall contain yearly, on an aggregate
3 basis, five percent biodiesel [~~except that this standard may be~~
4 ~~temporarily suspended by the director in accordance with~~
5 ~~Section 57-19-28 NMSA 1978~~].

6 D. Rack operators and special fuel suppliers
7 subject to taxation pursuant to the Special Fuels Supplier Tax
8 Act shall:

9 (1) provide quarterly to the department the
10 amounts of diesel fuel and biodiesel fuel that have been
11 supplied during that quarter;

12 (2) provide the information described in
13 Paragraph (1) of this subsection in accordance with rules
14 promulgated by the department by no later than the thirtieth
15 day following the end of each calendar quarter; and

16 (3) provide the information described in
17 Paragraph (1) of this subsection on a form designed and
18 provided by the department, which form shall include a sworn
19 statement under penalty of perjury that the information
20 contained on the form is complete and accurate.

21 E. In accordance with rules promulgated by the
22 department, information provided pursuant to Subsection D of
23 this section shall be aggregated for the prior calendar year
24 and made available to the governor and legislature by no later
25 than the twenty-fifth day of March each calendar year."

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