

SENATE BILL NO. 2367

Introduced by

Senators Wanzek, Klein

Representatives D. Johnson, Nicholas

1 A BILL for an Act to create and enact two new sections to chapter 19-10 of the North Dakota
2 Century Code, relating to oxygenated gasoline; to amend and reenact section 19-10-01 of the
3 North Dakota Century Code, relating to petroleum products definitions; and to repeal section
4 19-10-03.1 of the North Dakota Century Code, relating to alcohol-blended gasoline notices.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Section 19-10-01 of the 1995 Supplement to the North
7 Dakota Century Code is amended and reenacted as follows:

8 **19-10-01. Definitions.** In this chapter, unless the context or subject matter otherwise
9 requires:

- 10 1. "Adulterated", when used to describe any petroleum product, denotes a petroleum
11 product which fails to meet the specifications prescribed by this chapter.
- 12 2. "Department" means the state department of health.
- 13 3. "Diesel fuel" is any petroleum product intended for use or offered for sale as a fuel
14 for engines in which the fuel is injected into the combustion chamber and ignited by
15 pressure without electric spark.
- 16 4. "Gasoline" is a refined petroleum naphtha which by its composition is suitable for
17 use as a carburant in internal combustion engines.
- 18 5. "Heating oil" is any petroleum product intended for use or offered for sale, as a
19 furnace oil, range oil, or fuel oil for heating and cooking purposes to be used in
20 burners other than wick burners regardless of whether the product is designated as
21 furnace oil, range oil, fuel oil, gas oil, or is given any other name or designation.
- 22 6. "Kerosene" is a petroleum fraction which is free from water, additives, foreign or
23 suspended matter, and is suitable for use as an illuminating oil.

- 1 7. "Lubricating oil" is any petroleum, or other product, used for the purpose of
2 reducing friction, heat, or wear in automobiles, tractors, gasoline engines, diesel
3 engines, and other machines.
- 4 8. "Misbranded", when used in connection with any petroleum product, denotes a
5 petroleum product which is not labeled as required under the provisions of this
6 chapter.
- 7 9. "Oxygenate" means agriculturally derived, denatured ethanol, ETBE, MTBE, or
8 other alcohol or ether, approved as an oxygenate by the United States
9 environmental protection agency.
- 10 10. "Oxygenate blender" means a person who has registered with the department to
11 blend and distribute, transport, sell, or offer to sell gasoline containing oxygen.
- 12 11. "Oxygenated gasoline" means gasoline that has been blended with agriculturally
13 derived denatured ethanol or with another oxygenate approved by the United
14 States environmental protection agency.
- 15 12. "Person responsible for the gasoline" means a person or persons, corporation,
16 partnership, stock company, society, association, or its agent or employee who
17 processes, blends, holds, stores, imports, transfers, distributes, offers for sale or
18 use, or sells petroleum products in this state and who possesses petroleum
19 products at the time they are sampled or inspected by the director.
- 20 13. "Sell" and "sale" includes the keeping, offering, or exposing for sale, transportation,
21 or exchange of the restricted or prohibited article.
- 22 ~~40.~~ 14. "Tractor fuel" is any petroleum product, other than gasoline or kerosene, intended
23 for use or offered for sale, as a fuel for tractors, regardless of whether the product
24 is designated as distillate, gas oil, fuel oil, or is given any other name or
25 designation.

26 **SECTION 2.** A new section to chapter 19-10 of the North Dakota Century Code is
27 created and enacted as follows:

28 **Oxygenated gasoline - Minimum oxygen content required - Blending restriction -**
29 **Oxygenate records - Disclosure.**

- 1 1. Except as provided in section 3 of this Act, after October 1, 1997, all gasoline sold
2 or offered for sale in this state must contain at least two and seven-tenths percent
3 oxygen by weight.
- 4 2. When gasoline contains an oxygenate, a person responsible for the gasoline may
5 not blend the gasoline with ethanol or with any other oxygenate after it is
6 transferred or otherwise removed from a refinery or terminal.
- 7 3. The department shall audit the records of registered oxygenate blenders to ensure
8 that each blender has met all requirements of this chapter. Specific information or
9 data relating to sales figures or to processes or methods of production unique to
10 the blender or that would tend to adversely affect the competitive position of the
11 blender must be only for the confidential use of the department, unless otherwise
12 specifically authorized by the registered blender.
- 13 4. A refinery or terminal shall provide, at the time gasoline is sold or transferred from
14 the refinery or terminal, a bill of lading or shipping manifest to the person who
15 receives the gasoline. For oxygenated gasoline, the bill of lading or shipping
16 manifest must include the identity and the volume percentage or gallons of
17 oxygenate included in the gasoline, and it must state: "This fuel contains an
18 oxygenate. Do not blend this fuel with ethanol or with any other oxygenate." For
19 nonoxygenated gasoline sold or transferred after September 30, 1997, the bill of
20 lading or shipping manifest must state: "This fuel is not oxygenated. It may not be
21 sold at retail in North Dakota." This subdivision does not apply to sales or transfers
22 of gasoline between refineries, between terminals, or between a refinery and a
23 terminal.

24 **SECTION 3.** A new section to chapter 19-10 of the North Dakota Century Code is
25 created and enacted as follows:

26 **Exemptions.** The following are exemptions to the oxygenated gasoline requirement.

27 Nonoxygenated gasoline may be offered for sale, sold, or dispensed at:

- 28 1. An airport, marina, mooring facility, resort, or for use in airplanes if the gasoline is
29 unleaded with an octane rating of ninety-one or greater;
- 30 2. A public or private racecourse if the gasoline is intended to be used exclusively as
31 a fuel for off-highway motor sports racing events; or

- 1 3. A retail gasoline station for use in collector vehicles or vehicles eligible to be
2 licensed as collector vehicles, off-road vehicles, motorcycles, boats, snowmobiles,
3 or small engines, if the person meets the conditions in subdivisions a through c. If
4 the nonoxygenated gasoline is for use in a small engine, it must be dispensed into
5 a can with a capacity of six gallons [22.71 liters] or less.
- 6 a. The nonoxygenated gasoline must be unleaded gasoline with an octane rating
7 of ninety-one or greater.
- 8 b. No more than one storage tank on the premises of the retail gasoline station
9 may be used for storage of the nonoxygenated gasoline offered for sale, sold,
10 or dispensed by the station.
- 11 c. The pump stands must be posted with a permanent notice stating:
12 "Nonoxygenated gasoline, for use in collector vehicles or vehicles eligible to
13 be licensed as collector vehicles, off-road vehicles, motorcycles, boats,
14 snowmobiles, or small engines only".

15 **SECTION 4. REPEAL.** Section 19-10-03.1 of the North Dakota Century Code is
16 repealed.