

ENROLLED ACT NO. 46, SENATE

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING
2009 GENERAL SESSION

AN ACT relating to standards for antifreeze and petroleum products; modifying definitions; requiring disclosure of engine fuels and fuel blends included in gasoline or diesel when sold to a wholesaler, retailer or consumer; modifying rulemaking authority; providing enforcement authority; providing an appropriation; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 40-7-101, 40-7-102(a)(v), (vi), (viii) through (x), (xii), (xv), by creating new paragraphs (xxv) through (xxxvii) and by renumbering (xxv) as (xxxviii), 40-7-103(a)(intro), (v)(intro), by creating a new subparagraph (D) and (vi), 40-7-105, 40-7-106 and 40-7-107(a) are amended to read:

40-7-101. Products must conform to standards.

No antifreeze product, engine fuel or petroleum product shall be sold or offered for sale in the state of Wyoming, unless it conforms to the standards of quality prescribed in this act or rules promulgated under it.

40-7-102. Definitions.

(a) As used in this act:

(v) "Director" means the director of the department of agriculture or his duly authorized representative;

(vi) "Dealer" means any person in the business of delivering or distributing to a consumer or selling, offering for sale, refining or manufacturing any petroleum

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products, liquefied petroleum gas, engine fuel or antifreeze products in this state;

(viii) "Diesel fuel" means a refined petroleum product suitable as a fuel ~~for~~ in compression ignition diesel engines, both fixed and mobile, including all grades and qualities;

(ix) "Fuel oil" means a refined petroleum product, commonly known as heating oil, furnace oil, domestic oil or distillates, used for heating, power generation and cooking purposes, including all grades and qualities;

(x) "Gasoline" means a volatile substance produced, manufactured, blended, distilled or compounded from petroleum, natural gas, oil, shale oils or coal and other volatile flammable liquids which can be used as a fuel ~~for an~~ in a spark ignition internal combustion engine, and which meets the standards and specifications of this act. "Gasoline" includes all grades and qualities, leaded or unleaded, but excludes diesel fuel;

(xii) "Kerosene" means a refined petroleum product, also known as ~~kerosene~~ kerosine, used as heating or illuminating oil that includes all grades and qualities;

(xv) "Petroleum products" means all illuminating, fuel and power oils, which are products of petroleum, or into which petroleum or any product of petroleum enters or is found as a constituent, and includes but is not limited to gasoline, kerosene, diesel fuel, fuel oil, gasohol, gasoline alcohol blends, biodiesel blends, engine fuels and liquefied petroleum gas. Any petroleum product sold at retail shall have a designation and meet specifications provided by the ASTM;

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(xxv) "Biodiesel blend" means a fuel comprised of a blend of biodiesel fuel with petroleum-based diesel fuel, designated BXX. In the abbreviation BXX, the "XX" represents the volume percentage of biodiesel fuel in the blend;

(xxvi) "E85 fuel ethanol" means a blend of ethanol and hydrocarbons of which the ethanol portion is nominally seventy-five percent (75%) to eighty-five percent (85%) volume denatured fuel ethanol;

(xxvii) "Engine fuel" means any liquid or gaseous matter used for the generation of power in an internal combustion engine. "Engine fuel" includes but is not limited to fuels derived from petroleum, biomass and vegetable oils, new or used. Any engine fuel sold at retail must have a designation and meet specifications provided by the ASTM;

(xxviii) "Ethanol" or "denatured fuel ethanol" means nominally anhydrous ethyl alcohol meeting ASTM D 4806 standards. It is intended to be blended with gasoline for use as a fuel in a spark-ignition internal combustion engine. The denatured fuel ethanol is first made unfit for drinking by the addition of United States bureau of alcohol, tobacco, and firearms approved substances before blending with gasoline;

(xxix) "Gasoline alcohol blend" means a fuel consisting primarily of gasoline and a substantial amount (more than thirty-five hundredths percent (0.35%) mass of oxygen or more than fifteen hundredths percent (0.15%) mass of oxygen if methanol is the only oxygenate) of one (1) or more alcohols;

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(xxx) "Low sulfur" means low sulfur diesel fuel that meets ASTM D 975 standards, including grade low sulfur no. 1-D S500 or grade low sulfur no. 2-D S500. Diesel fuel containing higher amounts of sulfur for off-road use is defined by United States environmental protection agency regulations;

(xxxii) "M100 fuel methanol" means nominally anhydrous methyl alcohol, generally containing small amounts of additives, suitable for use as a fuel in a compression-ignition internal combustion engine;

(xxxiii) "M85 fuel methanol" means a blend of methanol and hydrocarbons of which the methanol portion is nominally seventy percent (70%) to eighty-five percent (85%) volume;

(xxxiiii) "Oxygen content of gasoline" means the percentage of oxygen by mass contained in a gasoline;

(xxxv) "Substantially similar" means the United States environmental protection agency's substantially similar rule, section 211(f)(1) of the Clean Air Act, 42 U.S.C. 7545(f)(1);

(xxxvi) "Total alcohol" means the aggregate total percentage by volume of all alcohol contained in any fuel defined in this chapter;

(xxxvii) "Total oxygenate" means the aggregate total percentage by volume of all oxygenates contained in any fuel defined in this chapter;

(xxxviii) "Ultra low sulfur diesel" means ultra low sulfur diesel fuel that meets ASTM D 975 standards and contains no more than fifteen (15) parts per million

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(1,000,000) sulfur, including grade ultra low sulfur no. 1-D S15 or grade ultra low sulfur no. 2-D S15;

~~(xxv)~~ (xxxviii) "This act" means W.S. 40-7-101 through 40-7-111.

40-7-103. Board to promulgate standards.

(a) The board shall promulgate rules and standards of quality for products to implement this act, ~~including the adoption of ASTM or other appropriate standards as adopted by the board or specifications and definitions for products not defined in this chapter,~~ including the adoption of ASTM or other appropriate standards as adopted by the board or specifications and definitions for products not defined in this chapter, subject to the following:

(v) ~~Kerosine~~ Kerosene shall:

(D) Meet the standards set forth in ASTM D3699.

(vi) Any gasoline, gasohol or diesel fuel sold in the wholesale or retail market place that contains any oxygenate, biofuel or nonrefined product shall be clearly labeled with the name and ~~minimum~~ maximum percentage by volume of any ethanol or other oxygenate, biofuel or nonrefined product.

40-7-105. Enforcement.

The director shall enforce this act and ~~may~~ shall periodically collect, ~~either by himself or his deputies,~~ samples of petroleum, engine fuel and antifreeze products for analysis from every storage tank directly supplying these products to retail dispensing devices located at a retail sales facility. At least one (1) sample per year shall be taken from each storage tank by a dispenser

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located at a retail sales facility. The sample shall be acquired after allowing at least one (1) gallon of product to flow from the dispenser. The director may collect samples from pipelines, storage tanks and transport tanks at refineries and intermediate storage and dispensing facilities as he deems necessary.

40-7-106. Seizure and sale.

Any product sold, stored, transported or offered for sale as a petroleum product, engine fuel or antifreeze in this state which does not conform to the provisions of this act or rules promulgated under it shall be seized by the director ~~of the department of agriculture~~ and sold ~~by him~~ in accordance with state law. The proceeds of the sale shall be applied on payment of court costs or other necessary expenses incurred in making the seizure and condemnation.

40-7-107. Analysis by state chemist; ASTM standards to apply.

(a) The state chemist shall make, or cause to be made under his direction, analysis and examinations of the petroleum and antifreeze products furnished to him by the ~~commissioner~~ director, or his deputies, to determine whether the products conform ~~with~~ to this act and rules promulgated under it and shall certify examination results to the ~~commissioner~~ director following applicable ASTM methods designated in the ASTM standards required for each product.

Section 2. W.S. 40-7-103(a)(i), (ii), (v)(A) and (B) is repealed.

Section 3.

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(a) There is appropriated two hundred five thousand six hundred dollars (\$205,600.00) from the general fund to the department of agriculture for the period beginning with the effective date of this act and ending June 30, 2010. Notwithstanding any other provision of law, this appropriation shall not be transferred or expended for any other purpose and any unexpended, unobligated funds remaining from this appropriation shall revert as provided by law on June 30, 2010. This appropriation shall only be expended as follows:

(i) One hundred eighty thousand six hundred dollars (\$180,600.00) to purchase equipment and instruments necessary for the analytical testing program;

(ii) Twenty-five thousand dollars (\$25,000.00) for consumable supplies and contractual testing of octane in selected samples by an external laboratory.

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Section 4. This act is effective July 1, 2009.

(End)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk