SENATE BILL NO. 399–SENATOR KIHUEN

MARCH 18, 2013

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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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AN ACT relating to special fuels; prohibiting certain conduct
related to the sale of biodiesel that does not conform to
certain specifications; amending the definition of
"biodiesel" for the purpose of provisions relating to taxes
imposed on special fuels; specifying that the sale or use of
certain special fuels is taxed at a certain rate; 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 that
7   does not conform to certain standards of ASTM International.
8   Under existing law, special fuels which include, without limitation, biodiesel,
9   biodiesel blend and an emulsion of water-phased hydrocarbon fuel, are taxed at the
10 rate of 27 cents per gallon. (NRS 366.060, 366.190) **Section 3** of this bill specifies
11 that diesel, biodiesel and biodiesel blend are the fuels taxed at that rate.
12 Existing law defines "biodiesel" as any fuel composed of mono-alkyl esters of
13 long-chain fatty acids or any other fuel sold or labeled as biodiesel which is suitable
14 for use as a fuel in a motor vehicle. (NRS 366.022) Biodiesel fuels are considered
15 "special fuels" for the purpose of taxes imposed on fuels. (NRS 366.060, 366.190)
16 **Section 2** of this bill revises the definition of "biodiesel" so that fuels other than
17 those composed of mono-alkyl esters of long-chain fatty acids must be derived

18 from renewable resources and must be suitable for use in a diesel engine to be
19 considered a biodiesel fuel.

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 **[:]** *other than*
4 *biodiesel:*
5   (a) Based upon scientific evidence which demonstrates that any
6 motor vehicle fuel which is produced in accordance with the
7 specifications is of sufficient quality to ensure appropriate
8 performance when used in a motor vehicle in this State; or
9   (b) Proposed by an air pollution control agency to attain or
10 maintain national ambient air quality standards in any area of this
11 State. As used in this paragraph, "air pollution control agency"
12 means any federal air pollution control agency or any state, regional
13 or local agency that has the authority pursuant to chapter 445B of
14 NRS to regulate or control air pollution or air quality in any area of
15 this State.
16   2.   The State Board of Agriculture shall adopt by regulation
17 procedures for allowing variances from the specifications for motor
18 vehicle fuel adopted pursuant to this section.
19   3.   It is unlawful for any person, or any officer, agent or
20 employee thereof, to sell, offer for sale, assist in the sale of, deliver
21 or permit to be sold or offered for sale **[, any]** *:*
22   *(a) Any* petroleum or petroleum product as, or purporting to be,
23 motor vehicle fuel, unless it conforms with the regulations adopted
24 by the State Board of Agriculture pursuant to this section.
25   *(b) Any biodiesel unless it:*
26   *(1) Is composed of mono-alkyl esters of long-chain fatty*
27 *acids and conforms to ASTM International Standard D6751,*
28 *"Standard Specification for Biodiesel Fuel Blend Stock (B100) for*
29 *Middle Distillate Fuels"; or*
30   *(2) Conforms to ASTM International Standard D975,*
31 *"Standard Specification for Diesel Fuel Oils."*
32   4.   This section does not apply to aviation fuel.
33   5.   In addition to any criminal penalty that is imposed pursuant
34 to the provisions of NRS 590.150, any person who violates any
35 provision of this section may be further punished as provided in
36 NRS 590.071.
37   *6.   As used in this section, "biodiesel" has the meaning*
38 *ascribed to it in NRS 366.022.*

1   **Sec. 2.** NRS 366.022 is hereby amended to read as follows:
2   366.022 "Biodiesel" means a fuel composed of mono-alkyl
3 esters of long-chain fatty acids or any other fuel **[sold or labeled as**
4 **biodiesel]** *derived from renewable resources* which is suitable for
5 use as a fuel in a **[motor vehicle.]** *diesel engine.*
6   **Sec. 3.** NRS 366.190 is hereby amended to read as follows:
7   366.190 **[1. Except as otherwise provided in subsection 2, a**
8 **tax is hereby imposed at the rate of 27 cents per gallon on the sale or**
9 **use of special fuels.**
10   ── **2.]** A tax is hereby imposed at:
11   **[(a)]** *1.* The rate of 19 cents per gallon on the sale or use of an
12 emulsion of water-phased hydrocarbon fuel;
13   **[(b)]** *2.* The rate of 22 cents per gallon on the sale or use of
14 liquefied petroleum gas; **[and**
15   ── **(c)]** *3.* The rate of 21 cents per gallon on the sale or use of
16 compressed natural gas **[.]** *; and*
17   *4. The rate of 27 cents per gallon on the sale or use of:*
18   *(a) Diesel;*
19   *(b) Biodiesel; and*
20   *(c) Biodiesel blend.*
21   **Sec. 4.** This act becomes effective upon passage and approval
22 for the purpose of adopting regulations and performing any other
23 preparatory administrative tasks that are necessary to carry out the
24 provisions of this act, and on January 1, 2014, for all other purposes.

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