

Enrolled
House Bill 2827

Sponsored by Representative WHISNANT; Representative MCLANE (Presession filed.)

CHAPTER

AN ACT

Relating to additives to biodiesel fuel; creating new provisions; amending ORS 646.922; repealing section 7, chapter 55, Oregon Laws 2010; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 7, chapter 55, Oregon Laws 2010, is repealed.

SECTION 2. ORS 646.922, as amended by sections 2 and 5, chapter 55, Oregon Laws 2010, is amended to read:

646.922. (1) A retail dealer, nonretail dealer or wholesale dealer may not sell or offer for sale diesel fuel unless the diesel fuel contains at least two percent biodiesel by volume.

(2) Two months after the date of the notice given under ORS 646.921 (2), a retail dealer, nonretail dealer or wholesale dealer may not sell or offer for sale diesel fuel unless the diesel fuel contains at least five percent biodiesel by volume. Diesel fuel containing more than five percent biodiesel by volume must be labeled as provided by the State Department of Agriculture by rule.

(3) A retail dealer, nonretail dealer or wholesale dealer may sell or offer for sale diesel fuel that otherwise meets the requirements of subsections (1) and (2) of this section and rules adopted pursuant to ORS 646.957 but to which there have been added substances to prevent congealing or gelling of diesel fuel containing biodiesel, without violating the requirements of subsections (1) and (2) of this section and rules adopted pursuant to ORS 646.957. This subsection applies only to diesel fuel sold or offered for sale during the period from October 1 of any year to February 28 of the following year.

~~[(3)]~~ (4) The department shall adopt standards for biodiesel or other renewable diesel sold in this state. The department shall consult the specifications established for biodiesel or other renewable diesel by ASTM International in forming its standards. The department may review specifications adopted by ASTM International, or equivalent organizations, and revise the standards adopted pursuant to this subsection as necessary.

~~[(4)]~~ (5) The minimum biodiesel fuel content requirements under subsections (1) and (2) of this section do not apply to diesel fuel sold or offered for sale for use by railroad locomotives, marine engines or home heating.

SECTION 3. ORS 646.922, as amended by section 3, chapter 752, Oregon Laws 2009, and sections 3 and 6, chapter 55, Oregon Laws 2010, is amended to read:

646.922. (1) A retail dealer, nonretail dealer or wholesale dealer may not sell or offer for sale diesel fuel unless the diesel fuel contains at least two percent biodiesel by volume or other renewable diesel with at least two percent renewable component by volume.

(2) Two months after the date of the notice given under ORS 646.921 (2), a retail dealer, nonretail dealer or wholesale dealer may not sell or offer for sale diesel fuel unless the diesel fuel

contains at least five percent biodiesel by volume or other renewable diesel with at least five percent renewable component by volume. Diesel fuel containing more than five percent biodiesel by volume or other renewable diesel with more than five percent renewable component by volume must be labeled as provided by the State Department of Agriculture by rule.

(3) A retail dealer, nonretail dealer or wholesale dealer may sell or offer for sale diesel fuel that otherwise meets the requirements of subsections (1) and (2) of this section and rules adopted pursuant to ORS 646.957 but to which there have been added substances to prevent congealing or gelling of diesel fuel containing biodiesel or other renewable diesel, without violating the requirements of subsections (1) and (2) of this section and rules adopted pursuant to ORS 646.957. This subsection applies only to diesel fuel sold or offered for sale during the period from October 1 of any year to February 28 of the following year.

[3] (4) The department shall adopt standards for biodiesel or other renewable diesel sold in this state. The department shall consult the specifications established for biodiesel or other renewable diesel by ASTM International in forming its standards. The department may review specifications adopted by ASTM International, or equivalent organizations, and revise the standards adopted pursuant to this subsection as necessary.

[4] (5) The minimum biodiesel fuel content [or] **and** renewable component in other renewable diesel requirements under subsections (1) and (2) of this section do not apply to diesel fuel sold or offered for sale for use by railroad locomotives, marine engines or home heating.

SECTION 4. If this 2011 Act does not become effective until after March 1, 2011, the repeal of section 7, chapter 55, Oregon Laws 2010, by section 1 of this 2011 Act revives the amendments to ORS 646.922 by section 2, chapter 55, Oregon Laws 2010, and the amendments to ORS 646.922 by section 3, chapter 752, Oregon Laws 2009, and section 3, chapter 55, Oregon Laws 2010. If this 2011 Act does not become effective until after March 1, 2011, this 2011 Act shall be operative retroactively to that date, and the operation and effect of the amendments to ORS 646.922 by section 2, chapter 55, Oregon Laws 2010, and the amendments to ORS 646.922 by section 3, chapter 752, Oregon Laws 2009, and section 3, chapter 55, Oregon Laws 2010, shall continue unaffected from March 1, 2011, to the effective date of this 2011 Act and thereafter. Any otherwise lawful action taken or otherwise lawful obligation incurred under the authority of the amendments to ORS 646.922 by section 2, chapter 55, Oregon Laws 2010, and the amendments to ORS 646.922 by section 3, chapter 752, Oregon Laws 2009, and section 3, chapter 55, Oregon Laws 2010, after March 1, 2011, and before the effective date of this 2011 Act, is ratified and approved.

SECTION 5. This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect March 1, 2011.

Passed by House April 5, 2011

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Ramona Kenady Line, Chief Clerk of House

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Passed by Senate May 23, 2011

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2011

Approved:

.....M,....., 2011

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2011

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Kate Brown, Secretary of State