

Enrolled Senate Bill 19

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CHAPTER

AN ACT

Relating to blended gasoline for sale within this state; creating new provisions; amending ORS 646.910, 646.913, 646.915, 646.990 and 646A.230; and declaring an emergency.

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

SECTION 1. ORS 646.910 is amended to read:

646.910. (1) A wholesale **dealer** or retail dealer may not sell or offer to sell *[any]* gasoline *[blended or mixed with]*:

(a) **As a fuel for motor vehicles that are operated on a public street or highway unless the gasoline and any additives blended with the gasoline** *[ethanol unless the blend or mixture meets the specifications or registration requirements established by]* **appear on the list of registered fuels and fuel additives that** the United States Environmental Protection Agency *[pursuant to]* **publishes in accordance with 42 U.S.C. 7545** (section 211 of the Clean Air Act) *[, 42 U.S.C. section 7545]* and 40 C.F.R. Part 79*[, and that complies with ASTM International specification D 4806]*;

(b) **That contains** methyl tertiary butyl ether (**MTBE**) in concentrations that exceed 0.15 percent by volume; or

(c) *[A total of all]* **That contains any combination** of the following oxygenates *[that exceeds]* **in concentrations that exceed** one-tenth of one percent, by weight*[, of]*:

(A) Diisopropyl ether (**DIPE**).

(B) Ethyl tert-butyl ether (**ETBE**).

[(C) Isobutanol.]

[(D)] (C) [Isopropanol] Propanol, including all structural isomers.

[(E) N-butanol.]

[(F) N-propanol.]

[(G) Sec-butanol.]

[(H)] (D) Tert-amyl methyl ether (TAME).

[(I) Tert-butanol.]

[(J)] (E) [Tert-pentanol or] Tert-amyl alcohol (TAA).

[(K)] (F) Any other additive that has not been approved by the California Air Resources Board or the United States Environmental Protection Agency.

(2) *[Nothing in]* This section *[shall]* **does not** prohibit transshipment through this state, or storage incident to the transshipment, of gasoline that *[contains methyl tertiary butyl ether in concentrations that exceed 0.15 percent by volume or any of the oxygenates listed in subsection (1)(c) of this*

section, provided] **does not meet the requirements for wholesale or retail sale set forth in this section if:**

- (a) The gasoline is used or disposed of outside this state; and
- (b) The gasoline is segregated from gasoline intended for use within this state.

SECTION 2. ORS 646.913 is amended to read:

646.913. (1) Except as provided in subsection [(5)] (4) of this section, a **wholesale dealer**, retail dealer[,] **or** nonretail dealer [*or wholesale dealer*] may not sell **gasoline** or offer **gasoline** for sale [*gasoline*] unless the gasoline contains 10 percent **denatured fuel** ethanol by volume. **Gasoline that contains anhydrous ethanol in concentrations between 9.2 percent and 10 percent by volume complies with the requirement set forth in this subsection.**

[(2) *Gasoline containing ethanol that is sold or offered for sale meets the requirements of this section if the gasoline, exclusive of denaturants and permitted contaminants, contains not less than 9.2 percent by volume of agriculturally derived, denatured ethanol that complies with the standards for ethanol adopted by the State Department of Agriculture.*]

[(3)] (2) The [*department*] **State Department of Agriculture** shall adopt standards for **gasoline blended with ethanol** [*blended with gasoline*] **that is** sold in this state. The standards [*adopted*] **that the department adopts** shall require that the gasoline blended with ethanol:

(a) Contains ethanol that is derived from agricultural or woody waste or residue;

[(b) *Contains ethanol denatured as specified in 27 C.F.R. parts 20 and 21;*]

[(c)] (b) Complies with the volatility requirements specified in 40 C.F.R. part 80;

[(d)] (c) Complies with [*or is produced from a gasoline base stock that complies with*] ASTM International specification D 4814, **Standard Specification for Automotive Spark-Ignition Engine Fuel;**

[(e)] (d) Is not blended with casinghead gasoline, absorption gasoline, drip gasoline or natural gasoline after the gasoline has been sold, transferred or otherwise removed from a refinery or terminal; and

[(f)] (e) Contains **denatured fuel** ethanol that complies with ASTM International specification D 4806, **Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel.**

[(4)] (3) The department may review specifications adopted by ASTM International, or equivalent organizations, and federal regulations and revise the standards adopted [*pursuant to*] **under** this section as necessary.

[(5)] (4) A **wholesale dealer**, retail dealer[,] **or** nonretail dealer [*or wholesale dealer*] may sell or offer for sale gasoline that is not blended with ethanol if the gasoline has an octane rating, as defined in ORS 646.945, of 91 or above or if the gasoline is for use in:

(a) An aircraft:

(A) With a supplemental type certificate approved by the Federal Aviation Administration that allows the aircraft to use gasoline that is intended for use in motor vehicles; or

(B) Issued a type certificate by an aircraft engine manufacturer that allows the aircraft to use gasoline that is intended for use in motor vehicles;

(b) An aircraft that has been issued an experimental certificate, **as** described in 14 C.F.R. 21.191, by the Federal Aviation Administration and [*that is required by*] **for which** the manufacturer's specifications [*to use*] **require the use of** gasoline that is intended for use in motor vehicles;

(c) A light-sport aircraft, as defined in 14 C.F.R. 1.1, [*that is required by*] **for which** the manufacturer's specifications [*to use*] **require the use of** gasoline that is intended for use in motor vehicles;

(d) A vintage aircraft, as defined by the Oregon Department of Aviation by rule, [*that is required by*] **for which** the manufacturer's specifications [*to use*] **require the use of** gasoline that is intended for use in motor vehicles;

(e) An antique vehicle, as defined in ORS 801.125;

(f) A Class I all-terrain vehicle, as defined in ORS 801.190;

(g) A Class III all-terrain vehicle, as defined in ORS 801.194;

- (h) A Class IV all-terrain vehicle, as defined in ORS 801.194 (2);
- (i) A racing activity vehicle, as defined in ORS 801.404;
- (j) A snowmobile, as defined in ORS 801.490;
- (k) Tools, including but not limited to lawn mowers, leaf blowers and chain saws; or
- (L) A watercraft.

SECTION 3. ORS 646.915 is amended to read:

646.915. [(1) A retail dealer or nonretail dealer of gasoline who knowingly sells or offers for sale gasoline that is blended with ethanol, methanol, co-solvent, alcohol or other oxygenates in quantities greater than 1.5 mass percent shall be identified as “with,” “containing” or other similar language indicating the oxygenate contributing the largest mass percentage to the blend in the gasoline. When mixtures of only ethers are present, the retail dealer or nonretail dealer shall post the predominant oxygenate followed by the phrase “or other ethers.” Gasoline-methanol blends containing more than 0.15 mass percent oxygen from methanol shall be identified as “with” or “containing” methanol.]

[(2) The disclosure required by this section shall be posted on the upper 50 percent of the dispensing device front panel in a position clear and conspicuous from the driver’s position in type at least one-half inch in height and one-sixteenth inch in width.]

[(3) In any county, city or other political subdivision designated as a carbon monoxide nonattainment area pursuant to the provisions of subchapter I of the Clean Air Act Amendments of 1990 (Public Law 101-549), and in which the sale of oxygenated gasoline is required by section 211(m) of the Clean Air Act Amendments of 1990, 42 U.S.C. 7545(m), any retail dealer of gasoline who sells or dispenses a petroleum product that contains at least one percent, by volume, ethanol, methanol or other oxygenate, shall be required to post only such label or notice as may be required pursuant to 42 U.S.C. 7545(m)(4) or any amendments thereto or successor provision thereof.]

The State Department of Agriculture may adopt rules that require a retail dealer or nonretail dealer to display on fuel dispensing devices through which the retail dealer or nonretail dealer sells gasoline the names of the oxygenates and the relative concentrations of the oxygenates present in the gasoline if the retail dealer or nonretail dealer knowingly sells or offers for sale gasoline that is blended with any combination of aliphatic ethers, aliphatic alcohols or other oxygenates that the United States Environmental Protection Agency permits under the agency’s interpretation of the term “substantially similar” in 42 U.S.C. 7545(f)(1)(A) (section 211(f)(1)(A) of the Clean Air Act), or any waivers that the federal agency grants under 42 U.S.C 7545(f)(4).

SECTION 4. ORS 646.990 is amended to read:

646.990. (1) [Each violation of any of the provisions of ORS 646.010 to 646.180 by any] **A** person, firm or corporation, whether **acting** as principal, agent, officer or director, [is] **commits** a Class B misdemeanor **for each violation of a provision of ORS 646.010 to 646.180.**

(2) Violation of ORS 646.725 or 646.730 is a Class A misdemeanor.

[(3) Any person who willfully and intentionally violates any provision of ORS 646A.220 to 646A.230 commits a Class B misdemeanor. Violation of any order or injunction issued pursuant to ORS 646A.230 (1) shall constitute prima facie proof of a violation of this subsection.]

[(4)] **(3)** Violation of ORS 646.910 is a Class D violation.

[(5)] **(4)** Violation of **a rule that the State Department of Agriculture adopts under ORS 646.915** is a Class D violation.

[(6)] **(5)** Violation of ORS 646.920 is a Class D violation.

[(7)] **(6)** A person [violating] **that violates** ORS 646.930 commits a Class C misdemeanor.

SECTION 5. ORS 646A.230 is amended to read:

646A.230. (1)(a) The Attorney General or a district attorney may bring an action in the name of the state against a person to restrain and prevent a violation of ORS 646A.202, 646A.204, 646A.220 or 646A.222.

(b) The Attorney General or a district attorney may in the name of the state seek and obtain a civil penalty from a person [who] **that** violates an order or injunction issued pursuant to this subsection.

(2)(a) A person [who] **that** violates an order or injunction issued pursuant to subsection (1) of this section shall forfeit and pay a civil penalty of not more than \$1,000 per violation. The circuit court issuing the order or injunction retains jurisdiction of the action to consider a request for a civil penalty.

(b) In an action [brought by] **that** a prosecuting attorney **brings** under this section, the court may award the prevailing party, in addition to any other relief provided by law, reasonable attorney fees at trial and on appeal.

(3) **A person that willfully and intentionally violates a provision of ORS 646A.220 to 646A.230 commits a Class B misdemeanor. Violation of an order or injunction issued under subsection (1) of this section constitutes prima facie proof of a violation of a provision of ORS 646A.220 to 646A.230.**

SECTION 6. (1) The amendments to ORS 646.910, 646.913, 646.915, 646.990 and 646A.230 by sections 1 to 5 of this 2017 Act become operative January 1, 2018.

(2) The Director of Agriculture may adopt rules and take any other action before the operative date specified in subsection (1) of this section that is necessary to enable the director, on and after the operative date specified in subsection (1) of this section, to exercise all of the duties, functions and powers conferred on the director by the amendments to ORS 646.910, 646.913, 646.915, 646.990 and 646A.230 by sections 1 to 5 of this 2017 Act.

SECTION 7. This 2017 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect on its passage.

Passed by Senate April 4, 2017

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House May 15, 2017

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Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2017

Approved:

.....M.,....., 2017

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2017

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Dennis Richardson, Secretary of State