

LEGISLATIVE BILL 767

(CORRECTED)

Approved by the Governor April 9, 1984

Introduced by Wesely, 26

AN ACT relating to oils and fuels; to amend section 66-428, Reissue Revised Statutes of Nebraska, 1943; to adopt the Petroleum Products Act; to eliminate certain duties; to provide for termination; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. Sections 1 to 13 of this act shall be known and may be cited as the Petroleum Products Act.

Sec. 2. For purposes of the Petroleum Products Act, unless the context otherwise requires:

(1) Department shall mean the Department of Agriculture or its authorized agents;

(2) Motor fuel shall mean gasoline, case head or natural gasolines, benzol, naphtha, gas substances or energies regardless of their composition or properties, diesel fuel oils or other liquids used in diesel engines, any other liquid prepared, advertised, offered for sale, sold for use as, or used for the generation of power of an internal combustion engine, and blended gasolines obtained by blending together any one or more products of petroleum with or without other products if the resulting product is capable of the generation of power in an internal combustion engine;

(3) Alcohol-blend shall mean a blend of gasoline containing one per cent or more alcohol by volume; and

(4) Alcohol shall mean ethanol or cosolvents combined with methanol.

Sec. 3. The department may make or cause to be made all necessary examinations and shall have authority to adopt and promulgate such rules and regulations as are necessary to promptly and effectively enforce the Petroleum Products Act.

Sec. 4. The department may inspect and test motor fuel and other products of petroleum manufactured, used, sold, or offered for sale in this state for the powering of internal combustion engines. The department shall have access to all books, papers, and other information necessary for the inspection and testing of such products. If, after inspection, the department finds or has reason to believe that the requirements set forth in the Petroleum Products Act are not being met, the department shall have access to all books, papers,

records, bills of lading, invoices, and other pertinent data relating to the use, sale, exposure for sale, and importing or transporting for sale of such products within the State of Nebraska for a period of two years prior to the date of inspection. The department shall be authorized to take official samples in an amount necessary for thorough inspection and analysis. To carry out its duties under this section, the department may contract with other state agencies and persons in the private sector for the sampling, transportation, and analysis of official samples for compliance with the Petroleum Products Act.

Sec. 5. The department may adopt and promulgate rules and regulations setting forth specifications and tolerance requirements for motor fuels. Insofar as practical, the department may use the current standards of the American Society of Testing Materials Standards for Specifications for Automotive Gasolines D439 and Standard Specifications for Diesel Fuels D975.

Sec. 6. Alcohol-blended fuels may be analyzed by type of alcohol and percentage by volume. The department may set standards for alcohol blends. All gasoline in alcohol-blended fuels shall meet the American Society of Testing Materials Standards for Specifications for Automotive Gasolines D439.

Sec. 7. If after any product is inspected under the Petroleum Products Act such product fails to meet the requirements for legal sale within this state, an order to stop sale may be issued by the department pending further investigation and disposition. Failure to comply with the order shall be a violation of this section.

Sec. 8. No person, firm, or corporation shall manufacture, have possession with intent to sell, offer, or expose for sale, sell, or deliver any gasoline or diesel oil as a motor fuel which does not conform to the American Society of Testing Materials Specifications D439 and D975, as adopted. The department may adopt a change in technical specifications as set forth by the American Society of Testing Materials and adopt any interim or emergency changes in specifications set forth by such society. The department shall have the authority to determine which analyses will be conducted in accordance with specifications D439 and D975 on each sample submitted.

Sec. 9. All persons, firms, or corporations which sell, offer for sale, or expose for sale motor fuel and use advertising pricing signs shall, in addition to the product identity and price per unit of measure, display the other conditions of the sale which affect the purchase price of the fuel.

Sec. 10. Motor fuel dispensers shall be labeled on both faces with the product identity using the most descriptive terms commercially practicable. In addition, all alcohol-blended fuel dispensers shall have a label stating: With or containing ethanol, methanol, or ethanol

and methanol or with similar wording if the motor fuel being dispensed contains one per cent or more by volume of alcohol.

Sec. 11. It shall be unlawful for a person, firm, corporation, or any employee thereof to store, sell, expose for sale, or offer for sale any motor fuel or other petroleum product in any manner which deceives, tends to deceive, or has the effect of deceiving the purchaser as to the nature, quality, kind, or identity of the product so sold or offered for sale.

Sec. 12. Any person, firm, or corporation which violates any of the provisions of the Petroleum Products Act, any rule or regulation adopted and promulgated under such act, or any order of the department after such order has become final or upon termination of any review proceeding when the order has been sustained by a court of law shall be guilty of a Class III misdemeanor. Each day of continued violation shall constitute a separate offense.

Sec. 13. The Petroleum Products Act shall terminate on December 31, 1985, and each section shall be repealed in its entirety along with all amendments unless reenacted or reestablished by the Legislature.

Sec. 14. That section 66-428, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-428. In addition to the tax imposed pursuant to sections 66-473, 66-477, and 66-478, there is hereby levied and imposed an excise tax of ten and one half cents per gallon upon the use of all motor vehicle fuels, as defined by section 66-401, used in this state, and due the State of Nebraska under the provisions of section 66-410 or Chapter 66, article 6, ~~except~~ ~~7~~ ~~Provided~~, that such excise tax after June 1, 1979, shall be five cents per gallon less on agricultural ethyl alcohol produced in the State of Nebraska for use as a motor vehicle fuel and on motor vehicle fuel containing a minimum of ten per cent blend of agricultural ethyl alcohol whose purity shall be at least ninety-nine per cent alcohol, excluding denaturant, than on motor vehicle fuel which does not contain such a blend. ~~The Department of Agriculture shall inspect and test motor vehicle fuel containing such a blend to insure compliance with this section. Such inspections shall be conducted as provided for in Chapter 66, article 3.~~ Users of motor vehicle fuels subject to taxation under this section shall be allowed the same exemptions, deductions, and rights of reimbursement as are authorized and permitted by sections 66-413 and 66-414. For purposes of this section and section 66-429, use shall mean the purchase or consumption of motor vehicle fuels in this state.

Sec. 15. That original section 66-428, Reissue Revised Statutes of Nebraska, 1943, is repealed.