

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

400M0350

SENATE BILL NO. 39

Introduced by: The Committee on Commerce at the request of the Department of Public Safety

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding petroleum and motor
2 fuels testing, quality, and labeling.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 37-2-5 be amended to read as follows:

5 37-2-5. Terms used throughout §§ 37-2-5 to 37-2-24, inclusive, mean:

6 (1) "Alcohol," a colorless volatile flammable liquid containing no more than 1.25 percent
7 of water used for the purpose of blending or mixing with gasoline for use in motor
8 vehicles and commonly known as alcohol, ethanol or methanol;

9 (2) "ASTM," the American Society for Testing and Materials;

10 (3) "Aviation gasoline," a volatile hydrocarbon fuel free from suspended water and
11 sediment matter and that is suitable for use as a fuel in an aviation spark ignition
12 internal combustion engine designed for use in an aircraft;

13 (3A) "Biodiesel," a fuel comprised of mono-alkyl esters of long chain fatty acids derived
14 from vegetable oils or animal fats, designated B100, and meeting the requirements
15 of the American Society of Testing and Materials D 6751 as of January 1, 2005;



(3B) "Biodiesel blend," a special blended fuel comprised of at least two percent by volume of biodiesel blended with petroleum-based diesel fuel, designated BXX. In the abbreviation BXX, the XX represents the volume percentage of biodiesel fuel in the blend;

(4) "Department," the Department of Public Safety;

(5) "Diesel fuel," a refined middle distillate hydrocarbon fuel free from suspended water and sediment matter that is suitable for use as a fuel in a ~~diesel~~ compression-ignition (diesel) internal combustion engine;

(5A) "Ether," methyl tertiary butyl ether;

(6) "Flash test" and "flash point," the flash point as determined by the method of the American Society for Testing Materials, using the instrument known as the Tagliabue closed cup tester;

(7) "Gasoline," a volatile hydrocarbon fuel free from suspended water and sediment matter that is practicable and suitable used as fuel in a spark ignition internal combustion engine;

(8) "Inspector," the secretary of the Department of Public Safety or any deputy or assistant appointed by the secretary for the purpose of enforcing the provisions of this chapter;

(9) "Kerosene," a hydrocarbon fuel intended for use in heating and illumination and having an American Petroleum Institute gravity of not less than forty degrees. Kerosene shall also include coal oil and burner oil;

(9A) "NIST," the National Institute of Standards and Technology;

(10) "Petroleum products," gasoline, alcohol blended fuels, kerosene, diesel fuel, aviation gasoline, burner oil, naphtha and lubricating oils.

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2 Section 2. That § 37-2-6 be amended to read as follows:

3 37-2-6. The secretary of the Department of Public Safety may, pursuant to chapter 1-26, and
4 in general conformity with ASTM and NIST standards in effect on January 1, 2005, promulgate
5 rules:

- 6 (1) Establishing standards for the maximum volume percentages of ethanol, methanol,
7 ether, and cosolvents in alcohol blended fuels;
- 8 (2) Establishing a program for and prescribing the methods to be used for the inspection
9 and testing of alcohol blended fuels ~~and~~, petroleum products, biodiesel, and biodiesel
10 blends;
- 11 (3) Requiring labeling of devices dispensing alcohol blended fuels, biodiesel, and
12 biodiesel blends;
- 13 (4) Establishing standards setting the specifications and tolerance requirements for
14 petroleum products, biodiesel, and biodiesel blends; and
- 15 (5) Regulating the filtering system to be used on devices dispensing alcohol blended
16 fuels.

17 Section 3. That § 37-2-7 be amended to read as follows:

18 37-2-7. Specifications and methods for the examination and test of petroleum products shall
19 be jointly determined by the Division of Commercial Inspection and Licensing and the director
20 of ~~laboratories~~ the State Health Laboratory and shall be based upon ~~nationally recognized~~
21 standards from the American Society for Testing and Materials and the National Institute for
22 Standards and Technology as of January 1, 2005. ~~When so determined, and If adopted and~~
23 ~~published~~ as rules ~~and regulations~~ of the division in accordance with the provisions of chapter
24 1-26, ~~such~~ the specifications shall be the specifications for such petroleum products sold in this

1 state and official tests of ~~such~~ the petroleum products shall be based upon test specifications so
2 determined, adopted, and promulgated.

3 Section 4. That § 37-2-8 be amended to read as follows:

4 37-2-8. The director of ~~laboratories~~ the State Health Laboratory, or other qualified
5 laboratory, shall make ~~such~~ an analysis as may be requested by the secretary of the Department
6 of Public Safety. Distillation tests shall be made in accordance with the methods for ~~such~~ the
7 tests adopted by the American Society for Testing and Materials.

8 Section 5. That § 37-2-23 be repealed.

9 ~~—37-2-23. Any inspector having knowledge of a violation of any of the provisions of §§ 37-2-~~
10 ~~5 to 37-2-24, inclusive, must immediately enter complaint before a court of competent~~
11 ~~jurisdiction against the person so offending, and in case of neglect to enter such complaint, such~~
12 ~~inspector shall be punished as provided in § 37-2-16.~~