



States' Biofuels Statutes

STATE OF NORTH DAKOTA

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Current through the 2013 Legislative Session of the North Dakota General Assembly.

§ 57-43.2-01. Definitions

As used in this chapter, unless the context otherwise requires:

1. "Agricultural purpose" means the science, art, and business of farming. It includes raising crops, ranching, beekeeping, tree nurseries, agricultural units of colleges and universities, custom combining, manure spreading, and stack moving operations. Fuel used for an agricultural purpose includes fuel used in a vehicle, engine, or machine, movable or immovable, operated in whole or in part by internal combustion. It does not include fuel used to operate a licensed motor vehicle.
2. "Biodiesel, designated B100" means a fuel comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oil or animal fats that meets American society for testing materials specification D 6751.
3. "Commissioner" means the state tax commissioner.
4. "Common carrier" or "contract carrier" means a person involved in the movement of special fuel from a terminal or movement of special fuel imported into this state, who is not an owner of the special fuel.
5. "Consumer" means a user of special fuel, including any person purchasing special fuel in this state for use in a licensed motor vehicle; any person importing special fuel into this state or purchasing special fuel in this state for use as heating fuel or for an agricultural, industrial, or railroad purpose; or any person purchasing special fuel in this state for use in recreational or any other types of motor vehicles. It does not include a person importing or purchasing special fuel for resale.
6. "Destination state" means any state, territory, foreign country, or sovereign nation to which special fuel is directed for delivery into a storage facility, receptacle, container, or any other type of transportation equipment, for the purposes of resale or use.

7. "Director" means the director of the department of transportation.
8. "Distributor" means a person, other than a retailer, who acquires special fuel from a refiner or supplier for subsequent wholesale distribution in bulk or transport load by truck, railcar, or in a barrel, drum, or other receptacle.
9. "Dyed special fuel" means special fuel to which an indelible dye meeting United States environmental protection agency and internal revenue service regulations has been added before or upon withdrawal at a terminal or refinery rack.
10. "Export" means the delivery of special fuel across the boundaries of this state from a place of origin in this state by or for a refiner, supplier, or distributor.
11. "Exporter" means a refiner, supplier, or distributor who exports special fuel out of this state in bulk or transport load by truck, railcar, or in a barrel, drum, or other receptacle.
12. "Gallon" means a United States gallon [3.79 liters] measured on a gross volume basis.
13. "Green diesel" means a fuel produced from nonfossil renewable resources, including agricultural or silvicultural plants, animal fats, residue, and waste generated from the production, processing, and marketing of agricultural products, silvicultural products, and other renewable resources, which meets applicable American society for testing and materials specifications.
14. "Gross volume" means measurement in United States gallons [liters] without temperature or barometric adjustments.
15. "Heating fuel use" means use of special fuel to heat homes, private and public office buildings, or private and public commercial buildings or use of special fuel in stoves or burners or for any other heating purposes.
16. "Highway purpose" means any use of special fuel in any motor vehicle in any phase of construction, reconstruction, repair, or maintenance of public roads or highways, but does not include that special fuel used for heating of oils, gravel, bituminous mixture, or in any equipment used in the preparation of any materials to be used on any type of road or highway surfacing.
17. "Import" means the delivery of special fuel across the boundaries of this state from a place of origin outside this state by a refiner, supplier, distributor, or consumer.
18. "Importer" means a refiner, supplier, distributor, or consumer who imports special fuel into this state in bulk or transport load by truck, railcar, or in a barrel, drum, or other receptacle.
19. "Industrial purpose" means:
 - a. A manufacturing, warehousing, or loading dock operation;
 - b. Construction;

- c. Sand and gravel processing;
- d. Well drilling, well testing, or well servicing;
- e. Maintenance of business premises, golf courses, or cemeteries;
- f. A commercial or contract painting operation;
- g. Electrical services;
- h. A refrigeration unit on a truck;
- i. A power-take-off unit; and
- j. Other similar business activity.

Fuel used for an industrial purpose includes fuel used in a vehicle, engine, or machine, movable or immovable, operated in whole or in part by internal combustion. It does not include heating fuel, fuel used for an agricultural purpose, fuel used for a railroad purpose, or fuel used to operate a licensed motor vehicle.

20. "Interstate motor carrier" means any person importing special fuel into this state in the fuel supply tank or tanks of any motor vehicle or combination of vehicles used, designed, or maintained for transportation of persons or property; and having two axles and a gross weight exceeding twenty-six thousand pounds [1179.3401 kilograms]; or having three or more axles regardless of weight; or is used in combination when the weight of such combination exceeds twenty-six thousand pounds [1179.3401 kilograms] gross vehicle weight. In the case of motor vehicles that are leased or rented, the interstate motor carrier means the lessee or renter unless the director has designated the lessor, renter, or some other person as the interstate motor carrier.

21. "Licensed motor vehicle" means any motor vehicle required to be licensed for operation upon public roads or highways, but does not include a vehicle with a permanently mounted manure spreader or stack moving unit.

22. "Motor vehicle" means a vehicle, engine, or machine, movable or immovable, operated in whole or in part by internal combustion using one or more of the special fuels defined in this chapter but does not include aircraft.

23. "Person" means every individual, partnership, firm, association, joint venture, corporation, limited liability company, estate, business trust, receiver, or any other group or combination acting as a unit.

24. "Physical inventory reading" means a measurement of special fuel available for distribution in a terminal, an underground storage tank, an aboveground storage tank, or in a tank wagon, bulk delivery vehicle, railcar, barrel, drum, or other receptacle.

25. "Position holder" means a person holding an inventory position of special fuel in a terminal as reflected on the records of the terminal operator, a person holding the inventory position when that person has a contractual agreement with the terminal operator for the use of storage facilities or terminaling services at a terminal, and a terminal operator who owns special fuel in a terminal.
26. "Public road or highway" means every way or place generally open to the use of the public as a matter of right, for the purpose of motor vehicle travel, notwithstanding that it may be temporarily closed or subject to restricted travel due to construction, reconstruction, repair, or maintenance.
27. "Rack" means a mechanism used to dispense special fuel from a terminal.
28. "Railroad purpose" means the operation of railroad locomotives and the construction, reconstruction, repair, and maintenance of railroads. Fuel used for a railroad purpose includes fuel used to operate a railroad locomotive, and fuel used in a motor vehicle for purposes of construction, reconstruction, repair, and maintenance of railroads. It does not include fuel used in a licensed motor vehicle.
29. "Refiner" means a person who produces, manufactures, or refines special fuels in this state.
30. "Retail location" means a site at which special fuel is dispensed through a pump from an underground or aboveground storage unit into the supply tank of a motor vehicle.
31. "Retailer" means a person who acquires special fuel from a supplier or distributor for resale to a consumer at a retail location.
32. "Sale" means, with respect to special fuel, the transfer of title or possession, exchange, or barter, conditional or otherwise, in any manner or by any means, for a consideration.
33. "Special fuel" means all combustible gases and liquids suitable for the generation of power for propulsion of motor vehicles and includes compressed natural gas, kerosene, liquefied petroleum gases, all gases and liquids which meet the specifications as determined by the state department of health pursuant to the provisions of section 19-10-10, as well as all liquids determined by the state department of health to be heating oil pursuant to the provisions of section 19-10-10, except that it does not include either motor vehicle fuels as defined in section 57-43.1-01, aviation fuels as defined in section 57-43.3-01, or antifreeze as defined by section 19-16.1-02.
34. "Supplier" means a refiner who distributes special fuel from a terminal in this state, or a person who acquires special fuel by pipeline from a state, territory, or possession of the United States or from a foreign country, for storage at and distribution from a terminal, or a person who acquires special fuel by truck or railcar for storage at and distribution from a terminal in this state.
35. "Taxpayer" means a refiner, supplier, distributor, importer, exporter, terminal operator, or retailer.
36. "Terminal" means a special fuel storage and distribution facility that is supplied by a refinery or pipeline and from which the special fuel may be removed from the rack.

37. “Terminal operator” means a person who by ownership or contractual agreement is charged with the responsibility for, or physical control over, and operation of a terminal. If a terminal is owned by coventurers, “terminal operator” means the person appointed to exercise the responsibility for, or physical control over, and operation of the terminal.

38. “Wholesale distribution” means the sale of special fuel by a supplier or distributor.

Credits: S.L. 1983, ch. 657, § 1; S.L. 1985, ch. 647, § 3; S.L. 1985, ch. 648, § 1; S.L. 1987, ch. 721, § 5; S.L. 1987, ch. 722, § 3; S.L. 1989, ch. 72, § 23; S.L. 1989, ch. 727, § 9; S.L. 1991, ch. 688, § 7; S.L. 1993, ch. 54, §§ 101, 106; S.L. 1995, ch. 243, § 2; S.L. 1997, ch. 498, § 11; S.L. 1999, ch. 526, § 31; S.L. 1999, ch. 528, § 3; S.L. 2001, ch. 548, § 2; S.L. 2003, ch. 531, § 3; S.L. 2005, ch. 94, § 6; S.L. 2007, ch. 536, § 2, eff. July 1, 2007; S.L. 2009, ch. 559, § 7, eff. July 1, 2009; S.L. 2011, ch. 460, § 14, eff. July 1, 2011.