

State of Arizona
House of Representatives
Fifty-third Legislature
First Regular Session
2017

CHAPTER 295
HOUSE BILL 2368

AN ACT

AMENDING SECTIONS 3-3491 AND 3-3493, ARIZONA REVISED STATUTES; RELATING TO
MOTOR FUEL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 3-3491, Arizona Revised Statutes, is amended to
3 read:

4 3-3491. Standards for oxygenated fuel; volatility; exceptions

5 A. From and after September 30 through March 31 of each year, in a
6 county with a population of one million two hundred thousand or more
7 persons and in any portion of a county contained in area A, blends of
8 gasoline with ethanol shall not exceed the volatility requirements
9 prescribed by section 3-3433 and rules adopted by the associate director
10 under that section. From and after September 30 through March 31 of each
11 year, in area B, blends of gasoline with ethanol may exceed the volatility
12 requirements prescribed by section 3-3433 and rules adopted by the
13 associate director under that section by up to one pound per square inch
14 if the base fuel meets the requirements of ASTM D4814 and the final
15 gasoline-ethanol blend contains at least six percent ethanol by volume but
16 does not exceed United States environmental protection agency waivers.
17 For any other locations and period of time, blends of gasoline with
18 ethanol shall meet the volatility requirements as determined by division
19 rule.

20 B. Notwithstanding subsection D of this section, the associate
21 director of the division in consultation with the director of the
22 department of environmental quality shall approve alternate fuel control
23 measures that are submitted by gasoline providers and that the director
24 and the associate director determine will result in motor vehicle carbon
25 monoxide emission reductions that will equal or exceed the reductions that
26 result under subsection D of this section. In making those
27 determinations, the director of the department of environmental quality
28 and the associate director shall compare the alternative measure against
29 the emission reduction that would be obtained from a fuel with the maximum
30 vapor pressure standard prescribed by subsection D of this section and the
31 minimum oxygen standard prescribed by section 3-3492 or 3-3495.
32 Alternative fuel control measures approved by the associate director of
33 the division in consultation with the director of the department of
34 environmental quality may be used by any gasoline provider unless the
35 approval is rescinded by the associate director of the division at least
36 one hundred eighty days before the beginning of any oxygenate period in
37 the future. Gasoline providers that choose to use an approved alternate
38 fuel control measure shall annually submit a compliance plan to the
39 associate director not later than sixty days before the start of the
40 oxygenate period.

1 C. From and after September 30 through March 31 of each year, all
2 blends of gasoline with alcohol other than ethanol shall satisfy all of
3 the requirements prescribed by section 3-3433 and rules adopted by the
4 associate director under that section and the provisions of a waiver
5 issued by the United States environmental protection agency pursuant to 42
6 United States Code section 7545(f).

7 D. Notwithstanding subsection A of this section, if the director of
8 the department of environmental quality has previously raised the minimum
9 oxygen content to the maximum percentage of oxygen allowed for each
10 oxygenate as provided by section 3-3495, the designated air quality
11 planning agency for area B has considered, analyzed and reviewed the costs
12 and benefits of all other reasonable and available control measures in
13 lieu of reducing volatility requirements to nine pounds per square inch
14 and the director of the department of environmental quality finds that
15 area B has failed to maintain the carbon monoxide national ambient air
16 quality standards by violating the standard, beginning with the oxygenate
17 period beginning on the following September 30 and for each oxygenate
18 period thereafter in area B, the volatility requirements described by
19 section 3-3433, subsection G may be reduced to nine pounds per square
20 inch. If a violation of the carbon monoxide national ambient air quality
21 standards is recorded after the volatility requirements have been reduced
22 to nine pounds per square inch, the director of the department of
23 environmental quality shall remove the one pound per square inch waiver
24 for gasoline-ethanol blends.

25 E. Gasoline that is supplied or sold by any person and that is
26 intended as a final product for the fueling of motor vehicles within this
27 state shall not contain the following:

28 1. Methyl tertiary butyl ether that exceeds 0.3 percent by volume.
29 2. A total of more than 0.10 percent oxygen by weight collectively
30 from all of the following oxygenates:

- 31 (a) Diisopropylether (DIPE).
- 32 (b) Ethyl tert-butylether (ETBE).
- 33 ~~(c) Iso-butanol.~~
- 34 ~~(d)~~ (c) Isopropanol.
- 35 ~~(e)~~ (d) Methanol.
- 36 ~~(f)~~ (e) N-butanol.
- 37 ~~(g)~~ (f) N-propanol.
- 38 ~~(h)~~ (g) Sec-butanol.
- 39 ~~(i)~~ (h) Tert-amylmethylether (TAME).
- 40 ~~(j)~~ (i) Tert-butanol.
- 41 ~~(k)~~ (j) Tert-pentanol (tert-amylalcohol).

42 F. Subsection E of this section does not prohibit the transshipment
43 through this state, including storage incident to that transshipment, of
44 gasoline that contains the oxygenates prescribed by subsection E of this
45 section if both of the following apply:

1 1. The gasoline is used or disposed outside this state.

2 2. The gasoline is segregated from gasoline that is intended for
3 use inside this state.

4 Sec. 2. Section 3-3493, Arizona Revised Statutes, is amended to
5 read:

6 3-3493. Area A; fuel reformulation; rules

7 A. All gasoline produced and shipped to or within this state and
8 sold or offered for sale for use in motor vehicles in a county with a
9 population of one million two hundred thousand or more persons and any
10 portion of a county contained in area A, subject to an appropriate waiver
11 granted by the administrator of the United States environmental protection
12 agency pursuant to section 211(c)(4) of the clean air act as defined in
13 section 49-401.01, shall comply with either of the following fuel
14 reformulation options:

15 1. A gasoline that meets standards for federal phase II
16 reformulated gasoline, as provided in 40 Code of Federal Regulations
17 section 80.41, paragraphs (e) through (h), in effect on January 1, 1999,
18 except that the minimum oxygen content standard does not apply. The
19 gasoline shall also meet the maximum vapor pressure requirements in
20 section 3-3433, subsections D and F.

21 2. California phase 2 reformulated gasoline, including alternative
22 formulations allowed by the predictive model, as adopted by the California
23 air resources board pursuant to California Code of Regulations title 13,
24 sections 2261 through 2262.7 and 2265, in effect on January 1, 1997,
25 except that the minimum oxygen content standard does not apply. The
26 gasoline shall also meet the maximum vapor pressure requirements in
27 section 3-3433, subsections D and F.

28 B. For the period beginning November 1 through March 31 of each
29 year, all gasoline produced and shipped to or within this state and sold
30 or offered for sale for use in motor vehicles in a county with a
31 population of one million two hundred thousand or more persons and any
32 portion of a county contained in area A, subject to an appropriate waiver
33 granted by the administrator of the United States environmental protection
34 agency pursuant to section 211(c)(4) of the clean air act as defined in
35 section 49-401.01, shall comply with standards for California phase 2
36 reformulated gasoline, including alternative formulations allowed by the
37 predictive model, as adopted by the California air resources board
38 pursuant to California Code of Regulations title 13, sections 2261 through
39 2262.7 and 2265, in effect on January 1, 1997 and shall meet the maximum
40 vapor pressure requirements in section 3-3433, subsections D and F. The
41 fuel described in this subsection shall meet the requirements of section
42 3-3492, subsection A, paragraph 1 OR 2.

1 C. Any registered supplier or oxygenate blender, as defined in
2 division rules, may petition the associate director to request that all
3 registered suppliers or oxygenate blenders be allowed to comply with
4 standards other than the standards prescribed by section 3-3492,
5 subsection A if the petitioner can demonstrate that ethanol supply
6 shortages are imminent.

7 D. The petition shall:

8 1. Identify specific supply conditions that will result in a
9 shortage of ethanol.

10 2. Identify which oxygenate or oxygenates and the concentration
11 that will be blended into gasoline for sale or use in area A.

12 3. Demonstrate that the alternative oxygenate blend comes closest
13 to meeting a three and one-half percent by weight oxygen content at
14 reasonable cost, unless the registered supplier or oxygenate blender is
15 petitioning to use a gasoline-ethanol blend containing less than ten
16 percent by volume of ethanol.

17 4. Specify a time period for compliance with any provision of
18 section 3-3492, subsection A, not to exceed sixty days.

19 E. The associate director shall either grant or deny the petition
20 in writing within seven days of its receipt. Any decision by the
21 associate director to grant the petition shall be equally applicable to
22 all registered suppliers or oxygenate blenders and shall not be
23 selectively applied to any single registered supplier or oxygenate
24 blender. The petition may be granted only if the associate director
25 verifies that the basis for requesting the petition is factual.

26 F. The associate director may reauthorize a petition if the
27 petitioner can demonstrate that the conditions have continued. The
28 reauthorization of a petition shall not exceed thirty days.

29 G. The associate director of the division shall consult with the
30 director of the department of environmental quality before granting,
31 reauthorizing or denying any such petition.

32 H. The director of environmental quality in consultation with the
33 associate director of the division shall adopt by rule:

34 1. Requirements to implement subsections A, B, C and D of this
35 section.

36 2. Requirements for recordkeeping, reporting and analytical methods
37 for fuel providers to demonstrate compliance with subsections A, B, C
38 and D of this section.

39 I. This section does not apply to fuel sold for use at a motor
40 vehicle manufacturer proving ground or at a motor vehicle racing event.

41 Sec. 3. Conditional enactment; notice

42 A. Section 3-3493, Arizona Revised Statutes, as amended by this
43 act, does not become effective unless on or before July 1, 2022 the United
44 States environmental protection agency approves the proposed modifications

1 to the gasoline fuel formulation requirements as part of the state
2 implementation plan for air quality.

3 B. The director of the department of environmental quality shall
4 notify in writing the director of the Arizona legislative council on or
5 before October 1, 2022 either:

- 6 1. Of the date on which the condition was met.
- 7 2. That the condition was not met.

APPROVED BY THE GOVERNOR MAY 10, 2017.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 10, 2017.