



States' Biofuels Statutes

STATE OF TEXAS

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Current through the 2009 Legislative Session of the Texas State Legislature.

§ 162.001. Definitions

In this chapter:

(1) "Agricultural purpose" means a purpose associated with the following activities:

(A) cultivating the soil;

(B) producing crops for human food, animal feed, or planting seed or for the production of fibers;

(C) floriculture, viticulture, silviculture, and horticulture, including the cultivation of plants in containers or nonsoil media;

(D) raising, feeding, or keeping livestock or other animals for the production of food or fiber, leather, pelts, or other tangible products having a commercial value;

(E) wildlife management; and

(F) planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure.

(2) "Alcohol" means motor fuel grade ethanol or a mixture of motor fuel grade ethanol and methanol, excluding denaturant and water, that is a minimum of 98 percent ethanol or methanol by volume.

(3) "Aviation fuel" means aviation gasoline or aviation jet fuel.

(4) "Aviation fuel dealer" means a person who:

(A) is the operator of an aircraft servicing facility;

(B) delivers gasoline or diesel fuel exclusively into the fuel supply tanks of aircraft or into equipment used solely for servicing aircraft and used exclusively off-highway; and

(C) does not use, sell, or distribute gasoline or diesel fuel on which a fuel tax is required to be collected or paid to this state.

(5) "Aviation gasoline" means motor fuel designed for use in the operation of aircraft other than jet aircraft and sold or used for that purpose.

(6) "Aviation jet fuel" means motor fuel designed for use in the operation of jet or turboprop aircraft and sold or used for that purpose.

<Text of subsec. (7), as amended by Acts 2009, 81st Leg., ch. 1227, § 7>

(7) "Biodiesel fuel" means any motor fuel or mixture of motor fuels, other than gasoline blended fuel, that is:

(A) derived wholly or partly from agricultural products, vegetable oils, recycled greases, or animal fats, or the wastes of those products or fats; and

(B) advertised, offered for sale, sold, used, or capable of use as fuel for a diesel-powered engine.

<Text of subsec. (7), as amended by Acts 2009, 81st Leg., ch. 1312, § 1>

(7) "Biodiesel fuel" has the meaning assigned to "biodiesel" by Section 16.001, Agriculture Code.[]

(8) "Blender" means a person who produces blended motor fuel outside the bulk transfer/terminal system.

(9) "Blending" means the mixing together of liquids that produces a product that is offered for sale, sold, used, or capable of use as fuel for a gasoline-powered engine or diesel-powered engine . The term does not include mixing that occurs in the process of refining by the original refiner of crude petroleum or the commingling of products during transportation in a pipeline.

(10) "Bulk plant" means a motor fuel storage and distribution facility that:

(A) is not an IRS-approved terminal; and

(B) from which motor fuel may be removed at a rack.

(10-a) "Bulk storage" means a container of more than 10 gallons.

(11) "Bulk transfer" means a transfer of motor fuel from one location to another by pipeline or marine movement within a bulk transfer/terminal system, including:

(A) a marine vessel movement of motor fuel from a refinery or terminal to a terminal;

(B) a pipeline movement of motor fuel from a refinery or terminal to a terminal;

(C) a book transfer or in-tank transfer of motor fuel within a terminal between licensed suppliers before completion of removal across the rack; and

(D) a two-party exchange between licensed suppliers or between licensed suppliers and permissive suppliers.

(12) "Bulk transfer/terminal system" means the motor fuel distribution system consisting of refineries, pipelines, marine vessels, and IRS-approved terminals. Motor fuel is in the bulk transfer/terminal system if the motor fuel is in a refinery, a pipeline, a terminal, or a marine vessel transporting motor fuel to a refinery or terminal. Motor fuel is not in the bulk transfer/terminal system if the motor fuel is in a motor fuel storage facility, including:

(A) a bulk plant that is not part of a refinery or terminal;

(B) the motor fuel supply tank of an engine or a motor vehicle;

(C) a marine vessel transporting motor fuel to a motor fuel storage facility that is not in the bulk transfer/terminal system; or

(D) a tank car, railcar, trailer, truck, or other equipment suitable for ground transportation.

(13) "Bulk user" means a person who maintains storage facilities for motor fuel and uses all or part of the stored motor fuel to operate a motor vehicle, vessel, or aircraft and for other uses.

(14) "Cargo tank" means an assembly that is used to transport, haul, or deliver liquids and that consists of a tank having one or more compartments mounted on a wagon, automobile, truck, trailer, or wheels. The term includes accessory piping, valves, and meters, but does not include a fuel supply tank connected to the carburetor or fuel injector of a motor vehicle.

(15) "Carrier" means an operator of a pipeline or marine vessel engaged in the business of transporting motor fuel above the terminal rack.

(16) "Compressed natural gas" means natural gas that has been compressed and dispensed into motor fuel storage containers and is advertised, offered for sale, suitable for use, or used as an engine motor fuel.

(17) "Dealer" means a person who sells motor fuel at retail or dispenses motor fuel at a retail location.

(18) "Destination state" means the state, territory, or foreign country to which motor fuel is directed for delivery into a storage facility, a receptacle, a container, or a type of transportation equipment for resale or use.

(19) "Diesel fuel" means kerosene or another liquid, or a combination of liquids blended together, offered for sale, sold, used, or capable of use as fuel for the propulsion of a diesel-powered engine . The term includes products commonly referred to as kerosene, light cycle oil, #1 diesel fuel, #2 diesel fuel, dyed or undyed diesel fuel, aviation jet fuel, renewable diesel, biodiesel, distillate fuel, cutter stock, or heating oil, but does not include gasoline, aviation gasoline, or liquefied gas.

(20) "Distributor" means a person who makes sales of motor fuel at wholesale. A distributor's activities may also include sales of motor fuel at retail.

(21) "Diversion number" means the number assigned by the comptroller, or by a person to whom the comptroller delegates or appoints the authority to assign the number, that relates to a single cargo tank delivery of motor fuel that is diverted from the original destination state printed on the shipping document.

(22) "Dyed diesel fuel" means diesel fuel that:

(A) meets the dyeing and marking requirements of 26 U.S.C. Section 4082, regardless of how the diesel fuel was dyed; and

(B) is intended for off-highway use only.

(23) "Export" means to obtain motor fuel in this state for sale or use in another state, territory, or foreign country.

(24) "Exporter" means a person that exports motor fuel from this state. The seller is the exporter of motor fuel delivered out of this state by or for the seller, and the purchaser is the exporter of motor fuel delivered out of this state by or for the purchaser.

(25) "Fuel grade ethanol" means the ASTM standard in effect on the effective date of this chapter as the D-4806 specification for denatured motor fuel grade ethanol for blending with motor fuel.

(26) "Fuel supply tank" means a receptacle on a motor vehicle, nonhighway equipment, or a stationary engine from which motor fuel is supplied for the operation of its engine.

(27) "Gallon" means a unit of liquid measurement as customarily used in the United States and that contains 231 cubic inches by volume.

(28) "Gasohol" means a blended motor fuel composed of gasoline and motor fuel alcohol.

(29) "Gasoline" means any liquid or combination of liquids blended together, offered for sale, sold, used, or capable of use as fuel for a gasoline-powered engine. The term includes gasohol, aviation gasoline, and blending agents, but does not include racing gasoline, diesel fuel, aviation jet fuel, or liquefied gas.

(30) "Gasoline blend stocks" includes any petroleum product component of gasoline, such as naphtha, reformate, or toluene, listed in Treasury Regulation Section 48.4081-1(c)(3), that can be blended for use in a motor fuel. The term does not include a substance that will be ultimately used for consumer nonmotor fuel use and is sold or removed in drum quantities of 55 gallons or less at the time of the removal or sale.

(31) "Gasoline blended fuel" means a mixture composed of gasoline and other liquids, including gasoline blend stocks, gasohol, ethanol, methanol, fuel grade alcohol, and resulting blends, other than a de minimus amount of a product such as carburetor detergent or oxidation inhibitor, that is offered for sale, sold, used, or capable of use as fuel for a gasoline-powered engine .

(32) "Gross gallons" means the total measured product, exclusive of any temperature or pressure adjustments, considerations, or deductions, in U.S. gallons.

(33) "Import" means to bring motor fuel into this state by motor vehicle, marine vessel, pipeline, or any other means. The term does not include bringing motor fuel into this state in the motor fuel supply tank of a motor vehicle if the motor fuel is used to power that motor vehicle.

(34) "Import verification number" means the number assigned by the comptroller, or by a person to whom the comptroller delegates or appoints the authority to assign the number, that relates to a single cargo tank delivery into this state from another state after a request for an assigned number by an importer or by the motor fuel transporter carrying taxable motor fuel into this state for the account of an importer.

(35) "Importer" means a person that imports motor fuel into this state. The seller is the importer for motor fuel delivered into this state from outside of this state by or for the seller, and the purchaser is the importer for motor fuel delivered into this state from outside of this state by or for the purchaser.

(36) "Interstate trucker" means a person who for commercial purposes operates in this state, other states, or other countries a motor vehicle that:

(A) has two axles and a registered gross weight in excess of 26,000 pounds;

(B) has three or more axles; or

(C) is used in combination and the registered gross weight of the combination exceeds 26,000 pounds.

(37) "Lessor" means a person:

(A) whose principal business is the leasing or renting of motor vehicles for compensation to the general public;

(B) who maintains established places of business; and

(C) whose lease or rental contracts require the motor vehicles to be returned to the established places of business at the termination of the lease.

(38) "License holder" means a person licensed by the comptroller under Section 162.105, 162.205, 162.304, 162.305, or 162.306.

(39) "Liquefied gas" means all combustible gases that exist in the gaseous state at 60 degrees Fahrenheit and at a pressure of 14.7 pounds per square inch absolute, but does not include gasoline or diesel fuel.

(40) "Liquefied gas tax decal user" means a person who owns or operates on the public highways of this state a motor vehicle capable of using liquefied gas for propulsion.

(41) "Motor carrier" means a person who operates a commercial vehicle used, designated, or maintained to transport persons or property.

(42) "Motor fuel" means gasoline, diesel fuel, liquefied gas, gasoline blended fuel, and other products that are offered for sale, sold, used, or capable of use as fuel for a gasoline-powered engine or a diesel-powered engine .

(43) "Motor fuel transporter" means a person who transports gasoline, diesel fuel, gasoline blended fuel, aviation fuel, or any other motor fuel, except liquefied gas, outside the bulk transfer/terminal system by means of a transport vehicle, a railroad tank car, or a marine vessel. The term does not include a person who:

(A) is licensed under this chapter as a supplier, permissive supplier, or distributor; and

(B) exclusively transports gasoline, diesel fuel, gasoline blended fuel, aviation fuel, or any other motor fuel to which the person retains ownership while the fuel is being transported by the person.

(44) "Motor vehicle" means a self-propelled vehicle, trailer, or semitrailer that is designed or used to transport persons or property over a public highway.

(45) "Net gallons" means the amount of motor fuel measured in gallons when adjusted to a temperature of 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch.

(46) "Permissive supplier" means a person who elects, but is not required, to have a supplier's license and who:

(A) is registered under Section 4101, Internal Revenue Code, for transactions in motor fuel in the bulk transfer/terminal system; and

(B) is a position holder in motor fuel located only in another state or a person who receives motor fuel only in another state under a two-party exchange.

(47) "Position holder" means the person who holds the inventory position in motor fuel in a terminal, as reflected on the records of the terminal operator. A person holds the inventory position in motor fuel when that person has a contract with the terminal operator for the use of storage facilities and terminaling services for motor fuel at the terminal. The term includes a terminal operator who owns motor fuel in the terminal.

(48) "Public highway" means every way or place of whatever nature open to the use of the public for purposes of vehicular travel in this state, including the streets and alleys in towns and cities.

(49) "Racing gasoline" means gasoline that contains lead, has an octane rating of 110 or higher, does not have detergent additives, and is not suitable for use as a motor fuel in a motor vehicle used on a public highway.

(50) "Rack" means a mechanism for delivering motor fuel from a refinery, terminal, marine vessel, or bulk plant into a transport vehicle, railroad tank car, or other means of transfer that is outside the bulk transfer/terminal system.

(51) "Refinery" means a facility for the manufacture or reprocessing of finished or unfinished petroleum products usable as motor fuel and from which motor fuel may be removed by pipeline or marine vessel or at a rack.

(52) "Registered gross weight" means the total weight of the vehicle and carrying capacity shown on the registration certificate issued by the Texas Department of Motor Vehicles .

(53) "Removal" means a physical transfer other than by evaporation, loss, or destruction. A physical transfer to a transport vehicle or other means of conveyance outside the bulk transfer/terminal system is complete on delivery into the means of conveyance.

(53-a) "Renewable diesel" has the meaning assigned by Section 16.001, Agriculture Code.

(54) "Sale" means a transfer of title, exchange, or barter of motor fuel, but does not include transfer of possession of motor fuel on consignment.

(55) "Shipping document" means a delivery document issued in conjunction with the sale, transfer, or transport of motor fuel . A shipping document issued by a terminal operator shall be machine printed. All other shipping documents shall be typed or handwritten on a preprinted form or machine printed.

(56) "Solid waste refuse vehicle" means a motor vehicle equipped with a power takeoff or auxiliary power unit that provides power to compact the refuse, open the back of the container before ejection, and eject the compacted refuse.

(57) "Supplier" means a person that:

(A) is subject to the general taxing jurisdiction of this state;

(B) is registered under Section 4101, Internal Revenue Code, for transactions in motor fuel in the bulk transfer/terminal distribution system, and is:

(i) a position holder in motor fuel in a terminal or refinery in this state and may concurrently also be a position holder in motor fuel in another state; or

(ii) a person who receives motor fuel in this state under a two-party exchange; and

(C) may also be a terminal operator, provided that a terminal operator is not considered to also be a "supplier" based solely on the fact that the terminal operator handles motor fuel consigned to it within a terminal.

(58) "Terminal" means a motor fuel storage and distribution facility to which a terminal control number has been assigned by the Internal Revenue Service, to which motor fuel is supplied by pipeline or marine vessel, and from which motor fuel may be removed at a rack.

(59) "Terminal operator" means a person who owns, operates, or otherwise controls a terminal.

(60) "Transit company" means a business that:

(A) transports in a political subdivision persons in carriers designed for 12 or more passengers;

(B) holds a franchise from a political subdivision; and

(C) has its rates regulated by the political subdivision or is owned or operated by the political subdivision.

(61) "Transport vehicle" means a vehicle designed or used to carry motor fuel over a public highway and includes a straight truck, straight truck/trailer combination, and semitrailer combination rig.

(62) "Two-party exchange" means a transaction in which motor fuel is transferred from one licensed supplier or permissive supplier to another licensed supplier or permissive supplier under an exchange agreement, including a transfer from the person who holds the inventory position in taxable motor fuel in the terminal as reflected on the records of the terminal operator, and that is:

(A) completed before removal of the product from the terminal by the receiving exchange partner; and

(B) recorded on the terminal operator's books and records with the receiving exchange partner as the supplier that removes the motor fuel across the terminal rack for purposes of reporting the transaction to this state.