Senate Engrossed House Bill

FILED

JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 95

HOUSE BILL 2403

AN ACT

AMENDING SECTIONS 1-215, 9-500.04, 49-474.01, 49-571, 49-572 AND 49-573, ARIZONA REVISED STATUTES; RELATING TO AIR QUALITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 1-215, Arizona Revised Statutes, is amended to read:

1-215. Definitions

In the statutes and laws of the state, unless the context otherwise requires:

1. "Action" includes any matter or proceeding in a court, civil or criminal.

2. "Adopted rule" means a final rule as defined in section 41-1001.

3. "Adult" means a person who has attained the age of eighteen years.

4. "Alternative fuel" means:

(a) Electricity.

(b) Solar energy.

(c) Liquefied petroleum gas, natural gas, hydrogen or a blend of hydrogen with liquefied petroleum or natural gas that complies with ~~either~~ ANY of the following:

(i) Is used in an engine that is certified to meet at a minimum the United States environmental protection agency low emission vehicle standard pursuant to 40 Code of Federal Regulations section 88.104-94 or 88.105-94.

(ii) Is used in an engine that is certified by the engine modifier to meet the addendum to memorandum 1-A of the United States environmental protection agency AS PRINTED IN THE FEDERAL REGISTER, VOLUME 62, NUMBER 207, OCTOBER 27, 1997, PAGES 55635 THROUGH 55637.

(iii) IS USED IN AN ENGINE THAT IS THE SUBJECT OF A WAIVER FOR THAT SPECIFIC ENGINE APPLICATION FROM THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY'S MEMORANDUM 1-A ADDENDUM REQUIREMENTS AND THAT WAIVER IS DOCUMENTED TO THE REASONABLE SATISFACTION OF THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY.

(d) Only for vehicles that use alcohol fuels before August 21, 1998, alcohol fuels that contain not less than eighty-five per cent alcohol by volume.

(e) A combination of at least seventy per cent alternative fuel and no more than thirty per cent petroleum based fuel and that operates in an engine that meets the United States environmental protection agency low emission vehicle standard pursuant to 40 Code of Federal Regulations section 88.104-94 or 88.105-94 and is certified by the engine manufacturer to consume at least seventy per cent alternative fuel during normal vehicle operations.

5. "Bribe" signifies anything of value or advantage, present or prospective, asked, offered, given, accepted or promised with a corrupt intent to influence, unlawfully, the person to whom it is given in that person's action, vote or opinion, in any public or official capacity.

6. "Child" or "children" as used in reference to age of persons means persons under the age of eighteen years.

7. "Clean burning fuel" means:

(a) An emulsion of water-phased hydrocarbon fuel that contains not less than twenty per cent water by volume and that complies with any of the following:

(i) Is used in an engine that is certified to meet at a minimum the United States environmental protection agency low emission vehicle standard pursuant to 40 Code of Federal Regulations section 88.104-94 or 88.105-94.

(ii) Is used in an engine that is certified by the engine modifier to meet the addendum to memorandum 1-A of the United States environmental protection agency AS PRINTED IN THE FEDERAL REGISTER, VOLUME 62, NUMBER 207, OCTOBER 27, 1997, PAGES 55635 THROUGH 55637.

(iii) Is used in an engine that is the subject of a waiver for that specific engine application from the United States environmental protection agency's memorandum 1-A addendum requirements and that waiver is documented to the reasonable satisfaction of the DIRECTOR OF THE department of ~~commerce energy office~~ ENVIRONMENTAL QUALITY.

(b) A diesel fuel substitute that is produced from nonpetroleum renewable resources if the qualifying volume of the nonpetroleum renewable resources meets the standards for California diesel fuel as adopted by the California air resources board pursuant to 13 California code of regulations sections 2281 and 2282 in effect on January 1, 2000, the diesel fuel substitute meets the registration requirement for fuels and additives established by the environmental protection agency pursuant to section 211 of the clean air act as defined in section 49-401.01 and the use of the diesel fuel substitute complies with the requirements listed in 10 Code of Federal Regulations part 490, as printed in the federal register, volume 64, number 96, May 19, 1999.

(c) A diesel fuel that complies with all of the following:

(i) Contains a maximum of fifteen parts per million by weight of sulfur.

(ii) Meets ASTM D975.

(iii) Meets the registration requirements for fuels and additives established by the environmental protection agency pursuant to section 211 of the clean air act as defined in section 49-401.01.

(iv) Is used in an engine that is equipped or has been retrofitted with a device that has been certified by the California air resources board diesel emission control strategy verification procedure, the United States environmental protection agency voluntary diesel retrofit program or the United States environmental protection agency verification protocol for retrofit catalyst, particulate filter and engine modification control technologies for highway and nonroad use diesel engines.

(d) A BLEND OF UNLEADED GASOLINE THAT CONTAINS AT MINIMUM EIGHTY-FIVE PER CENT ETHANOL BY VOLUME OR EIGHTY-FIVE PER CENT METHANOL BY VOLUME.

(e) NEAT METHANOL.

(f) NEAT ETHANOL.

8. "Corruptly" imports a wrongful design to acquire or cause some pecuniary or other advantage to the person guilty of the act or omission referred to, or to some other person.

9. "Daytime" means the period between sunrise and sunset.

10. "Depose" includes every manner of written statement under oath or affirmation.

11. "Federal poverty guidelines" means the poverty guidelines as updated annually in the federal register by the United States department of health and human services.

12. "Grantee" includes every person to whom an estate or interest in real property passes, in or by a deed.

13. "Grantor" includes every person from or by whom an estate or interest in real property passes, in or by a deed.

14. "Includes" or "including" means not limited to and is not a term of exclusion.

15. "Inhabitant" means a resident of a city, town, village, district, county or precinct.

16. "Issue" as used in connection with descent of estates includes all lawful, lineal descendants of the ancestor.

17. "Knowingly" imports only a knowledge that the facts exist that bring the act or omission within the provisions of the statute using such word. It does not require any knowledge of the unlawfulness of the act or omission.

18. "Magistrate" means an officer having power to issue a warrant for the arrest of a person charged with a public offense and includes the chief justice and judges of the supreme court, judges of the superior court, justices of the peace and police magistrates in cities and towns.

19. "Majority" or "age of majority" as used in reference to age of persons means the age of eighteen years or more.

20. "Malice" and "maliciously" import a wish to vex, annoy or injure another person, or an intent to do a wrongful act, established either by proof or presumption of law.

21. "Mentally ill person" includes an idiot, an insane person, a lunatic or a person non compos.

22. "Minor" means a person under the age of eighteen years.

23. "Minor children" means persons under the age of eighteen years.

24. "Month" means a calendar month unless otherwise expressed.

25. "Neglect," "negligence," "negligent" and "negligently" import a want of such attention to the nature or probable consequence of the act or omission as a prudent man ordinarily bestows in acting in his own concerns.

26. "Nighttime" means the period between sunset and sunrise.

27. "Oath" includes affirmation or declaration.

28. "Peace officers" means sheriffs of counties, constables, marshals, policemen of cities and towns, commissioned personnel of the department of public safety, peace officers who are appointed by a multi-county water

conservation district and who have received a certificate from the Arizona peace officer standards and training board, police officers who are appointed by community college district governing boards and who have received a certificate from the Arizona peace officer standards and training board and police officers who are appointed by the Arizona board of regents and who have received a certificate from the Arizona peace officer standards and training board.

29. "Person" includes a corporation, company, partnership, firm, association or society, as well as a natural person. When the word "person" is used to designate the party whose property may be the subject of a criminal or public offense, the term includes the United States, this state, or any territory, state or country, or any political subdivision of this state that may lawfully own any property, or a public or private corporation, or partnership or association. When the word "person" is used to designate the violator or offender of any law, it includes corporation, partnership or any association of persons.

30. "Personal property" includes money, goods, chattels, dogs, things in action and evidences of debt.

31. "Population" means the population according to the most recent United States decennial census.

32. "Process" means a citation, writ or summons issued in the course of judicial proceedings.

33. "Property" includes both real and personal property.

34. "Real property" is coextensive with lands, tenements and hereditaments.

35. "Registered mail" includes certified mail.

36. "Seal" as used in reference to a paper issuing from a court or public office to which the seal of such court or office is required to be affixed means an impression of the seal on that paper, an impression of the seal affixed to that paper by a wafer or wax, a stamped seal, a printed seal, a screened seal or a computer generated seal.

37. "Signature" or "subscription" includes mark, if a person cannot write, with the person's name written near it and witnessed by a person who writes the person's own name as witness.

38. "State" as applied to the different parts of the United States, includes the District of Columbia, this state and the territories.

39. "Testify" includes every manner of oral statement under oath or affirmation.

40. "United States" includes the District of Columbia and the territories.

41. "Vessel", as used in reference to shipping, includes ships of all kinds, steamboats, steamships, barges, canal boats and every structure adapted to navigation from place to place for the transportation of persons or property.

42. "Wilfully" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or believes that the person's conduct is of that nature or that the circumstance exists.

43. "Will" includes codicils.

44. "Workers' compensation" means workmen's compensation as used in article XVIII, section 8, Constitution of Arizona.

45. "Writ" signifies an order or precept in writing issued in the name of the state or by a court or judicial officer.

46. "Writing" includes printing.

Sec. 2. Section 9-500.04, Arizona Revised Statutes, is amended to read:

9-500.04. Air quality control; definitions

A. The governing body of a city or town in area A or B as defined in section 49-541 shall:

1. If the city has a population exceeding fifty thousand persons according to the 1995 special census, adjust the work hours of at least eighty-five per cent of municipal employees each year beginning October 1 and ending April 1 in order to reduce the level of carbon monoxide concentrations caused by vehicular travel.

2. In area A, in consultation with the designated metropolitan planning organization, synchronize traffic control signals on all existing and new roadways, within and across jurisdictional boundaries, which have a traffic flow exceeding fifteen thousand motor vehicles per day.

3. In area A, beginning on January 1, 2000, develop and implement plans to stabilize targeted unpaved roads, alleys and unpaved shoulders on targeted arterials. The plans shall address the performance goals, the criteria for targeting the roads, alleys and shoulders, a schedule for implementation, funding options and reporting requirements.

4. In area A acquire or utilize vacuum systems or other dust removal technology to reduce the particulates attributable to conventional crack sealing operations as existing equipment is retired.

5. In area B synchronize traffic control signals on all roadways which have a traffic flow exceeding fifteen thousand motor vehicles per day.

B. The governing body of a city or town in area B, as defined in section 49-541, may make and enforce ordinances to reduce or encourage the reduction of the commuter use of motor vehicles by employees of the city or town and employees whose place of employment is within the city or town.

C. Except as provided in subsection F of this section, the governing body of a city or town in area A, as defined in section 49-541, in a county with a population of more than one million two hundred thousand persons according to the most recent United States decennial census shall develop and implement a vehicle fleet plan for the purpose of encouraging and progressively increasing the use of alternative fuels and clean burning fuels in city or town owned vehicles. The plan shall include a timetable for

increasing the use of alternative fuels and clean burning fuels in fleet vehicles either through purchase or conversion. ~~At a minimum, the alternative fuel vehicles shall comply with any one of the following:~~

~~1. The United States environmental protection agency standards for low emission vehicles pursuant to 40 Code of Federal Regulations section 88.104-94 or 88.105-94.~~

~~2. The vehicle engine is certified by the engine modifier to meet the addendum to memorandum 1-A of the United States environmental protection agency, as printed in the federal register, volume 62, number 207, October 27, 1997, pages 55635 through 55637.~~

~~3. The vehicle engine is the subject of a waiver for that specific engine application from the United States environmental protection agency's addendum to memorandum 1-A requirements and that waiver is documented to the reasonable satisfaction of the department of commerce energy office.~~

D. The timetable shall reflect the following schedule and percentage of vehicles which operate on alternative fuels and clean burning fuels:

1. At least eighteen per cent of the total fleet by December 31, 1995.

2. At least twenty-five per cent of the total fleet by December 31, 1996.

3. At least fifty per cent of the total fleet by December 31, 1998.

4. At least seventy-five per cent of the total fleet by December 31, 2000 and each year thereafter.

E. The requirements of subsections C and D of this section may be waived on receipt of evidence acceptable to the city or town council that the city or town is unable to acquire or be provided equipment or refueling facilities necessary to operate vehicles using alternative fuels or clean burning fuels at a projected cost that is reasonably expected to result in net costs of no greater than ten per cent more than the net costs associated with the continued use of conventional gasoline or diesel fuels measured over the expected useful life of the equipment or facilities supplied. Applications for waivers shall be filed with the department of environmental quality pursuant to section 49-412. An entity that receives a waiver pursuant to this section shall retrofit fleet heavy-duty diesel vehicles with a gross vehicle weight of eight thousand five hundred pounds or more, that were manufactured in or before model year 1993 and that are the subject of the waiver with a technology that is effective at reducing particulate emissions at least twenty-five per cent or more and that has been approved by the United States environmental protection agency pursuant to the urban bus engine retrofit/rebuild program. The entity shall comply with the implementation schedule pursuant to section 49-555.

F. The plan prescribed by subsection C of this section shall include provisions for the use of alternative fuels and clean burning fuels in the bus fleet operated by that city or town or a regional ~~planning~~ PUBLIC transportation ~~agency~~ AUTHORITY, except that all newly purchased buses shall ~~be~~ USE alternative fuel ~~vehicles~~ or ~~utilize a diesel fuel substitute that~~

~~qualifies as a~~ clean burning fuel ~~to satisfy the requirement for newly purchased buses~~. The bus fleet shall comply with the timetable prescribed by subsection D of this section, except that the requirements of subsections C and D of this section may be waived on receipt of certification supported by evidence acceptable to the department of environmental quality that the city or town is unable to acquire or be provided equipment or refueling facilities necessary to operate vehicles using alternative fuels OR CLEAN BURNING FUELS at a projected cost that is reasonably expected to result in net costs of no greater than twenty per cent more than the net costs associated with the continued use of conventional gasoline or diesel fuels measured over the expected useful life of the equipment or facilities supplied.

~~G. Subsections C and D of this section do not apply to cities and towns that have a population of less than seven thousand five hundred persons according to the most recent United States decennial census and that lie outside area A as defined in section 49-541.~~

~~H.~~ G. For the purpose of this section, "alternative fuel" and "clean burning fuel" have the same meaning prescribed in section 1-215.

Sec. 3. Section 49-474.01, Arizona Revised Statutes, is amended to read:

49-474.01. <u>Additional board duties in vehicle emissions control areas; definitions</u>

A. The board of supervisors of a county which contains any portion of area A or area B as defined in section 49-541 shall:

1. In area A, in consultation with the designated metropolitan planning organization, synchronize traffic control signals on all existing and new roadways, within the unincorporated area and at jurisdictional boundaries, which have a traffic flow exceeding fifteen thousand motor vehicles per day.

2. In area A, beginning on January 1, 2000, develop and implement plans to stabilize targeted unpaved roads, alleys and unpaved shoulders on targeted arterials. The plans shall address the performance goals, the criteria for targeting roads, alleys and arterials, a schedule for implementation, funding options and reporting requirements.

3. In area A acquire or utilize vacuum systems or other dust removal technology to reduce the particulates attributable to conventional crack sealing operations as existing equipment is retired.

4. In area B synchronize traffic control signals on roadways with a traffic flow exceeding fifteen thousand motor vehicles per day.

5. Implement adjusted work hours for at least eighty-five per cent of county employees in area A each year beginning October 1 and ending April 1 in order to reduce the level of carbon monoxide concentrations caused by vehicular travel.

B. The board of supervisors of a county that contains any portion of area A as defined in section 49-541 shall make and enforce ordinances consistent with the provisions of section 49-588 to reduce or encourage the reduction of the commuter use of motor vehicles by employees of the county and employees whose place of employment is within area A.

C. The board of supervisors in a county that contains any portion of area A shall develop and implement a vehicle fleet plan for the purpose of encouraging and progressively increasing the use of alternative fuels and clean burning fuels in county owned vehicles operating in area A. ~~At a minimum, the alternative fuel vehicles shall comply with any one of the following:~~

~~1. The United States environmental protection agency standards for low emission vehicles pursuant to 40 Code of Federal Regulations section 88.104-94 or 88.105-94.~~

~~2. The vehicle engine is certified by the engine modifier to meet the addendum to memorandum 1-A of the United States environmental protection agency, as printed in the federal register, volume 62, number 207, October 27, 1997, pages 55635 through 55637.~~

~~3. The vehicle engine is the subject of a waiver for that specific engine application from the United States environmental protection agency's addendum to memorandum 1-A requirements and that waiver is documented to the reasonable satisfaction of the department of commerce energy office.~~

D. The plan shall include a timetable for increasing the use of alternative fuels and clean burning fuels in fleet vehicles either through purchase or conversion. The timetable shall reflect the following schedule and percentage of vehicles which operate on alternative fuels or clean burning fuels:

1. At least eighteen per cent of the total fleet by December 31, 1995.

2. At least twenty-five per cent of the total fleet by December 31, 1996.

3. At least fifty per cent of the total fleet by December 31, 1998.

4. At least seventy-five per cent of the total fleet by December 31, 2000 and each year thereafter.

E. The requirements of subsections C and D of this section may be waived on receipt of certification supported by evidence acceptable to the department that the county is unable to acquire or be provided equipment or refueling facilities necessary to operate vehicles using alternative fuels or clean burning fuels at a projected cost that is reasonably expected to result in net costs of no greater than ten per cent more than the net costs associated with the continued use of conventional gasoline or diesel fuels measured over the expected useful life of the equipment or facilities supplied. Applications for waivers shall be filed with the department pursuant to section 49-412. An entity that receives a waiver pursuant to this section shall retrofit fleet heavy-duty diesel vehicles with a gross vehicle weight of eight thousand five hundred pounds or more, that were

manufactured in or before model year 1993 and that are the subject of the waiver with a technology that is effective at reducing particulate emissions at least twenty-five per cent or more and that has been approved by the United States environmental protection agency pursuant to the urban bus engine retrofit/rebuild program. The entity shall comply with the implementation schedule pursuant to section 49-555.

F. For the purpose of this section, "alternative fuel" and "clean burning fuel" have the same meaning prescribed in section 1-215.

Sec. 4. Section 49-571, Arizona Revised Statutes, is amended to read:

49-571. Clean burning or alternative fuel requirements for new buses; definitions

A. A city, town or county which purchases buses for use in a county with a population of more than five hundred thousand persons shall only purchase buses which operate on clean burning FUEL OR alternative fuel, EXCEPT THAT A CITY OR TOWN IN AREA A, AS DEFINED IN SECTION 49-541, IN A COUNTY WITH A POPULATION OF MORE THAN ONE MILLION TWO HUNDRED THOUSAND PERSONS, SHALL ALSO COMPLY WITH SECTION 9-500.04, SUBSECTION F.

B. If a city, town or county is unable to purchase a sufficient number of buses which operate on clean burning FUEL OR alternative fuel to meet the requirements of subsection A due to the unavailability of those types of buses, the city, town or county shall convert a sufficient number of buses in their present fleet which operate on any fuel listed in subsection C so that the number of the converted buses along with the buses operating on clean burning FUEL OR alternative fuel equals or exceeds the amount required pursuant to subsection A.

~~C. In this section, "clean burning alternative fuel" means:~~

~~1. Natural gas.~~

~~2. Liquefied petroleum gas.~~

~~3. A blend of unleaded gasoline that contains at minimum eighty-five per cent ethanol by volume or eighty-five per cent methanol by volume.~~

~~4. Neat methanol.~~

~~5. Neat ethanol.~~

~~6. Diesel fuel if combined with compressed natural gas or liquefied petroleum gas or alcohol.~~

~~7. Hydrogen.~~

~~8. Electricity.~~

~~9. Solar energy.~~

~~10. Liquefied natural gas.~~

~~11. An emulsion of water-phased hydrocarbon fuel that contains not less than twenty per cent water by volume and that complies with any of the following:~~

~~(a) Is used in an engine that is certified to meet at a minimum the United States environmental protection agency low emission vehicle standard pursuant to 40 Code of Federal Regulations section 88.104-94 or 88.105-94.~~

~~(b) Is used in an engine that is certified by the engine modifier to meet the addendum to memorandum 1-A of the United States environmental protection agency.~~

~~(c) Is used in an engine that is the subject of a waiver for that specific engine application from the United States environmental protection agency's memorandum 1-A addendum requirements and that waiver is documented to the reasonable satisfaction of the department of commerce energy office.~~

~~12. A combination of at least seventy per cent alternative fuel and no more than thirty per cent petroleum based fuel and that operates in an engine that meets the United States environmental protection agency low emission vehicle standard pursuant to 40 Code of Federal Regulations section 88.104-94 or 88.105-94 and is certified by the engine manufacturer to consume at least seventy per cent alternative fuel during normal vehicle operations.~~

~~D. Any fuels or combination of fuels listed in subsection C shall qualify as clean burning in new or converted buses by demonstrating levels of emission requirements pursuant to title II of the clean air act.~~

C. FOR THE PURPOSES OF THIS ARTICLE, "ALTERNATIVE FUEL" AND "CLEAN BURNING FUEL" HAVE THE SAME MEANING PRESCRIBED IN SECTION 1-215.

Sec. 5. Section 49-572, Arizona Revised Statutes, is amended to read:

49-572. Joint use of clean burning or alternative fuel refueling stations

To the extent practicable, a state agency or political subdivision that operates a clean burning FUEL OR alternative fuel refueling station shall permit the refueling of vehicles owned or operated by any state agency or political subdivision at the refueling station.

Sec. 6. Section 49-573, Arizona Revised Statutes, is amended to read:

49-573. Emissions controls; federal vehicles

A. The operator of a United States government owned vehicle fleet based primarily in this state shall develop and implement a vehicle fleet plan for the purpose of encouraging and progressively increasing the use of alternative fuels and clean burning fuels in United States government owned vehicles. The plan shall include a timetable for increasing the use of alternative fuels and clean burning fuels in fleet vehicles either through purchase or conversion. ~~At a minimum, the alternative fuel vehicles shall comply with any one of the following:~~

~~1. The United States environmental protection agency standards for low emission vehicles pursuant to 40 Code of Federal Regulations section 88.104-94 or 88.105-94.~~

~~2. The vehicle engine is certified by the engine modifier to meet the addendum to memorandum 1-A of the United States environmental protection agency, as printed in the federal register, volume 62, number 207, October 27, 1997, pages 55635 through 55637.~~

~~3. The vehicle engine is the subject of a waiver for that specific engine application from the United States environmental protection agency's~~

~~addendum to memorandum 1-A requirements and that waiver is documented to the reasonable satisfaction of the department of commerce energy office.~~

B. The timetable shall reflect the following schedule and percentage of vehicles which operate on alternative fuels and clean burning fuels:

1. At least ten per cent of the total fleet by December 31, 1994.

2. At least forty per cent of the total fleet by December 31, 1995.

3. For fleets operating primarily in counties with a population of more than one million two hundred thousand persons according to the most recent United States decennial census, at least ninety per cent of the total fleet by December 31, 1997 and each year thereafter.

C. The requirements of subsections A and B of this section may be waived on receipt of certification supported by evidence acceptable to the department of environmental quality that the United States government fleet operator is unable to acquire or be provided equipment or refueling facilities necessary to operate vehicles using alternative fuels or clean burning fuels at a projected cost that is reasonably expected to result in net costs of no greater than thirty per cent more than the net costs associated with the continued use of conventional gasoline or diesel fuels measured over the expected useful life of the equipment or facilities supplied. An entity that receives a waiver pursuant to this section shall retrofit fleet heavy-duty diesel vehicles with a gross vehicle weight of eight thousand five hundred pounds or more, that were manufactured in or before model year 1993 and that are the subject of the waiver with a technology that is effective at reducing particulate emissions at least twenty-five per cent or more and that has been approved by the United States environmental protection agency pursuant to the urban bus engine retrofit/rebuild program. The entity shall comply with the implementation schedule pursuant to section 49-555.

~~D. For the purpose of this section "alternative fuel" and "clean burning fuel" have the same meaning prescribed in section 1-215.~~

APPROVED BY THE GOVERNOR APRIL 16, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 16, 2004.