

## CHAPTER 19

## MOTOR FUELS—RETAIL SALES

## Authority

N.J.S.A. 56:6-6.

## Source and Effective Date

R.1994 d.188, effective March 14, 1994.  
See: 26 N.J.R. 778(a), 26 N.J.R. 1706(b).

## Executive Order No. 66(1978) Expiration Date

Chapter 19, Motor Fuels—Retail Sales, expires on March 14, 1999.

## Chapter Historical Note

Chapter 19, Motor Fuels—Retail Sales, was filed and became effective prior to September 1, 1969. Pursuant to Executive Order No. 66(1978), Chapter 19 was readopted as R.1984 d.151, effective April 6, 1984. See: 16 N.J.R. 420(a), 16 N.J.R. 1097(c). Pursuant to Executive Order No. 66(1978), Chapter 19 was readopted as R.1989 d.201, effective March 14, 1989. See: 21 N.J.R. 126(a), 21 N.J.R. 1020(b). Pursuant to Executive Order No. 66(1978), Chapter 19 was readopted as R.1994 d.188. See: Source and Effective Date. See, also, section annotations.

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## SUBCHAPTER 1. GENERAL PROVISIONS

## 18:19-1.1 Words and phrases defined

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

"Director" means the Director of the Division of Taxation, in the State Department of the Treasury.

"Motor Fuels" means:

1. All products commonly or commercially known or sold as gasoline (including casinghead and absorption or natural gasoline), benzol, benzene, or naphtha regardless of their classification or uses; and
2. Any liquid prepared, advertised, offered for sale or sold for use as or commonly and commercially used as a fuel in internal combustion engines, which when subject to distillation in accordance with the standard method of test for distillation of gasoline, naphtha, kerosene and similar petroleum products (American Society of Test Material Designation D-86) shows not less than 10 percent distilled (recovered) below 347 Degrees Fahrenheit 175 Degrees Centigrade and not less than 95 percent distilled (recovered) below 464 Degrees Fahrenheit (240 Degrees Centigrade); and
3. Any other product or liquid sold for use as a fuel in any type of internal combustion engine furnishing power to operate a motor vehicle.

"Person" means and includes natural persons and partnerships, firms, associations, joint stock companies, syndicates and corporations and any receiver, trustee, conservator or other officer appointed pursuant to law by any court, state or Federal. The use of the singular number shall include the plural number.

"Purchase" means any acquisition of ownership.

"Retail dealer" means any person operating a service station, filling station, store, garage or other place of business for the sale of motor fuel, for delivery into the service tank or tanks of any vehicle propelled by an internal combustion engine.

"Sale" shall have its ordinary meaning and, in addition, shall include any exchange, gift, theft, or other disposition.

"Seller of special fuels" means any person who sells any fuel capable of generating power in a diesel type engine which will include, without limitation, diesel fuel, No. 2 fuel oil, and kerosene.

"Selling expense" means and includes all overhead and general business expense.

"Special fuels" means any fuel capable of generating power in a diesel type engine which will include, without limitation thereto, diesel fuel, No. 2 fuel oil, and kerosene.

"Superintendent" means the State Superintendent of Weights and Measures. The term may also include any State, county, or municipal weights and measures officer.

"User of special fuels" means any person, except the State of New Jersey and any political subdivision thereof, who maintains a storage tank or tanks of any type, including a conveyance, equipped with a dispensing device and being used for storage and dispensing diesel fuel, No. 2 fuel oil, or kerosene, for his own use. "Storage tanks" as used in this section shall not apply to a vehicle service tank used to carry motor fuels for use exclusively in propelling the vehicle carrying the tank.

Amended by R.1982 d.77, effective March 15, 1982.  
See: 13 N.J.R. 855(a); 14 N.J.R. 285(c).

Added definition of "Superintendent".  
Amended by R.1995 d.79, effective February 6, 1995.  
See: 26 N.J.R. 4512(a), 27 N.J.R. 535(a).

## SUBCHAPTER 2. POSTED PRICES: ADVERTISING; REBATES; ALLOWANCES AND PRIZES; TRADE MARKS

### 18:19-2.1 Posted price signs

(a) All signs relating to the price of motor fuels being sold or dispensed by a retail dealer must be used and displayed in accordance with the provisions of these regulations.

(b) Signs, stating the price of motor fuel for delivery into the service tank or tanks of any vehicle propelled by an internal combustion engine, must be displayed and maintained on each pump or other dispensing equipment from which motor fuel is sold.

(c) No retail dealer shall sell or offer for sale any motor fuel without having attached by a suitable bracket or slot arrangement to each pump or other dispensing equipment from which motor fuel is sold or offered for sale a weather-proof case not less than 5½ inches by eight inches and not more than 12 inches by 12 inches, on both sides of which will be displayed a card insert price sign not less than five inches by 7½ inches and not more than 11½ inches by 11½ inches, stating the price per gallon if sold by the gallon, and per gallon and per liter if sold by the liter at which motor fuel may be purchased from such pumps or other dispensing equipment.

### 1. Data to be shown on price signs:

i. The price signs shall show the unit price per gallon if the fuel is sold by the gallon;

ii. If the fuel is sold per liter, the signs shall show the unit price per gallon and the unit price per liter. The price per gallon shall be located on the top half of the sign and the price per liter shall be located on the bottom half of the sign on differing background colors such as black and white;

iii. If the credit price is the same as the cash price a statement in words to that effect may be included in the signage, in lieu of repeating the unit price in digits for both cash and credit prices. Such signs shall show no other data than the data required by this subsection.

2. Such unit price includes all taxes imposed, whether State or Federal. Beneath the unit price there shall be either the statement:

i. "Includes.. (insert the tax per gallon).. N.J. Tax.. (insert tax per gallon).. Federal Tax;"

ii. "Includes State and Federal Taxes";

iii. "Includes N.J. and U.S. Taxes";

iv. "Includes all Taxes."

3. The size of the whole numbers and fractions which are a part of the price sign must be of such a size that will be readily readable by a customer approaching the pump.

4. The statement that all taxes are included shall be in letters at least ⅜ of an inch high.

5. The colors of all price signs shall be of such combination that the sign may be easily read by any person purchasing motor fuel from the pump or other dispensing equipment to which the sign is attached.

6. Any figure or fraction used in any price computing mechanism constituting a part of a computing pump, or any other dispensing equipment shall not be considered a price sign under the provision of the section.

(d) Upon application by an interested party, the Division may specifically find and approve for use in a particular case that a proposed pump topper sign meets the intention and spirit of the price disclosure law although the dimensions and physical composition of the proposed signage vary slightly from that noted in this rule.

Amended by R.1982 d.77, effective March 15, 1982.  
See: 13 N.J.R. 855(a), 14 N.J.R. 285(c).

Section substantially amended.  
Amended by R.1995 d.79, effective February 6, 1995.  
See: 26 N.J.R. 4512(a), 27 N.J.R. 535(a).

### Statutory References

N.J.S.A. 56:6-2.3.

5. A monthly physical inventory record, which shows a record of the number of gallons of each kind of motor fuel product on hand at the close of each month's business:

i. In addition to gasoline, it must include kerosene and any diesel oil or other product, which will later be sold for use or used in a motor vehicle;

ii. Such record must be the result of actual measurement taken at the end of the last day of each month.

6. All records kept by retail dealers, sellers or users of special fuels must be safely preserved for a period of four years in such a manner as to insure their security and accessibility for inspection by the Director or any employee of the Division of Taxation engaged in the administration of the motor fuels tax rules provided in N.J.A.C. 18:18-1.1 et seq.

Amended by R.1979 d.137, effective April 4, 1979.  
See: 11 N.J.R. 149(d), 11 N.J.R. 264(b).  
Amended by R.1995 d.79, effective February 6, 1995.  
See: 26 N.J.R. 4512(a), 27 N.J.R. 535(a).

#### Historical Note

Formerly RC-3, filed 1/1/48.

#### Statutory References

N.J.S.A. 56:6-6, 12.

N.J.S.A. 54:39-33.

#### 18:19-4.2 Totalizers

(a) All above ground pumps connected to storage tanks which are used to dispense fuels by a retail dealer or a seller of special fuels or a user of special fuels, as defined in chapter 39 of Title 54 of the Revised Statutes who delivers or places fuels into the fuel supply tank or other fueling receptacles or devices of a motor vehicle, or who uses fuels within the meaning of the word "use" as defined in that chapter, or who makes sales to unlicensed buyers, shall have in operation at all times the pump is in use, a working, sealed, gallons totalizer of at least six digits.

(b) The six digits are measured from the left of the decimal point and do not represent tenths or fractions of a gallon.

(c) Users of special fuels whose monthly usage does not exceed 7,500 gallons are not required to have sealed totalizers.

New Rule, R.1995 d.79, effective February 6, 1995.  
See: 26 N.J.R. 4512(a), 27 N.J.R. 535(a).

## SUBCHAPTER 5. POWERS OF THE DIRECTOR

### 18:19-5.1 Injunction to prohibit violations

The Director may file a bill in the Superior Court of this State for an injunction to prohibit any habitual violation of the Act, or any of the orders, rules, regulations made by the Director, and every such action will proceed in the Superior Court according to the rules and practice of that Court, and in cases of emergency have precedence over other litigation pending at that time, and a final hearing may be had within such time and on such notice as the Court directs.

#### Statutory References

N.J.S.A. 56:6-4(e).

### 18:19-5.2 Auditing and investigations

(a) For the purpose of administering the Act, the Director whenever he deems it expedient, may make or cause to be made, by an employee of the Division of Taxation engaged in the administration of these regulations, an audit, examination or investigation of the books, records, papers, vouchers, accounts and documents of any retail dealer.

(b) It is the duty of every retail dealer, his agents or employees, to exhibit to the Director or to any such employee of the Division of Taxation all such books, records, papers, vouchers, accounts and documents of the retail dealer and to facilitate any such audit, examination or investigation so far as it may be in his or their power so to do.

Amended by R.1979 d.137, effective April 4, 1979.  
See: 11 N.J.R. 149(d), 11 N.J.R. 264(b).

#### Statutory References

N.J.S.A. 56:6-7.

### 18:19-5.3 Hearings; oaths; subpoenas

(a) The Director or any employee of the Division of Taxation designated by him may conduct informal or formal hearings, administer oaths and examine under oath any retail dealer, his agents or employees and any other witnesses, for the purpose of investigating alleged violations of the act, or for the purpose of asserting facts, which will enable the Director to administer the provisions of the Act.

(b) The Director or any employee of the Division of Taxation designated by him has the power by subpoena, signed by the Director and served in the same manner as like process in civil actions in the Supreme Court, to compel the attendance of witnesses and the production of any books, records, papers, vouchers, accounts or documents of any retail dealer at any hearings held pursuant to the provisions of the Act.

1. The fees of witnesses required to attend any such hearing are the same as those allowed to witnesses appearing in the Supreme Court;

2. Such fees are paid in the manner provided for the payment of other expenses incident to the administration of these regulations. (See N.J.A.C. 18:18-2.10 for informal and formal hearing procedure.)

**Statutory References**

N.J.S.A. 56:6-8, 9.

**18:19-5.4 Refusal to obey subpoena**

If any person subpoenaed to attend any hearing held pursuant to these regulations fails to appear, to be examined or answer any questions or produce any book, records, papers, vouchers, accounts or documents properly subpoenaed by the Director or employee of the Division of Taxation designated by the Director to act in his behalf, the Director may apply to the Superior Court to compel such person to comply with the subpoena.

**Statutory References**

N.J.S.A. 56:6-10.

**18:19-5.5 Suspension and revocation of license**

(a) The Director may suspend or revoke the license held by any retail dealer for a violation of any of the provisions of these rules or on other reasonable ground or grounds, after five days' notice of such proposed revocation or suspension, and the ground or grounds thereof to such retail dealer.

(b) Said notice will be served personally or by registered mail upon the retail dealer and will set forth the date, time, and place of hearing to be conducted under the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., for that purpose.

Amended by R.1995 d.79, effective February 6, 1995.  
See: 26 N.J.R. 4512(a), 27 N.J.R. 535(a).

**Statutory References**

N.J.S.A. 56:6-14.

**18:19-5.6 Power to seal totalizers**

The Director or his or her assistants may, by the use of seals or sealing devices, ensure that totalizers or seals cannot be removed, altered, or manipulated.

New Rule, R.1995 d.79, effective February 6, 1995.  
See: 26 N.J.R. 4512(a), 27 N.J.R. 535(a).

**SUBCHAPTER 6. CRIME**

**Authority**

N.J.S.A. 54:39-10, 54:50-1, 56:6-6.

**Source and Effective Date**

R.1995 d.79, effective February 6, 1995.  
See: 26 N.J.R. 4512(a), 27 N.J.R. 535(a).

**18:19-6.1 Altering totalizer**

Any person who, without permission or authority and for the purpose of evading or circumventing any law of this State, alters, manipulates, replaces, or in any other manner tampers or interferes with or causes to be altered, manipulated, replaced, tampered or interfered with, a totalizer, or who operates a pump not equipped with a sealed totalizer required by these rules, is guilty of a crime of the fourth degree.