



## **MOTOR CARRIER DIVISION**

**To:** Emily Nunez, MA III  
**From:** Dawn Lietz, Deputy Administrator MCD  
**Subject:** AB32 Testimony  
**Date:** May 7, 2015

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### **Testimony Provided By: Dawn Lietz**

**AB32 is a Department Bill to provide consistency in reporting and taxation for gaseous special fuels. AB32 was amended while in the Assembly after some additional discussion with stakeholders and consequently, the fiscal note originally submitted by the Department was revised to reflect the changes. The amended fiscal note can be found in NELIS under the exhibit tab.**

**I have provided the committee with some photos of the various types of fuel stations for you to use as a visual aid as we go through the sections of AB32.**

**The first set of photos show a standard gas pump display and a gasoline can to demonstrate a familiar method of fueling. The display reveals the price per gallon, number of gallons dispensed, and total cost of the transaction for the consumer. If you place 5 gallons of fuel into the can you will pay the station for 5 gallons. You can look inside the can and see it is full. The display will confirm the volume placed into the can and the cost of those 5 gallons and the price per gallon displayed on the pump includes all applicable tax.**

**The photo of the Propane Station shows the process when fueling a vehicle which runs on propane. In this example, you will notice a dispenser, similar to a gasoline pump. This dispenser also shows the consumer the number of gallons dispensed and total cost for the transaction. If the consumer purchases 10 gallons of propane, they will pay for 10 gallons of propane. However, because propane is gaseous in nature and is pressurized not liquid as gasoline, it is dispensed in cubic feet or pounds, whereas 36.3 c.f. (or 4.2 lbs) equals a dispensed gallon. If you fill your propane bbq tank, you cannot look inside the cylinder and see it is full, but you can**

lift it and tell by the weight how full it is. Unlike gasoline which is primarily used for propelling a motor vehicle, the tax on propane and compressed natural gas is not included in the price unless it is placed into the tank of a motor vehicle. However, because of the conversion factor found in NRS 366.197 for these fuels, the tax collected on the number of gallons pumped does not match the volume of fuel purchased.

NRS 366.197(2) states, 125 c.f. of Liquefied Petroleum Gas (aka LPG or hereby referred to as propane) is equal to a taxable gallon of fuel. When the propane is dispensed at the pump, it is metered at 36.3 c.f. Therefore, for every 10 gallons of propane dispensed, tax is only assessed on 2.904 gallons. The consumer receives 363 c.f. of propane, but when that volume is divided by the 125 c.f. conversion for a taxable gallon, the tax rate for propane set in statute is only paid on 2.904 gallons of propane. The tax rate per NRS 366.190(2)(b) is set at 22 cents per gallon. However, in reality, only 6.4 cents per gallon is collected because of the conversion factor. When you divide the dispensed 36.3 c.f. by the taxable gallon conversion factor of 125 c.f., the result is .2904, which means only 29.04% of a gallon is taxed.

- Section 3 of AB32 amends NRS 366.197 to change the taxable gallon measurement of propane (LPG) from 125 cubic feet (c.f.) to 36.3 c.f. (or 4.2 lbs) to match the gallons dispensed and ease reporting by eliminating the need for a conversion to taxable gallons.
- Section 2, subsection 2(b) amends NRS 366.190 to reduce the rate of tax on the sale or use of Liquefied Petroleum Gas (propane) from \$0.22 to \$0.064 cents per gallon, to match what is actually collected.
- Are there any questions before I move to Compressed Natural Gas?

The next photo shows a Compressed Natural Gas (CNG Station) fueling pump. Again, you will notice a dispenser, similar to a gasoline pump. Like the others, this dispenser also shows the consumer the number of gallons dispensed and total cost for the transaction. If the consumer purchases 10 gallons of CNG, they will pay for 10 gallons of CNG. Like propane, CNG is gaseous in nature and pressurized not liquid as gasoline, it is also dispensed in cubic feet or pounds, whereas (since 2014) 126.67 c.f. (or 5.66 lbs) equals a gallon. Prior to 2013 (SB399), the standard measurement for CNG was also 125 c.f. per gallon.

In 1987 when the conversion factors for both CNG and propane were placed into law, the Department's tax system was programmed to convert the Dealer's reported number of gallons of CNG and propane sold, by the conversion factor in NRS 366.197.

Assuming propane gallons are being reported by the Dealers as dispensed at 36.3 c.f., the conversion in the Department's tax system is accurate. However, when the CNG conversion was programmed, there was an assumption made that pumps were dispensing at 100 c.f. per gallon. The 100 c.f. was divided by the taxable gallon conversion factor of 125 c.f. for a conversion rate of .80 (or 80% of 1 gallon for the purposes of tax). The tax rate per NRS 366.190 (2)(c) of 21 cents was multiplied by the conversion rate of .80 and the tax collected by the Department was subsequently reduced to 16.8 cents per gallon. There has been no documentation found (either at the Department, or by LCB fiscal through researching testimony when the conversion was placed into law) to determine where the 100 c.f. per gallon dispensed ratio came from. However, after SB399 passed in the 2013 session, it was discovered that CNG is actually dispensed at the 126.67 c.f. unit of measurement and not 100 c.f. as our system is programmed. Therefore, the consumer is paying the full tax rate of 21 cents per gallon at the pump, but the Department is only collecting the lower converted rate of tax on the dealer returns because of the programmed conversion. I do want to go on the record and say although it has not been confirmed, it is possible some companies have factored the lower tax rate in to the price they are collecting at the pump on CNG and are not keeping the difference between the 21 cent tax rate in the statute and the 16.6 cents remitted to the Department.

Because this system conversion has been in place for nearly 30 years, the Department is seeking a policy approval from the legislative body to remove the secondary conversion from its system and collect the statutory rate of 21 cents to match what the consumer is paying at the pump. LCB staff recommended the Department request an incremental increase to bring the tax from the 16.6 cents back to the 21 cent tax to keep the change in policy revenue neutral in year one. However, during testimony on the Assembly side stakeholders testified the consumer is already paying the full tax rate so there is no need to incrementally increase the tax. AB32 was amended accordingly and the Department submitted the revised fiscal note to reflect the changes. Therefore:

- **Section 2, subsection 2(b) retains the rate of tax per NRS 366.190 for CNG at 21 cents per gallon.** Approval of AB32 by the full legislative body will provide the Department with the necessary policy approval to remove the conversion from our system.
- **Are there any questions before I move to Liquefied Natural Gas?**

The last photo shows the process when fueling a Liquefied Natural Gas (LNG) vehicle. LNG does not have a conversion or unit of measurement defined in Statute or through the National Institute of Standards Testing (aka NIST). Therefore, the Department uses the same unit of measurement currently used by the IRS to tax LNG, which is 3.5 lbs equals a gallon. However, because of its significantly lower energy content LNG is actually dispensed at 6.06 lbs per gallon and NIST is expected to adopt this standard unit of measurement at its annual meeting in July. Unlike the CNG where the Department is collecting less tax than statutorily required, LNG is actually collected at a higher rate of tax since a dispensed gallon of LNG is 6.06 lbs but it is taxed at 3.5 lbs per gallon. So for every 10 gallons of LNG dispensed, the consumer is paying tax on 17.3 gallons.

There are currently 22\* states who have adopted 6.06 lbs as the standard unit of measurement for taxation of LNG. Additionally, at the Federal level, SB334 and HB905 are under consideration by Congress to also establish 6.06 lbs as the federal unit of tax for LNG; and a Ballot to adopt the 6.06 lb. unit of measurement through the International Fuel Tax Administration (aka IFTA) has been submitted this month for consideration by the membership.

- **Section 3, subsection 3** adds a standard unit of measurement for liquefied natural gas (LNG) at 6.06 lbs. LNG pumps are calibrated to dispense 6.06 lbs for each metered gallon. There is no change requested in the rate of tax.
- **Does the committee have any questions before I move to the final sections of AB32?**

**Section 1 of AB32 amends NRS 366.062 to add persons who sell liquefied natural gas (LNG) to the definition of a “Special Fuel Dealer”.**

- What this means is the amendment will only require persons who sell LNG for use in motor vehicles to report their activity, making LNG dealers consistent with propane and CNG dealers; and **Section 4, subsection 2 amends NRS 366.386** to confirm all quantities of special fuel used in motor vehicles are to be reported in gallons.

**Thank you for your time and I will be happy to answer any remaining questions you may have.**

*\*Alabama, California, Colorado, Florida, Georgia, Indiana, Kansas, Kentucky, Michigan, Mississippi, Missouri, North Carolina, Nebraska, New Hampshire, New Mexico, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Washington, and Wyoming*