

House Bill 4657 as enrolled
Public Act 116 of 2003

Second Analysis (8-6-03)

Sponsor: Rep. Neal Nitz
House Committee: Agriculture and
Resource Management
Senate Committee: Agriculture, Forestry
and Tourism

THE APPARENT PROBLEM:

In 1984, the Motor Fuels Quality Act (Public Act 44) was enacted to provide a comprehensive state statute relating to the establishment of gasoline standards and the monitoring of gasoline sales. Prior to the enactment of the act, any actions to enforce gasoline standards were often undertaken jointly by the Department of Agriculture and the attorney general under the Consumer Protection Act, as well as federal environmental and trade laws.

The program established under the Motor Fuels Quality Act is administered by the Laboratory Division of the Department of Agriculture, and provides for the establishment and regulation of the sale and quality of motor fuels. To ensure that gasoline sold in the state comports with certain standards - thereby protecting the interests of consumers - the division licenses gasoline retail outlets, investigates complaints regarding the quality and quantity of gasoline sold in the state, and conducts inspections (including sampling) of gas stations throughout the state.

Among other provisions, the Motor Fuels Quality Act requires that gasoline pumps include a notice stating that the gasoline contains certain additives such as methanol or ethanol. Some believe that labeling requirement for ethanol has outlived its usefulness, given the fact that it has become a standard component of the liquid fuel industry and is widely accepted among motorists.

THE CONTENT OF THE BILL:

Under the Motor Fuels Quality Act, gasoline pumps must include a notice stating that the gasoline contains certain additives, such a methanol or ethanol. The bill would exempt gasoline containing 10 percent or less ethanol from the notice requirement.

The bill would take effect on January 1, 2004, or when the federal Energy Policy Act of 2003 or the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 is passed by the 108th Congress, whichever comes first.

MCL 290.644

BACKGROUND INFORMATION:

According to a recent report by the Nebraska Ethanol Board, ethanol is a type of alcohol made by fermenting corn or other similar biomass material. Generally speaking, it can be used as a transportation fuel in one of three ways: (1) as a blend of 10 percent ethanol with 90 percent unleaded gasoline; (2) as a component of reformulated gasoline and/or as ethyl tertiary butyl ether (ETBE); or (3) as a primary fuel with 85 parts of ethanol blended with 15 parts of unleaded gasoline. In addition, the report notes that each bushel of corn produces about 2.5 to 2.7 gallons of ethanol (and other bi-products), depending on the milling processed used. Each year, approximately 2 billion gallons of ethanol are produced. The 10 percent ethanol blend gasoline is also known as gasohol, E-10 unleaded, super unleaded plus ethanol, or unleaded plus.

With regard to the fuel characteristics of ethanol, the report by the Nebraska Ethanol Board notes that auto manufacturers generally recommend ethanol-blended gasoline for their vehicles, and that E-10 Unleaded (that is, 10 percent ethanol/90 percent unleaded gasoline) is approved under the warranties of all domestic and foreign automobile manufacturers that market vehicles in the U.S. Ethanol is a type of fuel oxygenate that improves combustion, reduces emissions, and increases octane.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would have no fiscal impact. (HFA fiscal analysis dated 5-21-03)

ARGUMENTS:**For:**

When the ethanol label was first required, it was in part seen as a way of promoting the use of ethanol-blended gasoline. However, the label has now generally become a warning, cautioning motorists against the use of ethanol. In addition, many believe that the label may be confusing and prompt motorists, for no reason other than confusion, to choose to not purchase ethanol-blended fuels. Indeed, citing an earlier study by the Department of Agriculture, a 1999 report by the Michigan Biomass Energy Program notes, “[w]hen the labeling laws were proposed it was argued by four Michigan State departments...that ‘motorists will be confused by the labeling requirements’ and ‘it is likely that gasohol sales would decline if Michigan adopted a labeling law.’” The MBEP study also states, “[i]t is argued by some that, as predicted, labeling requirements have resulted in lower gasohol sales, and that either labels should be removed, all additives should be labeled/made public, and/or an intense education campaign should be launched to counteract the negative stereotype of gasohol that was acquired in the early 80’s.”

Against:

The bill appears to go against one of the chief purposes of the Motor Fuels Quality Act - consumer protection. The act is designed, in part, to provide assurances to motorists that the fuel that they purchase is of a certain quality and quantity, and of a particular type. Deleting the labeling requirement for ethanol-blended gasoline may lead owners of certain older vehicles (which may not be compatible with ethanol-blended gasoline) to unwittingly use a potentially hazardous type of fuel in their vehicles.

Response:

Over the twenty years since the addition of the labeling requirement, the ethanol industry has transformed the use of ethanol from an obscure agricultural commodity to a regular component of the liquid fuel industry. The use of ethanol is acceptable for every make and model of automobile offered for sale in the country. Further, it is believed that the impact of using ethanol-blended gasoline on those older vehicles is minimal at best.

For:

By removing the labeling requirement, the bill provides gasoline retailers with greater flexibility when determining the type of fuel sold. Even though the price of ethanol increases and decreases through normal market fluctuations, retailers generally stick with the same type of fuel they offer, even when the market dictates that they change that type - meaning that retailers often sell ethanol-blended fuel when the price is too high, and don’t sell it when the price is low.

Against:

Given the current tax structure regarding unleaded gasoline and ethanol blended gasoline, some believe that the bill could potentially result in a loss of federal funding for road construction. Federal tax credits related to ethanol fuel cost the state over \$51 million in federal road repair funds last year. If the bill results in a greater consumption of ethanol-blended gasoline in the state - which appears to be the chief purpose of the bill - the state could lose even more federal road money. To that end, any action on the bill should be delayed until the issues surrounding federal tax credits for ethanol consumption are resolved in Congress, whichever comes first.

Analyst: M. Wolf

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.