

HOUSE BILL No. 5942

May 25, 2004, Introduced by Reps. Nitz, Julian, Caswell, Garfield, Brandenburg, Hune, Meyer, Huizenga, Milosch, Stahl, Walker, Tabor, Sheen, Emmons, Plakas, Gleason, Zelenko, Richardville, Gillard, O'Neil, Lipsey, Pumford, Ehardt, Newell, DeRossett, Voorhees, Moolenaar, Hager, Kooiman and Vander Veen and referred to the Committee on Agriculture and Resource Management.

A bill to amend 1984 PA 44, entitled "Motor fuels quality act," by amending sections 2, 3, and 5 (MCL 290.642, 290.643, and 290.645), section 2 as amended by 1993 PA 236 and sections 3 and 5 as amended by 2002 PA 13.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Additive" means any substance in gasoline other than
3 gasoline but does not include approved blending components, other
4 than lead, sodium, and phosphate components, introduced at
5 refineries or terminals as octane or product quality enhancers in
6 quantities of less than 1% of volume.

7 (b) "American society for testing and materials" means an
8 international nonprofit scientific and educational society
9 devoted to the promotion of knowledge of the materials of

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1 engineering and the standardization of specification and methods
2 of testing.

3 (c) "Antiknock index" or "AKI" means an index number arrived
4 at by adding the motor octane number and the research octane
5 number, then dividing by 2.

6 (d) **"Biodiesel" means an alternative fuel for diesel-powered
7 vehicles made from any fat or vegetable oil.**

8 (e) ~~-(d)-~~ "Blender" means a person who as an individual or
9 through his or her agent adds an oxygenate to a gasoline.

10 (f) ~~-(e)-~~ "Bulk purchaser-end user" means a person who is an
11 ultimate consumer of gasoline and receives delivery of gasoline
12 into a storage tank of at least 550-gallon capacity substantially
13 under his or her control.

14 (g) ~~-(f)-~~ "CARB" means the California air resources board.

15 (h) ~~-(g)-~~ "Delivery vessel" means a tank truck, tank equipped
16 trailer, or a similar vessel used for the delivery of gasoline to
17 a dispensing facility.

18 (i) ~~-(h)-~~ "Department" means the department of agriculture.

19 (j) **"Diesel fuel" means any liquid other than gasoline that
20 is capable of use as a fuel or a component of a fuel in a motor
21 vehicle that is propelled by a diesel-powered engine or in a
22 diesel-powered train.**

23 (k) ~~-(i)-~~ "Director" means the director of the department of
24 agriculture or his or her authorized representative.

25 (l) ~~-(j)-~~ "Dispensing facility" means a site used for vehicle
26 gasoline refueling that is located in an area of this state that
27 has been designated as ozone nonattainment and classified as

1 moderate, serious, severe, or extreme by the E.P.A. pursuant to
2 40 ~~C.F.R.~~ **CFR** section 81.323, November 6, 1991. Dispensing
3 facility does not include a facility used exclusively for the
4 refueling of aircraft, watercraft, or vehicles that are designed
5 for agricultural purposes and used exclusively in agricultural
6 operations.

7 **(m)** ~~-(k)-~~ "Dispensing unit" means a device designed for the
8 delivery of gasoline in which 1 nozzle equates to 1 dispensing
9 unit.

10 **(n)** ~~-(l)-~~ "Distributor" means a person who purchases,
11 transports, or stores or causes the transportation or storage of
12 gasoline at any point between a gasoline refinery and a retail
13 outlet or bulk purchaser-end user facility.

14 **(o)** ~~-(m)-~~ "E.P.A." means the United States environmental
15 protection agency.

16 **(p)** ~~-(n)-~~ "Gasoline" means any fuel sold in this state that
17 is suitable for use in spark-ignition internal combustion
18 engines, and commonly or commercially known or sold as gasoline.

19 **(q)** ~~-(o)-~~ "Leak" means liquid or vapor loss from the gasoline
20 dispensing system or stage I or stage II vapor-recovery system as
21 determined by visual inspection or functional testing.

22 **(r)** ~~-(p)-~~ "Modification" means any change, removal, or
23 addition, other than an identical replacement, of any component
24 contained within a stage I or stage II vapor-recovery system.
25 The resultant modification must constitute an approved
26 vapor-recovery system.

27 **(s)** ~~-(q)-~~ "Motor octane number" or "MON" means a knock

1 characteristic of gasoline determined by use of standard
2 procedures on a motor engine.

3 **(t)** ~~-(r)-~~ "Operator" means a person who owns, leases,
4 operates, manages, supervises, or controls, directly or
5 indirectly, a gasoline-dispensing facility.

6 **(u)** ~~-(s)-~~ "Oxygenate" means an oxygen-containing, ashless,
7 organic compound, such as alcohol or ether, that may be used as
8 fuel or fuel supplement.

9 **(v)** ~~-(t)-~~ "Person" means an individual, sole proprietorship,
10 partnership, corporation, association, or other legal entity.

11 **(w)** ~~-(u)-~~ "Refiner" means a person who owns, leases,
12 operates, controls, or supervises a refinery.

13 **(x)** ~~-(v)-~~ "Refinery" means a plant at which gasoline **or**
14 **diesel fuel** is produced.

15 **(y)** ~~-(w)-~~ "Research octane number" or "RON" means a knock
16 characteristic of gasoline determined by use of standard
17 procedures on a research engine.

18 **(z)** ~~-(x)-~~ "Retail dealer" means a person who owns, leases,
19 operates, controls, or supervises a retail outlet.

20 **(aa)** ~~-(y)-~~ "Retail outlet" means an establishment at which
21 gasoline is sold or offered for sale to the public.

22 **(bb)** ~~-(z)-~~ "Rule" means a rule promulgated pursuant to the
23 administrative procedures act of 1969, ~~Act No. 306 of the Public~~
24 ~~Acts of 1969, being sections 24.201 to 24.328 of the Michigan~~
25 ~~Compiled Laws~~ **1969 PA 306, MCL 24.201 to 24.328.**

26 **(cc)** ~~-(aa)-~~ "Stage I vapor-recovery system" means a vapor
27 tight collection system that is approved by the department and is

1 designed to capture the gasoline vapors displaced during delivery
2 into a stationary storage tank and to return not less than 90% of
3 the displaced vapors to the delivery vessel.

4 **(dd)** ~~(bb)~~ "Stage II vapor-recovery system" means a
5 gasoline-dispensing system approved by the department that
6 prevents 95% or more of the volatile organic compounds from being
7 emitted during gasoline refueling.

8 Sec. 3. (1) The director shall establish standards pursuant
9 to this act to ensure the purity and quality of gasoline **and**
10 **diesel fuel** sold or offered for sale in this state.

11 (2) The director shall establish standards for the amount and
12 type of additives allowed to be included in gasoline **and diesel**
13 **fuel**.

14 (3) The director shall establish standards for the grading of
15 gasoline, including, but not limited to, subregular with a
16 minimum 85 AKI, regular with a minimum 87 AKI and a minimum 82
17 MON, midgrade 88 with a minimum 88 AKI and a minimum 82 MON,
18 midgrade 89 with a minimum 89 AKI and a minimum 83 MON, premium
19 with a minimum 90 AKI, premium 91 with a minimum 91 AKI, premium
20 92 with a minimum 92 AKI, premium 93 with a minimum 93 AKI, and
21 premium 94 with a minimum 94 AKI.

22 (4) The director shall establish standards for Reid vapor
23 pressure as specified by the American society for testing and
24 materials, except as otherwise required to conform to federal or
25 state law. The director shall establish the Reid vapor pressure
26 as 9.0 pounds per square inch (psi) for retail outlets during the
27 period beginning June 1 through September 15 of each year, except

1 for dispensing facilities where the director shall establish the
2 Reid vapor pressure as 7.8 psi in the year 1996 and thereafter.
3 As used in this subsection and section 10d, "Reid vapor pressure"
4 means the vapor pressure of gasoline or gasoline oxygenate blend
5 as determined by ASTM test method D323, standard test method for
6 vapor pressure of petroleum products (Reid method) or test method
7 D4953, standard test method for vapor pressure of gasoline and
8 gasoline oxygenate blends (dry method).

9 (5) In establishing additive and grading standards the
10 director shall adopt the latest standards for gasoline
11 established by the American society for testing and materials and
12 shall adopt the latest standards for gasoline established by
13 federal law or regulation. The standards established by the
14 director shall not prohibit a gasoline blend that is permitted by
15 a valid waiver granted by the United States environmental
16 protection agency pursuant to the fuel or fuel additive waiver in
17 section 211(f)(4) of part A of title II of the clean air act,
18 ~~chapter 360, 81 Stat. 502, 42 U.S.C.~~ **USC** 7545, and the
19 ethanol waiver of 1.0 psi in section 211(h)(4) of part A of title
20 II of the clean air act, ~~chapter 360, 81 Stat. 502, 42 U.S.C.~~
21 **USC** 7545, if the gasoline blend meets all of the conditions set
22 forth in the waiver. Beginning June 1, 2003, the director shall
23 not permit the use of the additive methyl tertiary butyl ether
24 (MTBE) in this state. The director, in consultation with the
25 department of environmental quality, shall determine if the
26 additive is likely to cause harmful effects on the environment or
27 public health within the state. By June 1, 2002, the director,

1 in consultation with the director of the department of
2 environmental quality, shall review the status of the use of MTBE
3 in this state. The review shall include the following:

4 (a) The amount of the additive methyl tertiary butyl ether
5 (MTBE) currently in use in gasoline in this state.

6 (b) An estimate of the amount of MTBE that is imported in
7 gasoline transported into this state from other states or
8 countries.

9 (c) Recommendations as to whether the June 1, 2003
10 prohibition can be achieved and, if not, determine a more
11 feasible date.

12 (d) Any other information considered appropriate.

13 **(6) The director shall establish standards pursuant to this**
14 **act to ensure the purity and quality of diesel fuel sold or**
15 **offered for sale in this state. Beginning January 1, 2007,**
16 **standards for diesel fuel sold or offered for sale in this state**
17 **shall include a requirement that the composition of diesel fuel**
18 **sold in this state include at least 20% biodiesel.**

19 **(7) ~~(6)~~ Standards established pursuant to this section**
20 **shall be by rules promulgated pursuant to the administrative**
21 **procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.**

22 Sec. 5. (1) Except as provided by federal law or
23 regulation, in the manufacture of gasoline **or diesel fuel** at any
24 refinery in this state, a refiner shall not manufacture gasoline
25 **or diesel fuel** at a refinery in this state unless the gasoline **or**
26 **diesel fuel** meets the requirements in section 3. Except as
27 provided by federal law or regulation, a blender shall not blend

1 gasoline unless the finished blend meets the requirements in
2 section 3.

3 (2) Except as provided by federal law or regulation, a
4 distributor shall not sell or transfer to any distributor, retail
5 dealer, or bulk purchaser-end user any gasoline **or diesel fuel**
6 unless that gasoline **or diesel fuel** meets the requirements in
7 section 3.

8 (3) A carrier or an employee or agent of a carrier, whether
9 operating under contract or tariff, shall not cause gasoline **or**
10 **diesel fuel** tendered to the carrier for shipment or transfer to
11 another carrier, distributor, or retail dealer to fail to comply,
12 at the time of delivery, with the requirements in section 3.

13 (4) A person shall not knowingly sell, dispense, or offer for
14 sale gasoline **or diesel fuel** unless that gasoline **or diesel fuel**
15 meets the requirements in section 3.

16 (5) A refiner or distributor shall not transfer, sell,
17 dispense, or offer gasoline for sale in this state to a
18 distributor unless the refiner or distributor indicates on each
19 bill, invoice, or other instrument evidencing a delivery of
20 gasoline, the name of the wholesale distributor who received
21 delivery of the gasoline.

22 (6) A distributor or refiner shall not transfer, sell,
23 dispense, or offer gasoline for sale in this state to a retail
24 dealer unless the distributor indicates on each bill, invoice, or
25 other instrument evidencing a delivery of gasoline, the name and
26 license number issued pursuant to this act, of the retail dealer
27 who received delivery of the gasoline.

1 (7) A bill, invoice, or other instrument evidencing a
2 delivery of gasoline issued by a refiner or distributor for
3 deliveries of gasoline to purchasers who are not required to hold
4 a license issued pursuant to the motor fuel tax act, 2000 PA 403,
5 MCL 207.1001 to 207.1170, or this act shall clearly indicate the
6 name and address and other information necessary to identify the
7 purchaser of the gasoline.

8 (8) A bill, invoice, or other instrument evidencing a
9 delivery of gasoline required by subsection (5), (6), or (7)
10 shall include a guarantee that the gasoline delivered meets the
11 requirements in section 3 and shall indicate the concentration
12 range of alcohol in the gasoline, except for alcohols or ethers
13 that have a molecular weight greater than ethanol and are not
14 mixed with methanol or ethanol, or both, and shall indicate the
15 possible presence, without regard to concentration range, of any
16 alcohols or ethers that have a molecular weight greater than
17 ethanol and are not mixed with methanol or ethanol, or both.

18 (9) A refiner, distributor, bulk purchaser-end user, or
19 retail dealer shall not transfer, sell, dispense, or offer
20 gasoline for sale unless that gasoline is visibly free of
21 undissolved water, sediments, and other suspended matter and is
22 clear and bright at an ambient temperature or 70 degrees
23 Fahrenheit, whichever is greater.

24 (10) A person who violates this section or rules promulgated
25 under this section is liable for a civil fine not to exceed
26 \$10,000.00 for each day of the continuance of the violation. A
27 civil fine ordered pursuant to this section shall be submitted to

- 1 the state treasurer for deposit in the gasoline inspection and
- 2 testing fund created by section 8.