



SENATE BILL No. 808

September 21, 1993, Introduced by Senators EHLERS and
HOFFMAN and referred to the Committee on Natural
Resources and Environmental Affairs.

A bill to amend sections 5, 6, 7, and 8 of Act No. 44 of the
Public Acts of 1984, entitled
"Motor fuels quality act,"

sections 5 and 6 as amended by Act No. 127 of the Public Acts of
1986 and section 7 as amended by Act No. 84 of the Public Acts of
1988, being sections 290.645, 290.646, 290.647, and 290.648 of
the Michigan Compiled Laws; and to add sections 9j, 11, and 12.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 5, 6, 7, and 8 of Act No. 44 of the
2 Public Acts of 1984, sections 5 and 6 as amended by Act No. 127
3 of the Public Acts of 1986 and section 7 as amended by Act No. 84
4 of the Public Acts of 1988, being sections 290.645, 290.646,
5 290.647, and 290.648 of the Michigan Compiled Laws, are amended
6 and sections 9j, 11, and 12 are added to read as follows:

1 Sec. 5. (1) Except as provided by federal law or
2 regulation, in the manufacture of gasoline at any refinery in
3 this state, a refiner shall not manufacture gasoline at a refin-
4 ery in this state unless the gasoline meets the requirements
5 ~~provided for~~ in section 3. EXCEPT AS PROVIDED BY FEDERAL LAW
6 OR REGULATION, A BLENDER SHALL NOT BLEND GASOLINE UNLESS THE FIN-
7 IShed BLEND MEETS THE REQUIREMENTS IN SECTION 3.

8 (2) Except as provided by federal law or regulation, a dis-
9 tributor shall not sell or transfer to any distributor, retail
10 dealer, or bulk purchaser-end user any gasoline unless that gaso-
11 line meets the requirements ~~provided for~~ in section 3.

12 (3) A carrier or an employee or agent of a carrier, whether
13 operating under contract or tariff, shall not cause gasoline
14 tendered to the carrier for shipment or transfer to another car-
15 rier, distributor, or retail dealer to fail to comply, at the
16 time of delivery, with the requirements ~~provided for~~ in section
17 3.

18 (4) A person shall not knowingly sell, dispense, or offer
19 for sale gasoline unless that gasoline meets the requirements
20 ~~provided for~~ in section 3.

21 (5) A refiner or distributor shall not transfer, sell, dis-
22 pense, or offer gasoline for sale in this state to a distributor
23 unless the refiner or distributor indicates on each bill,
24 invoice, or other instrument evidencing a delivery of gasoline,
25 the name and wholesale distributors license number issued pursu-
26 ant to Act No. 150 of the Public Acts of 1927, being sections

1 207.101 to 207.202 of the Michigan Compiled Laws, of the
2 wholesale distributor who received delivery of the gasoline.

3 (6) A distributor or refiner shall not transfer, sell, dis-
4 pense, or offer gasoline for sale in this state to a retail
5 dealer unless the distributor indicates on each bill, invoice, or
6 other instrument evidencing a delivery of gasoline, the name and
7 license number issued pursuant to this act, of the retail dealer
8 who received delivery of the gasoline.

9 (7) A bill, invoice, or other instrument evidencing a deliv-
10 ery of gasoline issued by a refiner or distributor for deliveries
11 of gasoline to purchasers who ~~do not~~ ARE NOT REQUIRED TO hold a
12 license issued pursuant to Act No. 150 of the Public Acts of 1927
13 or this act shall clearly indicate the name and address and other
14 information necessary to identify the purchaser of the gasoline.

15 (8) A bill, invoice, or other instrument evidencing a deliv-
16 ery of gasoline required by subsection (5), (6), or (7) shall
17 include a guarantee that the gasoline delivered meets the
18 requirements ~~provided for~~ in section 3 and shall indicate the
19 concentration range of alcohol in the gasoline, except for alco-
20 hols or ethers that have a molecular weight greater than ethanol
21 and are not mixed with methanol or ethanol, or both and shall
22 indicate the possible presence, without regard to concentration
23 range, of any alcohols or ethers that have a molecular weight
24 greater than ethanol and are not mixed with methanol or ethanol,
25 or both.

26 (9) A refiner, distributor, bulk purchaser-end user, or
27 retail dealer shall not transfer, sell, dispense, or offer

1 gasoline for sale unless that gasoline is visibly free of
2 undissolved water, sediments, and other suspended matter and is
3 clear and bright at an ambient temperature of 70 degrees
4 Fahrenheit.

5 (10) A person who violates this section or rules promulgated
6 ~~pursuant to~~ UNDER this section is liable for a civil fine not
7 to exceed \$10,000.00 for each and every day of the continuance of
8 the violation. A civil fine ordered pursuant to this section
9 shall be submitted to the state treasurer for deposit in the gas-
10 oline inspection and testing fund created by section 8.

11 Sec. 6. (1) Before a distributor or retail dealer engages
12 in transferring, selling, dispensing, or the offering for sale
13 gasoline in this state, the distributor or retail dealer shall
14 obtain a license from the department for each retail outlet oper-
15 ated by that person. In administering the licensing under this
16 section, the department may attempt to coordinate such licensing
17 with the licensing applicable to gasoline administered by the
18 department of treasury pursuant to Act No. 150 of the Public Acts
19 of 1927, being sections 207.101 to 207.202 of the Michigan
20 Compiled Laws, and THE GENERAL SALES TAX ACT, Act No. 167 of the
21 Public Acts of 1933, being sections 205.51 to 205.78 of the
22 Michigan Compiled Laws.

23 (2) A license expires annually on November 30 ~~and shall be~~
24 UNLESS renewed before December 1 of each year OR unless sus-
25 pended, denied, or revoked by the department.

26 (3) The fee for a license is \$15.00 for each year or portion
27 of a year. A LICENSE SHALL NOT BE ISSUED OR RENEWED UNTIL THE

1 FEE IS PAID. A HEARING IS NOT REQUIRED PRIOR TO THE REFUSAL TO
2 ISSUE OR REVIEW A LICENSE UNDER THIS SUBSECTION. Fees collected
3 shall be deposited in the gasoline inspection and testing fund.

4 (4) An application for a license shall be made to the
5 department upon a form furnished by the department. The com-
6 pleted form shall contain the information requested by the
7 department and shall be accompanied by the fee specified in sub-
8 section (3).

9 (5) The director may suspend, deny, or revoke a license
10 issued pursuant to this act ~~for failure to pay the fee required~~
11 ~~by subsection (3),~~ for failure to comply with the requirements
12 provided for in section 3, for failure to provide notice as pro-
13 vided in section 4, for violating section 31 of the weights and
14 measures act of 1964, Act No. 283 of the Public Acts of 1964,
15 being section 290.631 of the Michigan Compiled Laws, ~~when~~ IF
16 that violation occurs at any of the licensee's retail outlets and
17 involves the transferring, selling, dispensing, or the offering
18 for sale of gasoline in this state, or for otherwise failing to
19 comply with this act or a rule PROMULGATED UNDER THIS ACT or AN
20 order ~~promulgated or~~ issued under this act.

21 (6) This section ~~shall~~ DOES not apply until ~~90 days after~~
22 ~~the effective date of this act~~ JUNE 29, 1985.

23 (7) If a person licensed under this act is convicted of a
24 willful violation under section 31 of the weights and measures
25 act of 1964, Act No. 283 of the Public Acts of 1964, any license
26 issued pursuant to this act shall be revoked for 2 years.

1 (8) A suspension, revocation, or denial of a license of an
2 individual shall suspend, revoke, or deny any other license held
3 or applied for by that individual issued under this act. The
4 license of a corporation, partnership, or other association,
5 shall be suspended when a license or license application of a
6 partner, trustee, director, or officer, member, or a person exer-
7 cising control of the corporation, partnership, or other associa-
8 tion is suspended, revoked, or denied. The suspension shall
9 remain in force until the director determines that the disability
10 created by the suspension, revocation, or denial has been
11 removed.

12 (9) BEFORE A BLENDER ENGAGES IN THE TRANSFERRING, SELLING,
13 DISPENSING, OR OFFERING FOR SALE BLENDED GASOLINE IN THIS STATE,
14 THE BLENDER SHALL REGISTER THE FINISHED PRODUCT WITH THE DEPART-
15 MENT AND PROVIDE TO THE DEPARTMENT TEST RESULTS AS THE DEPARTMENT
16 CONSIDERS NECESSARY. IF THE PRODUCT DOES NOT COMPLY WITH THE
17 REQUIREMENTS OF SECTION 3, THE BLENDER SHALL PROVIDE THE DEPART-
18 MENT WITH A WRITTEN LIST OF THE BUSINESS NAMES AND ADDRESSES TO
19 WHOM THE BLENDED PRODUCT IS SOLD.

20 Sec. 7. (1) The director shall establish a gasoline inspec-
21 tion, investigation, and testing program. The purpose of the
22 inspection, investigation, and testing program ~~shall be~~ IS to
23 determine whether gasoline transferred, sold, dispensed, or
24 offered for sale in this state meets the requirements provided in
25 this act, to sample, to investigate allegations of fraud, to
26 inspect and investigate violations of the weights and measures
27 act of 1964, Act No. 283 of the Public Acts of 1964, being

1 sections 290.601 to 290.634 of the Michigan Compiled Laws, and
2 whether notice required by section 4 is provided. The program
3 shall provide for a regular system of monitoring gasoline sold or
4 offered for sale in this state. The department shall implement
5 the inspection, investigation, and testing program as provided in
6 subsection (8). The expenses of operating the program shall be
7 paid from money in the gasoline inspection and testing fund cre-
8 ated in section 8.

9 (2) As part of the inspection and testing program the direc-
10 tor shall maintain a 24-hour toll free consumer hot line to
11 receive consumer complaints regarding VAPOR-RECOVERY SYSTEMS AND
12 the purity and quality of gasoline sold or offered for sale in
13 this state.

14 (3) If the director has reason to believe a violation of
15 section 5 or rules promulgated ~~pursuant to~~ UNDER section 5 has
16 occurred, the director may require a refiner, distributor,
17 STORAGE FACILITY, BLENDER, bulk purchaser-end user, or retail
18 dealer to ~~report information~~ PROVIDE to the department ~~of~~
19 ~~agriculture regarding the receipt, transfer, delivery, or sale of~~
20 ~~gasoline and to allow the reproduction of that information at all~~
21 ~~reasonable times, except that a refiner, distributor, bulk~~
22 ~~purchaser end user, or retail dealer shall not be required to~~
23 ~~furnish information requested under this section if the refiner,~~
24 ~~distributor, bulk purchaser end user, or retail dealer estab-~~
25 ~~lishes that the information is not maintained in the normal~~
26 ~~course of business~~ THE ORIGINAL DOCUMENTS PERTAINING TO THE
27 RECEIPT, TRANSFER, DELIVERY, STORAGE, OR SALE OF GASOLINE AND TO

1 ALLOW THE ORIGINAL DOCUMENTS TO REMAIN IN THE POSSESSION OF THE
2 DEPARTMENT. IF ORIGINAL DOCUMENTS REMAIN IN THE POSSESSION OF
3 THE DEPARTMENT AND THE DOCUMENTS ARE NECESSARY FOR CONDUCTING
4 BUSINESS, THE DEPARTMENT SHALL PROVIDE COPIES OF THE DOCUMENTS TO
5 THE REFINER, DISTRIBUTOR, BLENDER, BULK PURCHASER-END USER, OR
6 RETAIL DEALER UPON REQUEST. A refiner, distributor, bulk
7 purchaser-end user, BLENDER, or retail dealer shall preserve
8 information regarding the receipt, transfer, delivery, or sale of
9 gasoline, INCLUDING LOADING TICKETS, BILLS OF LADING, DROP TICK-
10 ETS, METER TICKETS, INVOICES, AND BILLINGS, for 3 years. A
11 RETAIL OUTLET SHALL RETAIN ON ITS PREMISES THE ORIGINAL DROP
12 TICKETS AND INVOICES FOR 1 MONTH BEFORE TRANSFER TO ANOTHER LOCA-
13 TION UNLESS THE STORAGE LOCATION IS EASILY ACCESSIBLE FROM THE
14 RETAIL OUTLET AND THE ORIGINAL RECORDS ARE DELIVERED TO THE
15 RETAIL OUTLET FOR RECEIPT BY THE DEPARTMENT WITHIN 24 HOURS AFTER
16 A WRITTEN REQUEST FOR THE RECORDS HAS BEEN GIVEN TO THE RETAIL
17 OUTLET.

18 (4) The director ~~or an authorized representative of the~~
19 ~~director,~~ upon presentation of appropriate credentials, ~~shall~~
20 ~~have a right to~~ MAY enter upon or through any retail outlet,
21 bulk purchaser-end user facility, DISPENSING FACILITY, or the
22 premises or property of any refiner or distributor, and ~~shall~~
23 ~~have the right to~~ MAY make inspections, take samples, and con-
24 duct tests DURING ANY HOURS THE BUSINESS IS OPERATING AND MAY
25 EXAMINE RECORDS during normal business hours to determine compli-
26 ance with ~~sections 4 and 5~~ THIS ACT.

1 (5) In addition to the powers provided in this act, the
2 director ~~shall have~~ HAS all the powers to enforce this act that
3 the director has under the weights and measures act of 1964, Act
4 No. 283 of the Public Acts of 1964, being sections 290.601 to
5 290.634 of the Michigan Compiled Laws.

6 (6) The director may transmit any information obtained pur-
7 suant to the inspection and testing program to any other agency
8 of this state if the information will assist the other agency to
9 carry out any of the agency's regulatory functions or responsi-
10 bilities related to the transfer, sale, dispensing, or offering
11 of gasoline for sale in this state.

12 (7) The director may promulgate rules ~~pursuant to the~~
13 ~~administrative procedures act of 1969, Act No. 306 of the Public~~
14 ~~Acts of 1969, being sections 24.201 to 24.328 of the Michigan~~
15 ~~Compiled Laws,~~ for the purpose of implementing and enforcing
16 this act.

17 (8) The department shall implement the inspection and test-
18 ing program provided in subsection (1) as follows:

19 (a) Inspection and testing for standards regarding lead,
20 alcohol, free water, and sediments within 90 days after the
21 effective date of this act.

22 (b) Inspection and testing for any other standards ~~within 2~~
23 ~~years after the effective date of this act~~ BY MARCH 29, 1987.

24 Sec. 8. The gasoline inspection and testing fund is created
25 in the state treasury and shall be administered by the director.
26 The state treasurer shall direct the investment of money in the
27 fund. The money in the fund and earnings from investment of the

1 money shall be used exclusively for the purpose of funding the
2 gasoline inspection and testing program AND THE VAPOR-RECOVERY
3 PROGRAM established ~~by section 7~~ IN THIS ACT. Any civil fines
4 ordered in an enforcement proceeding brought under sections 4 and
5 5, any money that may be appropriated from the general fund for
6 the purposes of ~~section 7~~ SECTIONS 7 AND 9A TO 9I, and any
7 money made available to the director by an agency of the federal
8 government for purposes of ~~section 7~~ SECTIONS 7 AND 9A TO 9I
9 shall be deposited in the fund. IN ADDITION, ANY OTHER FUNDS
10 AUTHORIZED BY LAW FOR THE ENFORCEMENT OF THIS ACT MAY BE DEPOS-
11 ITED IN THE GASOLINE INSPECTION AND TESTING FUND.

12 SEC. 9J. (1) A PERSON SHALL NOT DELIVER GASOLINE OR PERMIT
13 THE DELIVERY OF GASOLINE TO A DISPENSING FACILITY THAT LACKS A
14 STATE I VAPOR-RECOVERY SYSTEM.

15 (2) A DELIVERY VESSEL SHALL BE CERTIFIED AS VAPOR TIGHT AS
16 DEFINED BY R 336.1627 OF THE MICHIGAN ADMINISTRATIVE CODE PRIOR
17 TO DELIVERY OF GASOLINE TO A DISPENSING FACILITY.

18 (3) A PERSON SHALL NOT DELIVER GASOLINE OR PERMIT THE DELIV-
19 ERY OF GASOLINE TO A DISPENSING FACILITY UNLESS THE STAGE I
20 VAPOR-RECOVERY SYSTEM IS EMPLOYED DURING DELIVERY AND THE DIS-
21 PENSING FACILITY STORAGE TANK IS EQUIPPED WITH A PERMANENT SUB-
22 MERGED FILL PIPE.

23 SEC. 11. (1) A PERSON WHO INDIVIDUALLY, OR BY THE ACTION OF
24 HIS OR HER AGENT OR EMPLOYEE, OR AS THE AGENT OR EMPLOYEE OF
25 ANOTHER VIOLATES THIS ACT OR A RULE PROMULGATED UNDER THIS ACT IS
26 SUBJECT TO AN ADMINISTRATIVE FINE. THE DIRECTOR IS AUTHORIZED TO
27 CONDUCT A HEARING CONDUCTED PURSUANT TO THE ADMINISTRATIVE

1 PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF 1969,
2 BEING SECTIONS 24.271 TO 24.328 OF THE MICHIGAN COMPILED LAWS,
3 AND AFTER NOTICE AND AN OPPORTUNITY TO BE HEARD AND UPON FINDING
4 A VIOLATION OF THIS ACT OR RULES PROMULGATED UNDER THIS ACT, THE
5 DIRECTOR MAY ASSESS AN ADMINISTRATIVE FINE:

6 (A) FOR A FIRST VIOLATION, NOT LESS THAN \$50.00 OR MORE THAN
7 \$100.00, PLUS ACTUAL COSTS OF THE INVESTIGATION AND THE AMOUNT OF
8 ANY ECONOMIC BENEFIT ASSOCIATED WITH THE VIOLATION.

9 (B) FOR A SECOND VIOLATION WITHIN 2 YEARS OF THE FIRST VIO-
10 LATION, NOT LESS THAN \$100.00 OR MORE THAN \$250.00, PLUS ACTUAL
11 COSTS OF THE INVESTIGATION AND THE AMOUNT OF ANY ECONOMIC BENEFIT
12 ASSOCIATED WITH THE VIOLATION.

13 (C) FOR A THIRD VIOLATION WITHIN 2 YEARS FROM THE DATE OF
14 THE FIRST VIOLATION, NOT LESS THAN \$250.00 OR MORE THAN \$500.00,
15 PLUS ACTUAL COSTS OF THE INVESTIGATION AND THE AMOUNT OF ANY ECO-
16 NOMIC BENEFIT ASSOCIATED WITH THE VIOLATION.

17 (2) A DECISION OF THE DIRECTOR UNDER THIS SECTION IS SUBJECT
18 TO JUDICIAL REVIEW AS PROVIDED BY LAW.

19 (3) THE DIRECTOR SHALL ADVISE THE ATTORNEY GENERAL OF THE
20 FAILURE OF ANY PERSON TO PAY AN ADMINISTRATIVE FINE IMPOSED UNDER
21 THIS SECTION. THE ATTORNEY GENERAL SHALL BRING AN ACTION IN
22 COURT OF COMPETENT JURISDICTION TO RECOVER THE FINE.

23 (4) ANY ADMINISTRATIVE FINE, COSTS, AND THE RECOVERY OF ANY
24 ECONOMIC BENEFIT ASSOCIATED WITH A VIOLATION COLLECTED UNDER THIS
25 SECTION SHALL BE PAID TO THE STATE TREASURY AND DEPOSITED INTO
26 THE GASOLINE INSPECTION AND TESTING FUND.

1 SEC. 12. (1) A PERSON WHO INDIVIDUALLY, OF BY THE ACTION OF
2 HIS OR HER AGENT OR EMPLOYEE, OR AS THE AGENT OR EMPLOYEE OF
3 ANOTHER, PERFORMS ANY OF THE FOLLOWING IS GUILTY OF A MISDEMEANOR
4 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 90 DAYS, OR A FINE
5 OF NOT LESS THAN \$1,000.00 OR MORE THAN \$2,000.00 OR BOTH:

6 (A) RENDERS LESS EFFECTIVE OR INOPERABLE ANY PART OF A STAGE
7 I OR STAGE II VAPOR-RECOVERY SYSTEM.

8 (B) MAKES A FALSE STATEMENT, REPRESENTATION, OR CERTIFICA-
9 TION IN ANY APPLICATION, REPORT, PLAN, OR OTHER DOCUMENT THAT IS
10 REQUIRED TO BE MAINTAINED UNDER THIS ACT OR RULES PROMULGATED
11 UNDER THIS ACT.

12 (C) FAILS TO DISCLOSE TO THE DEPARTMENT ANY KNOWLEDGE OR
13 INFORMATION RELATING TO OR OBSERVATION OF ANY MODIFICATION OF A
14 STAGE I OR STAGE II VAPOR-RECOVERY SYSTEM WHICH MAKES THE SYSTEM
15 LESS EFFECTIVE OR INOPERABLE, OR FALSIFICATION OF RECORDS
16 REQUIRED TO BE MAINTAINED UNDER THIS ACT OR RULES PROMULGATED
17 UNDER THIS ACT.

18 (D) REMOVES A TAG, SEAL, OR MARK PLACED ON A DISPENSING
19 DEVICE BY THE DIRECTOR.

20 (E) VIOLATES THIS ACT OR A RULE PROMULGATED UNDER THIS ACT
21 FOR WHICH A SPECIFIC PENALTY IS NOT PRESCRIBED.

22 (2) A PERSON WHO INDIVIDUALLY, OR BY THE ACTION OF HIS OR
23 HER AGENT OR EMPLOYEE, OR AS THE AGENT OR EMPLOYEE OF ANOTHER,
24 PERFORMS ANY OF THE FOLLOWING ACTS IS GUILTY OF A MISDEMEANOR
25 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 90 DAYS, OR A FINE
26 OF NOT LESS THAN \$2,000.00 OR MORE THAN \$5,000.00, OR BOTH:

1 (A) VIOLATES A PROHIBITED ACT LISTED IN THIS SECTION WITHIN
2 24 MONTHS OF ANOTHER VIOLATION OF THIS SECTION THAT RESULTS IN A
3 CONVICTION.

4 (B) IMPERSONATES IN ANY WAY THE DIRECTOR OR ANY DEPARTMENT
5 INSPECTOR.

6 (3) A PERSON WHO INDIVIDUALLY, OR BY THE ACTION OF HIS OR
7 HER AGENT OR EMPLOYEE, OR AS THE AGENT OR EMPLOYEE OF ANOTHER,
8 PERFORMS ANY OF THE FOLLOWING ACTS IS GUILTY OF A FELONY PUNISH-
9 ABLE BY IMPRISONMENT FOR NOT MORE THAN 2 YEARS, OR A FINE OF NOT
10 LESS THAN \$5,000.00 OR MORE THAN \$10,000.00, OR BOTH:

11 (A) INTENTIONALLY COMMITS A PROHIBITED ACT UNDER THIS
12 SECTION.

13 (B) VIOLATES A PROHIBITED ACT LISTED IN THIS SECTION WITHIN
14 24 MONTHS OF 2 PREVIOUS VIOLATIONS OF THIS SECTION THAT RESULT IN
15 CONVICTIONS.

16 (4) IF A VIOLATION OF THIS SECTION RESULTS IN A CONVICTION,
17 THE COURT SHALL ASSESS AGAINST THE DEFENDANT THE COSTS OF THE
18 DEPARTMENT'S INVESTIGATION, AND THESE COSTS SHALL BE PAID TO THE
19 STATE TREASURY AND DEPOSITED IN THE GASOLINE INSPECTION AND TEST-
20 ING FUND TO BE USED FOR THE ENFORCEMENT OF THIS ACT.

21 Section 2. This amendatory act shall not take effect unless
22 Senate Bill No. 726 of the 87th Legislature is enacted into law.