

SENATE BILL No. 1357

May 23, 2002, Introduced by Senator STILLE and referred to the Committee on Transportation and Tourism.

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 refin-
5 eries 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

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
16 equipped trailer, or a similar vessel used for the delivery of
17 gasoline to 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 vehi-
26 cle gasoline refueling that is located in an area of this state
27 that 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. section 81.323, November 6, 1991. Dispensing facility
3 does not include a facility used exclusively for the refueling of
4 aircraft, watercraft, or vehicles that are designed for agricul-
5 tural purposes and used exclusively in agricultural operations.

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

9 (N) ~~(l)~~ "Distributor" means a person who purchases, trans-
10 ports, or stores or causes the transportation or storage of gaso-
11 line at any point between a gasoline refinery and a retail outlet
12 or bulk purchaser-end user facility.

13 (O) ~~(m)~~ "E.P.A." means the United States environmental
14 protection agency.

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

18 (Q) ~~(o)~~ "Leak" means liquid or vapor loss from the gaso-
19 line dispensing system or stage I or stage II vapor-recovery
20 system as determined by visual inspection or functional testing.

21 (R) ~~(p)~~ "Modification" means any change, removal, or addi-
22 tion, other than an identical replacement, of any component con-
23 tained within a stage I or stage II vapor-recovery system. The
24 resultant modification must constitute an approved vapor-recovery
25 system.

1 (S) ~~-(q)-~~ "Motor octane number" or "MON" means a knock
2 characteristic of gasoline determined by use of standard
3 procedures on a motor engine.

4 (T) ~~-(r)-~~ "Operator" means a person who owns, leases, oper-
5 ates, manages, supervises, or controls, directly or indirectly, a
6 gasoline-dispensing facility.

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

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

12 (W) ~~-(u)-~~ "Refiner" means a person who owns, leases, oper-
13 ates, controls, or supervises a refinery.

14 (X) ~~-(v)-~~ "Refinery" means a plant at which gasoline OR
15 DIESEL FUEL is produced.

16 (Y) ~~-(w)-~~ "Research octane number" or "RON" means a knock
17 characteristic of gasoline determined by use of standard proce-
18 dures on a research engine.

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

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

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

1 (CC) ~~(aa)~~ "Stage I vapor-recovery system" means a vapor
2 tight collection system that is approved by the department and is
3 designed to capture the gasoline vapors displaced during delivery
4 into a stationary storage tank and to return not less than 90% of
5 the displaced vapors to the delivery vessel.

6 (DD) ~~(bb)~~ "Stage II vapor-recovery system" means a
7 gasoline-dispensing system approved by the department that pre-
8 vents 95% or more of the volatile organic compounds from being
9 emitted during gasoline refueling.

10 Sec. 3. (1) The director shall establish standards pursuant
11 to this act to ensure the purity and quality of gasoline AND
12 DIESEL FUEL sold or offered for sale in this state.

13 (2) The director shall establish standards for the amount
14 and type of additives allowed to be included in gasoline AND
15 DIESEL FUEL.

16 (3) The director shall establish standards for the grading
17 of gasoline, including, but not limited to, subregular with a
18 minimum 85 AKI, regular with a minimum 87 AKI and a minimum 82
19 MON, midgrade 88 with a minimum 88 AKI and a minimum 82 MON,
20 midgrade 89 with a minimum 89 AKI and a minimum 83 MON, premium
21 with a minimum 90 AKI, premium 91 with a minimum 91 AKI, premium
22 92 with a minimum 92 AKI, premium 93 with a minimum 93 AKI, and
23 premium 94 with a minimum 94 AKI.

24 (4) The director shall establish standards for Reid vapor
25 pressure as specified by the American society for testing and
26 materials, except as otherwise required to conform to federal or
27 state law. The director shall establish the Reid vapor pressure

1 as 9.0 pounds per square inch (psi) for retail outlets during the
2 period beginning June 1 through September 15 of each year, except
3 for dispensing facilities where the director shall establish the
4 Reid vapor pressure as 7.8 psi in the year 1996 and thereafter.
5 As used in this subsection and section 10d, "Reid vapor pressure"
6 means the vapor pressure of gasoline or gasoline oxygenate blend
7 as determined by ASTM test method D323, standard test method for
8 vapor pressure of petroleum products (Reid method) or test method
9 D4953, standard test method for vapor pressure of gasoline and
10 gasoline oxygenate blends (dry method).

11 (5) In establishing additive and grading standards the
12 director shall adopt the latest standards for gasoline estab-
13 lished by the American society for testing and materials and
14 shall adopt the latest standards for gasoline established by fed-
15 eral law or regulation. The standards established by the direc-
16 tor shall not prohibit a gasoline blend that is permitted by a
17 valid waiver granted by the United States environmental protec-
18 tion agency pursuant to the fuel or fuel additive waiver in sec-
19 tion 211(f)(4) of part A of title II of the clean air act, chap-
20 ter 360, 81 Stat. 502, 42 U.S.C. 7545, and the ethanol waiver of
21 1.0 psi in section 211(h)(4) of part A of title II of the clean
22 air act, chapter 360, 81 Stat. 502, 42 U.S.C. 7545, if the gaso-
23 line blend meets all of the conditions set forth in the waiver.
24 Beginning June 1, 2003, the director shall not permit the use of
25 the additive methyl tertiary butyl ether (MTBE) in this state.
26 The director, in consultation with the department of
27 environmental quality, shall determine if the additive is likely

1 to cause harmful effects on the environment or public health
2 within the state. By June 1, 2002, the director, in consultation
3 with the director of the department of environmental quality,
4 shall review the status of the use of MTBE in this state. The
5 review shall include the following:

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

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

11 (c) Recommendations as to whether the June 1, 2003 prohibi-
12 tion can be achieved and, if not, determine a more feasible
13 date.

14 (d) Any other information considered appropriate.

15 (6) THE DIRECTOR SHALL ESTABLISH STANDARDS PURSUANT TO THIS
16 ACT TO ENSURE THE PURITY AND QUALITY OF DIESEL FUEL SOLD OR
17 OFFERED FOR SALE IN THIS STATE. BEGINNING JANUARY 1, 2004, STAN-
18 DARDS FOR DIESEL FUEL SOLD OR OFFERED FOR SALE IN THIS STATE
19 SHALL INCLUDE A REQUIREMENT THAT THE COMPOSITION OF DIESEL FUEL
20 SOLD IN THIS STATE INCLUDE AT LEAST 2% BIODIESEL.

21 (7) ~~-(6)-~~ Standards established pursuant to this section
22 shall be by rules promulgated pursuant to the administrative pro-
23 cedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

24 Sec. 5. (1) Except as provided by federal law or regula-
25 tion, in the manufacture of gasoline OR DIESEL FUEL at any refin-
26 ery in this state, a refiner shall not manufacture gasoline OR
27 DIESEL FUEL at a refinery in this state unless the gasoline OR

1 DIESEL FUEL meets the requirements in section 3. Except as
2 provided by federal law or regulation, a blender shall not blend
3 gasoline unless the finished blend meets the requirements in
4 section 3.

5 (2) Except as provided by federal law or regulation, a dis-
6 tributor shall not sell or transfer to any distributor, retail
7 dealer, or bulk purchaser-end user any gasoline OR DIESEL FUEL
8 unless that gasoline OR DIESEL FUEL meets the requirements in
9 section 3.

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

15 (4) A person shall not knowingly sell, dispense, or offer
16 for sale gasoline OR DIESEL FUEL unless that gasoline OR DIESEL
17 FUEL meets the requirements in section 3.

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

24 (6) A distributor or refiner shall not transfer, sell, dis-
25 pense, or offer gasoline for sale in this state to a retail
26 dealer unless the distributor indicates on each bill, invoice, or
27 other instrument evidencing a delivery of gasoline, the name and

1 license number issued pursuant to this act, of the retail dealer
2 who received delivery of the gasoline.

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

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

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

26 (10) A person who violates this section or rules promulgated
27 under this section is liable for a civil fine not to exceed

1 \$10,000.00 for each day of the continuance of the violation. A
2 civil fine ordered pursuant to this section shall be submitted to
3 the state treasurer for deposit in the gasoline inspection and
4 testing fund created by section 8.