

HOUSE BILL No. 6454

September 12, 2006, Introduced by Rep. Emmons and referred to the Committee on Agriculture.

A bill to amend 1984 PA 44, entitled
"Motor fuels quality act,"
by amending sections 2, 5, and 7 (MCL 290.642, 290.645, and
290.647), sections 2 and 5 as amended by 2006 PA 104 and section 7
as amended by 1993 PA 236.

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 devoted

1 to the promotion of knowledge of the materials of engineering and
2 the standardization of specification and methods 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) "Blender" means a person who as an individual or through
7 his or her agent adds an oxygenate to a gasoline.

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

12 (f) "CARB" means the California air resources board.

13 **(G) "COMMON CARRIER" MEANS A PERSON WHO SERVES SOLELY AS A**
14 **THIRD PARTY CONTRACTOR FOR THE TRANSPORTATION OF GASOLINE AT ANY**
15 **POINT BETWEEN A GASOLINE REFINERY AND A RETAIL OUTLET OR BULK**
16 **PURCHASER-END USER FACILITY.**

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

20 **(I) ~~-(h)-~~** "Department" means the department of agriculture.

21 **(J) ~~-(i)-~~** "Director" means the director of the department of
22 agriculture or his or her authorized representative.

23 **(K) ~~-(j)-~~** "Dispensing facility" means a site used for gasoline
24 refueling.

25 **(L) ~~-(k)-~~** "Dispensing unit" means a device designed for the
26 delivery of gasoline in which 1 nozzle equates to 1 dispensing
27 unit.

1 (M) ~~-(l)-~~ "Distributor" means a person who purchases,
2 transports, or stores or causes the transportation or storage of
3 gasoline at any point between a gasoline refinery and a retail
4 outlet or bulk purchaser-end user facility.

5 (N) ~~-(m)-~~ "E.P.A." means the United States environmental
6 protection agency.

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

10 (P) ~~-(o)-~~ "Leak" means liquid or vapor loss from the gasoline
11 dispensing system or stage I vapor-recovery system as determined by
12 visual inspection or functional testing.

13 (Q) ~~-(p)-~~ "Modification" means any change, removal, or
14 addition, other than an identical replacement, of any component
15 contained within a stage I vapor-recovery system. The resultant
16 modification must constitute an approved vapor-recovery system.

17 (R) ~~-(q)-~~ "Motor octane number" or "MON" means a knock
18 characteristic of gasoline determined by use of standard procedures
19 on a motor engine.

20 (S) ~~-(r)-~~ "Operator" means a person who owns, leases,
21 operates, manages, supervises, or controls, directly or indirectly,
22 a gasoline-dispensing facility.

23 (T) ~~-(s)-~~ "Oxygenate" means an oxygen-containing, ashless,
24 organic compound, such as alcohol or ether, that may be used as
25 fuel or fuel supplement.

26 (U) ~~-(t)-~~ "Person" means an individual, sole proprietorship,
27 partnership, corporation, association, or other legal entity.

1 (V) ~~-(u)-~~ "Refiner" means a person who owns, leases, operates,
2 controls, or supervises a refinery.

3 (W) ~~-(v)-~~ "Refinery" means a plant at which gasoline is
4 produced.

5 (X) ~~-(w)-~~ "Research octane number" or "RON" means a knock
6 characteristic of gasoline determined by use of standard procedures
7 on a research engine.

8 (Y) ~~-(x)-~~ "Retail dealer" means a person who owns, leases,
9 operates, controls, or supervises a retail outlet.

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

12 (AA) ~~-(z)-~~ "Rule" means a rule promulgated pursuant to the
13 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
14 24.328.

15 (BB) ~~-(aa)-~~ "Stage I vapor-recovery system" means a vapor
16 tight collection system that is approved by the department and is
17 designed to capture the gasoline vapors displaced during delivery
18 into a stationary storage tank and to return not less than 90% of
19 the displaced vapors to the delivery vessel.

20 Sec. 5. (1) Except as provided by federal law or regulation,
21 in the manufacture of gasoline at any refinery in this state, a
22 refiner shall not manufacture gasoline at a refinery in this state
23 unless the gasoline meets the requirements in sections 3 and 10d.
24 Except as provided by federal law or regulation, a blender shall
25 not blend gasoline unless the finished blend meets the requirements
26 in sections 3 and 10d.

27 (2) Except as provided by federal law or regulation, a

1 distributor shall not sell or transfer to any distributor, retail
2 dealer, or bulk purchaser-end user any gasoline unless that
3 gasoline meets the requirements in sections 3 and 10d.

4 (3) A **COMMON** carrier or an employee or agent of a carrier,
5 whether operating under contract or tariff, shall not cause
6 gasoline tendered to the carrier for shipment or transfer to
7 another carrier, distributor, or retail dealer to fail to comply,
8 at the time of delivery, with the requirements in sections 3 and
9 10d.

10 (4) A person shall not knowingly sell, dispense, or offer for
11 sale gasoline unless that gasoline meets the requirements in
12 sections 3 and 10d.

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

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

25 (6) ~~—(7)—~~ A bill, invoice, or other instrument evidencing a
26 delivery of gasoline issued by a refiner, ~~or~~ distributor, **OR**
27 **COMMON CARRIER** for deliveries of gasoline to purchasers who are not

1 required to hold a license issued pursuant to the motor fuel tax
2 act, 2000 PA 403, MCL 207.1001 to 207.1170, or this act shall
3 clearly indicate the name and address and other information
4 necessary to identify the purchaser of the gasoline.

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

15 (8) ~~—(9)—~~ A refiner, distributor, **COMMON CARRIER**, bulk
16 purchaser-end user, or retail dealer shall not transfer, sell,
17 dispense, or offer gasoline for sale unless that gasoline is
18 visibly free of undissolved water, sediments, and other suspended
19 matter and is clear and bright at an ambient temperature or 70
20 degrees Fahrenheit, whichever is greater.

21 (9) ~~—(10)—~~ A person who violates this section or rules
22 promulgated under this section is liable for a civil fine not to
23 exceed \$10,000.00 for each day of the continuance of the violation.
24 A civil fine ordered pursuant to this section shall be submitted to
25 the state treasurer for deposit in the gasoline inspection and
26 testing fund created by section 8.

27 Sec. 7. (1) The director shall establish a gasoline

1 inspection, investigation, and testing program. The purpose of the
2 inspection, investigation, and testing program is to determine
3 whether gasoline transferred, sold, dispensed, or offered for sale
4 in this state meets the requirements provided in this act, to
5 sample, to investigate allegations of fraud, to inspect and
6 investigate violations of the weights and measures act of 1964,
7 ~~Act No. 283 of the Public Acts of 1964, being sections 290.601 to~~
8 ~~290.634 of the Michigan Compiled Laws~~ **1964 PA 283, MCL 290.601 TO**
9 **290.634**, and whether notice required by section 4 is provided. The
10 program shall provide for a regular system of monitoring gasoline
11 sold or offered for sale in this state. The department shall
12 implement the inspection, investigation, and testing program as
13 provided in subsection (8). The expenses of operating the program
14 shall be paid from money in the gasoline inspection and testing
15 fund created in section 8.

16 (2) As part of the inspection and testing program the director
17 shall maintain a 24-hour toll free consumer hot line to receive
18 consumer complaints regarding vapor-recovery systems and the purity
19 and quality of gasoline sold or offered for sale in this state.

20 (3) If the director has reason to believe a violation of
21 section 5 or rules promulgated under section 5 has occurred, the
22 director may require a refiner, **COMMON CARRIER**, distributor,
23 storage facility, blender, bulk purchaser-end user, or retail
24 dealer to provide to the department the original documents
25 pertaining to the receipt, transfer, delivery, storage, or sale of
26 gasoline and to allow the original documents to remain in the
27 possession of the department. If original documents remain in the

1 possession of the department and the documents are necessary for
2 conducting business, the department shall provide copies of the
3 documents to the refiner, **COMMON CARRIER**, distributor, blender,
4 bulk purchaser-end user, or retail dealer upon request. A refiner,
5 **COMMON CARRIER**, distributor, bulk purchaser-end user, blender, or
6 retail dealer shall preserve information regarding the receipt,
7 transfer, delivery, or sale of gasoline, including loading tickets,
8 bills of lading, drop tickets, meter tickets, invoices, and
9 billings, for 3 years. A retail outlet shall retain on its premises
10 the original drop tickets and invoices for 1 month before transfer
11 to another location unless the storage location is easily
12 accessible from the retail outlet and the original records are
13 delivered to the retail outlet for receipt by the department within
14 24 hours after a written request for the records has been given to
15 the retail outlet.

16 (4) The director, upon presentation of appropriate
17 credentials, may do all of the following:

18 (a) Enter upon or through any retail outlet, bulk purchaser-
19 end user facility, dispensing facility, or the premises or property
20 of any refiner, **COMMON CARRIER**, or distributor.

21 (b) Make inspections, take samples, and conduct tests during
22 any hours the business is operating.

23 (c) Examine records during normal business hours to determine
24 compliance with this act.

25 (5) In addition to the powers provided in this act, the
26 director has all the powers to enforce this act that the director
27 has under the weights and measures act of 1964, ~~Act No. 283 of the~~

1 ~~Public Acts of 1964, being sections 290.601 to 290.634 of the~~
2 ~~Michigan Compiled Laws— 1964 PA 283, MCL 290.601 TO 290.634.~~

3 (6) The director may transmit any information obtained
4 pursuant to the inspection and testing program to any other agency
5 of this state if the information will assist the other agency to
6 carry out any of the agency's regulatory functions or
7 responsibilities related to the transfer, sale, dispensing, or
8 offering of gasoline for sale in this state.

9 (7) The director may promulgate rules for the purpose of
10 implementing and enforcing this act.

11 (8) The department shall implement the inspection and testing
12 program provided in subsection (1) as follows:

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

16 (b) Inspection and testing for any other standards by March
17 29, 1987.

18 Enacting section 1. This amendatory act does not take effect
19 unless Senate Bill No.____ or House Bill No. 6453(request no.
20 06618'06 *) of the 93rd Legislature is enacted into law.