

Legislative Analysis



USE OF PROPRIETARY FUEL NAME

Mary Ann Cleary, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5852 as enacted
Public Act 469 of 2012
Sponsor: Rep. Kevin Daley
House Committee: Agriculture
Senate Committee: Agriculture

Complete to 1-16-13

A SUMMARY OF HOUSE BILL 5852 AS ENACTED 12-31-12

The bill would amend Section 28e of the Weights and Measures Act (MCL 290.628e) to specify that the advertising requirements for roadside retail locations selling motor fuel would not preclude the owner or operator of such a business from using a proprietary fuel name. Under current law, the advertised price must include the fuel grade being sold, as designated by one of the abbreviations specified in the act.

A recent act, Public Act 254 of 2012, established advertising requirements for roadside retail locations that sell motor fuel. Under PA 254, beginning July 2, 2013, roadside advertising must comply with all of the following:

- The advertised price must be clearly and completely posted in full, including fractional prices to the tenth of a cent.
- The advertised price must include the grade of fuel being sold and comply with the abbreviations contained in the act.
- All prices must be *displayed* at the pump, but only the price of the selected product could be displayed during the retail transaction. The bill would also require all indications on the pump display to calculate the correct total price of the purchase.
- The retailer must post the conditions next to the sales price if the advertised price of motor fuel is subject to one or more conditions. The conditions must be equally illuminated in lettering of the same style and of at least half the size that is used to post the sale price.
- All prices have to be displayed in the same size and style if the unit price for the same grade of motor fuel differs.

Under House Bill 5852, if the price for the same grade of motor fuel differs and the sign is not able to display all prices in the same size letters and font, the highest price would have to be displayed in lettering using the largest size of the prices that are displayed.

Currently, beginning on July 2, 2013, if the advertised price of motor fuel is subject to one or more conditions (for example, purchasing a car wash), the conditions (except a condition with the payment by cash or credit card) must be posted immediately adjacent to the sales prices with equal illumination and lettering at least half the size of that used

to post the sale price. Under House Bill 5852, this requirement would apply to conditions regarding payment by cash or credit card beginning on July 2, 2017.

The bill would also alter the requirement that all prices be displayed at the pump; instead, all prices would have to be *capable of being displayed* at the pump.

FISCAL IMPACT:

The bill would appear to have no fiscal impact.

BACKGROUND INFORMATION AND DISCUSSION

As part of a comprehensive update to the Weights and Measures Act, Public Act 254 of 2012 established advertising requirements for roadside retail locations that sell motor fuel in an attempt to address conditional price advertising, a practice in which an advertised price for motor fuel is contingent upon one or more conditions (the two most common of which are payment with cash or credit and the purchase of a car wash). In turn, consumers that do not purchase the additional service are charged a higher than advertised rate for the fuel. Under Public Act 54, roadside retailers are required to meet signage conditions, including posting the conditions next to the sales price if the advertised price is subject to one more conditions. The conditions have to be equally illuminated and at least half the size that is used to post the sale price.

Members of the industry expressed concern about the time line established in PA 254 to come into compliance with the signage requirements. According to testimony, signs are generally replaced on a rotational basis (5-7 years) and some stations have just recently installed new signs. House Bill 5852 requires the "payment by cash or credit" condition to be displayed by 2017; this will allow station owners to replace signs as part of a planned rotation, which could significantly reduce the replacement costs. However, it should be noted that under PA 254, all signage will still be required to comply with all other conditional pricing (except for payment by cash or credit) requirements by July 2, 2013.

Legislative Analyst: Jeff Stoutenburg

■ 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.