

SENATE BILL No. 228

March 9, 2017, Introduced by Senators SCHMIDT, BIEDA, MARLEAU and NOFS and referred to the Committee on Agriculture.

A bill to amend 1984 PA 44, entitled "Motor fuels quality act," by amending section 10a (MCL 290.650a), as amended by 2002 PA 13, and by adding section 4b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 4B. (1) IF A PUMP FOR DISPENSING MOTOR FUEL FOR SALE AT A
2 ROADSIDE RETAIL LOCATION INCLUDES A SCANNING DEVICE FOR READING A
3 CUSTOMER PAYMENT CARD AS AN INTEGRAL PART OF THE PUMP, THE PUMP
4 MUST INCLUDE A SECURITY MEASURE TO RESTRICT THE UNAUTHORIZED ACCESS
5 OF CUSTOMER PAYMENT CARD INFORMATION. THE SECURITY MEASURE MUST
6 INCLUDE 1 OR MORE OF THE FOLLOWING:

7 (A) PRESSURE-SENSITIVE SECURITY TAPE THAT IS IMPRINTED WITH A
8 CUSTOMIZED GRAPHIC AND PLACED OVER THE PANEL OPENING LEADING TO THE

1 SCANNING DEVICE SO AS TO RESTRICT UNAUTHORIZED OPENING OF THE
2 PANEL.

3 (B) A DEVICE OR SYSTEM TO RENDER THE PUMP OR THE SCANNING
4 DEVICE INOPERABLE IF THE PANEL IS OPENED WITHOUT PROPER
5 AUTHORIZATION.

6 (C) A MEANS FOR ENCRYPTING THE CUSTOMER PAYMENT CARD
7 INFORMATION IN THE SCANNING DEVICE.

8 (D) ANY OTHER MEASURE APPROVED BY THE DEPARTMENT.

9 (2) IF THE OWNER OR AGENT OF THE OWNER OF A PUMP REQUIRED TO
10 HAVE A SECURITY MEASURE UNDER SUBSECTION (1) RECEIVES A WRITTEN
11 NOTICE OF NONCOMPLIANCE, HE OR SHE SHALL BRING THE PUMP INTO
12 COMPLIANCE. IF THE VIOLATION IS NOT CORRECTED WITHIN 5 DAYS AFTER
13 RECEIPT OF THE NOTICE OF NONCOMPLIANCE, THE DEPARTMENT MAY ONLY
14 PROHIBIT THE USE OF THE PUMP UNTIL A PROPERLY FUNCTIONING SECURITY
15 MEASURE IS INSTALLED ON THE DEVICE.

16 (3) AS USED IN THIS SECTION:

17 (A) "CUSTOMER PAYMENT CARD" MEANS A CREDIT OR DEBIT CARD OR
18 OTHER CARD ENCODED TO PROVIDE AN ELECTRONIC MEANS FOR INITIATING A
19 FUND TRANSFER FROM THE CUSTOMER'S DEPOSIT ACCOUNT OR FOR INITIATING
20 ELECTRONIC BILLING.

21 (B) "PUMP" MEANS A DEVICE FOR MEASURING AND DISPENSING MOTOR
22 FUEL USED TO PROPEL VEHICLES ON THE HIGHWAYS OF THIS STATE.

23 (C) "SCANNING DEVICE" MEANS A SCANNER, READER, OR ANY OTHER
24 ELECTRONIC DEVICE THAT IS USED TO ACCESS, READ, SCAN, OBTAIN,
25 MEMORIZE, OR STORE, TEMPORARILY OR PERMANENTLY, INFORMATION ENCODED
26 ON THE MAGNETIC STRIP OR STRIPE OF A CUSTOMER PAYMENT CARD.

27 Sec. 10a. (1) ~~A~~ EXCEPT AS OTHERWISE PROVIDED IN SECTION 4B, A

1 person who individually, or by the action of his or her agent or
2 employee, or as the agent or employee of another violates this act
3 or a rule promulgated under this act is subject to an
4 administrative fine. Upon the request of a person to whom an
5 administrative fine is issued, the director shall conduct a hearing
6 ~~conducted~~ pursuant to the administrative procedures act of 1969,
7 1969 PA 306, MCL 24.201 to 24.328. A fine authorized by this
8 section ~~shall~~ **MUST** be as follows:

9 (a) For a first violation, not less than \$100.00 or more than
10 \$500.00, plus actual costs of the investigation and double the
11 amount of any economic benefit associated with the violation.

12 (b) For a second violation within 5 years after the first
13 violation, not less than \$500.00 or more than \$1,000.00, plus
14 actual costs of the investigation and double the amount of any
15 economic benefit associated with the violation.

16 (c) For a third violation within 5 years after the date of the
17 first violation, not less than \$1,000.00 or more than \$2,000.00,
18 plus actual costs of the investigation and double the amount of any
19 economic benefit associated with the violation.

20 (2) A decision of the director under this section is subject
21 to judicial review as provided by law.

22 (3) The director shall advise the attorney general of the
23 failure of any person to pay an administrative fine imposed under
24 this section. The attorney general shall bring an action in court
25 of competent jurisdiction to recover the fine.

26 (4) Any administrative fine, costs, and the recovery of any
27 economic benefit associated with a violation collected under this

1 section ~~shall~~**MUST** be paid to the state treasury and deposited into
2 the gasoline inspection and testing fund.

3 Enacting section 1. This amendatory act takes effect 90 days
4 after the date it is enacted into law.