

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 744 Session of
2007

INTRODUCED BY GREENLEAF, RHOADES, EARLL, STACK, BROWNE,
TARTAGLIONE, COSTA, BOSCOLA, GORDNER, PIPPY AND C. WILLIAMS,
APRIL 10, 2007

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,
APRIL 10, 2007

AN ACT

1 Amending the act of July 1, 1987 (P.L.187, No.24), entitled "An
2 act requiring retail gasoline dealers to post gasoline
3 additive information; and imposing penalties," requiring the
4 Department of Agriculture to establish standards relating to
5 octane levels and additives, to develop a testing program and
6 to enforce the standards established; and establishing the
7 Automotive Fuel Testing Account.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. The definitions of "gasoline" and "gasoline
11 additives" in section 1 of the act of July 1, 1987 (P.L.187,
12 No.24), entitled "An act requiring retail gasoline dealers to
13 post gasoline additive information; and imposing penalties," are
14 amended and the section is amended by adding definitions to
15 read:

16 Section 1. Definitions.

17 The following words and phrases when used in this act shall
18 have the meanings given to them in this section unless the
19 context clearly indicates otherwise:

1 "American Society for Testing and Materials" or "ASTM." An
2 organization which develops quality standards and test methods
3 for petroleum products.

4 * * *

5 "Department." The Department of Agriculture of the
6 Commonwealth.

7 "Distributor." A person who receives automotive fuel in this
8 Commonwealth for storage and subsequent distribution to another
9 person other than the consumer.

10 * * *

11 "Gasoline." Any liquid prepared, advertised, offered for
12 sale, sold for use as or used for the generation of power for
13 the propulsion of motor vehicles, boats, motorboats or
14 watercraft, including any product obtained by blending together
15 any one or more products of petroleum with or without other
16 products, including oxygenate, if the resultant product is
17 capable of the same use.

18 "Gasoline additives." Methanol, ethanol, oxygenate or co-
19 solvent in concentrations above 1% by volume.

20 * * *

21 "Octane rating." The numerical rating of the antiknock
22 characteristics of a grade or type of gasoline as defined by the
23 specifications of the American Society for Testing and
24 Materials, entitled "Standard Specifications for Automotive
25 Spark Ignition Engine Fuel" and designated D4814.

26 "Oxygenated fuel." Gasoline containing oxygen-bearing
27 compounds with a total of 0.40% or more oxygen by volume.

28 "Refiner." A person engaged in the manufacture, production
29 or importation of automotive fuel.

30 * * *

1 Section 2. Sections 2 and 3 of the act are amended to read:

2 Section 2. Posting of gasoline additive or blending
3 information.

4 (a) Requirement.--All retail service station dealers shall
5 conspicuously post on each pump from which gasoline [containing
6 gasoline additives] is dispensed a sign clearly indicating
7 [that] the octane rating and whether the gasoline contains
8 gasoline additives, the type or types of gasoline additives
9 contained in the gasoline and the maximum percentage by volume,
10 to the nearest whole percent, of each gasoline additive.

11 (b) Size of sign.--The information required by subsection
12 (a) shall be conveyed in bold block lettering [at least one-
13 quarter inch in size.] as adopted by the department by
14 regulation.

15 (c) Visibility.--If a pump is used to dispense gasoline on
16 more than one driveway, the sign or signs required by subsection
17 (a) shall be placed on both [sides] faces of the pump so that a
18 sign shall be clearly visible from each driveway.

19 Section 3. Notification [by manufacturers] of octane and
20 gasoline additive information.

21 [(a) General rule.--Manufacturers of gasoline which contains
22 gasoline additives shall notify gasoline purchasers, in writing,
23 as to the presence of the additives. This requirement shall
24 continue for each seller until the product is resold to the
25 public.]

26 (a.1) Transaction notice.--A refiner, distributor or
27 reseller may not transfer, sell or dispense gasoline or
28 oxygenated fuel for sale in this Commonwealth without delivering
29 to the purchaser a bill, invoice or other instrument evidencing
30 the transaction which shall indicate:

1 (1) the presence of methanol and co-solvent, each as a
2 percentage of the total volume, if the quantity of methanol
3 exceeds 0.3%;

4 (2) the presence of ethanol, as a percentage of the
5 total volume, if such quantity exceeds 1% of the total
6 volume;

7 (3) the presence of lead additive, expressed in terms of
8 a part per gallon, if the quantity of lead additive is in
9 excess of the threshold adopted by the commissioner;

10 (4) the minimum octane rating; and

11 (5) whether the material is gasoline or oxygenated fuel.

12 (a.2) Form of transaction notice.--The transaction notice
13 required under subsection (a.1) shall be on the form required by
14 the department. The department shall consult with the Department
15 of Revenue and, to the extent practicable, the form used for
16 certification of prepayment of the sales tax and payment of
17 motor fuel tax shall be modified and adapted for this purpose,
18 such that the form shall indicate the brand, type and quality of
19 each product delivered.

20 (b) Pump signs.--The [manufacturers] manufacturer, refiner,
21 distributor or reseller also shall provide anyone who purchases
22 the gasoline for resale to the public or to retail service
23 station dealers with an adequate number of pump signs [meeting]
24 to meet the posting requirements of this act and which meet the
25 following criteria:

26 (i) The pump sign shall indicate [that] the octane
27 rating and whether the gasoline dispensed from that pump
28 contains gasoline additives and shall set forth the maximum
29 percentage by volume, to the nearest whole percent, of each
30 gasoline additive.

1 (ii) This information shall be set forth in block
2 lettering [which is at least one-quarter inch in size.] as
3 required by regulations of the department.

4 [(2) When providing pump signs to purchasers of its
5 gasoline who intend to resell the gasoline to the public or
6 to retail service station dealers, the manufacturer shall
7 provide an adequate number of the signs for the purchaser or
8 retail service stations to whom the purchaser sells, to meet
9 the requirements of this act.]

10 (c) Representations.--No person who distributes gasoline may
11 make a representation respecting the antiknock characteristics
12 of the gasoline unless the representation discloses the minimum
13 Antiknock Index Requirements of the fuel as adopted by the
14 National Conference of Weights and Measures and published in
15 Handbook 130, and supplements thereto, or in any publication
16 revising or superseding Handbook 130.

17 (d) Requirements.--For purposes of this section, the octane
18 rating of a gasoline shall be considered to be certified,
19 displayed or represented:

20 (1) in the case of gasoline which consists of a blend of
21 two or more quantities of gasoline of differing octane
22 ratings, only if the rating certified, displayed or
23 represented is the average octane ratings of the quantities,
24 weighted by volume; or

25 (2) in the case of gasoline which does not consist of a
26 blend of two or more quantities of gasoline of differing
27 octane ratings, only if the octane rating certified,
28 displayed or represented is the same as the actual octane
29 rating of the gasoline.

30 Section 3. The act is amended by adding sections to read:

1 Section 3.1. Powers and duties of department.

2 (a) Powers and duties.--The department shall have the power
3 and its duty shall be:

4 (1) To adopt regulations relating to petroleum product
5 quality, definitions, octane levels and additives, alcohol
6 content, technical specifications and sampling and testing,
7 consistent with standards established by the ASTM and
8 published in the latest ASTM annual book. All regulations
9 promulgated by the department under this act shall be subject
10 to the act of June 25, 1982 (P.L.633, No.181), known as the
11 Regulatory Review Act.

12 (2) To conduct random testing, inspection and sampling
13 of petroleum products kept, offered for sale or dispensed, or
14 in the process of delivery or transport and inspect all
15 documents and records necessary to enforce this act.

16 (3) Upon the complaint of a refiner, distributor,
17 consumer or retailer, to test or cause to be tested gasoline
18 on the premises of the person, firm or corporation alleged to
19 have violated this act.

20 (4) To enter into agreements as deemed appropriate to
21 enforce standards established under this act and to issue
22 off-sale, stop-use, stop-removal and hold orders.

23 (b) Right-of-entry.--The department shall have a right-of-
24 entry upon or access to any premises or property during normal
25 business hours to conduct tests, inspections or sampling
26 authorized under this act.

27 Section 3.2. Prohibitions.

28 (a) Incorrect octane number.--No person may sell, transfer,
29 offer for sale or dispense a grade of gasoline represented as
30 having a particular octane number or blend unless the gasoline

1 in fact has the octane number or blend represented.

2 (b) Failure to meet standards.--No person may sell, offer
3 for sale or dispense gasoline or oxygenated fuel in this
4 Commonwealth which does not meet or exceed applicable standards
5 established under this act.

6 Section 4. Section 5 of the act is amended to read:

7 Section 5. Penalties.

8 [Any] (a) Misdemeanor.--A manufacturer, refiner,
9 distributor, retail service station dealer or other person who
10 fails to comply with the provisions of this act [after being
11 notified by the manufacturer under section 3, and a manufacturer
12 who fails to comply with the provisions of this act,] commits a
13 [summary offense] misdemeanor of the third degree and shall,
14 upon conviction, for the first offense, be sentenced to pay a
15 fine not exceeding [\$100] \$1,000 and, for a second and each
16 subsequent offense, be sentenced to pay a fine not exceeding
17 [\$200.] \$2,500. For purposes of this act, each sale or
18 distribution of gasoline in violation of this act shall
19 constitute a separate offense.

20 (b) Unfair trade practices.--A violation of this act shall
21 also constitute a violation of the act of December 17, 1968
22 (P.L.1224, No.387), known as the Unfair Trade Practices and
23 Consumer Protection Law, and shall be subject to the enforcement
24 provisions, civil penalties and private rights of action
25 contained in that act.

26 (c) Innocent seller exemption.--The department shall not
27 impose a civil penalty for a violation of this act if the
28 retailer labeled the dispensing system, storage tank or other
29 dispensing device in reasonable reliance on documentation
30 provided by the distributor, producer or refiner certifying the

1 standards for automotive fuel rating.

2 (d) Innocent distributor exemption.--The department shall
3 not impose a civil penalty for a violation of this act if the
4 distributor acted in reasonable reliance on documentation
5 provided by the producer or refiner certifying the standards for
6 automotive fuel rating.

7 Section 5. The act is amended by adding a section to read:

8 Section 5.1. Disposition of funds.

9 Penalties collected under section 5, as well as moneys
10 derived from the imposition of any fees, shall be paid into a
11 special restricted account in the State Treasury, to be known as
12 the Automotive Fuel Testing Account, for use by the department
13 in administering the provisions of this act. All moneys placed
14 in the Automotive Fuel Testing Account under the provisions of
15 this section are hereby appropriated on a continuing basis to
16 the department for the purposes specified in this act.

17 Section 6. This act shall take effect in 30 days.