



## HOUSE COMMITTEE ON APPROPRIATIONS

# FISCAL NOTE

SENATE BILL NO. 341

PRINTERS NO. 2452

PRIME SPONSOR: Greenleaf

### COST / (SAVINGS)

FUND	FY 2012/13	FY 2013/14
General Fund	\$0	\$0

**SUMMARY:** Senate Bill 341, Printer's Number 2452, authorizes the Department of Agriculture to establish an Automotive Fuel Testing and Disclosure Program. This legislation would take effect in 30 days.

**ANALYSIS:** The bill creates a new subchapter under Chapter 41 (Weights and Measures) authorizing the Department of Agriculture to establish an Automotive Fuel Testing and Disclosure Program and provide for the testing of automotive fuel on a random, unannounced basis. This would be done to test automotive fuel for its octane rating and shall be done at the same time testing at the pump is conducted for proper volumes. The department would have to adopt the latest standards for automotive spark ignition engines as required with the standards being published in the Pennsylvania Bulletin.

The department may enter into agreements with city and county sealers of weights and measures, and those entities that conduct weights and measures inspections are required to perform any duties of fuel quality testing implemented by the department. The agreement shall provide that any revenues generated pursuant to enforcement activities carried out by the sealer of the city or county shall be retained by the city or county.

The bill also establishes automotive fuel rating, disclosure and labeling requirements for each distributor, producer or refiner in this Commonwealth, while the department shall conduct investigations, prohibit the sale of nonconforming fuel and assess a civil penalty of not more than \$5,000 upon a retailer who sells or offers for sale any such fuel, dispensing system or storage tank non in compliance with the program's provisions.

Additional civil penalties may be assessed in cases where the party involved had knowledge that the act was unfair or deceptive. The department may initiate criminal proceedings in cases of second or subsequent violations of the act, while the department may assess a separate civil penalty of not less than \$1,000 or more than \$5,000 on any person for breaking, mutilating or destroying seals. Language is also included to provide an innocent seller's exemption to protect retailers that reasonably relied on documentation from a distributor, refiner or producer.

**FISCAL IMPACT:** Enactment of this bill will have no adverse fiscal impact initially upon Commonwealth funds because it authorizes – does not require – the department to establish the Automotive Fuel Testing and Disclosure Program. If the department would be authorized to do this testing, agency staff would first study the issue to determine how and to what extent a program would need to be established given similar programs already in operation in neighboring states.

The department will have initial start-up costs to establish and develop the program. These costs could be covered under the agency's existing operations, but the program will have additional complement, equipment and operational expenses once implemented. While the department may enter into agreements with city and county sealers of weights and measures to conduct the testing, there is no guarantee which, if any, counties will do this.

As a result, it will be the responsibility of the Commonwealth to do octane testing – as is the case with all weights and measures. This is projected to require additional time and equipment beyond what is already done by existing inspectors who check fuel volumes. For example, the department's Bureau of Weights and Measures staff would need to purchase at least seven portable octane testing devices and equipment at an estimated cost of \$80,000.

However, given current staffing conditions and backlogs related to all testing Commonwealth-wide, the department projects initial year costs could be as high as \$800,000 due to the need for three additional staff positions and operating costs with recurring annual costs remaining around \$675,000.

An additional recurring cost would also be funding to support laboratory analysis of samples, specifically to confirm field test samples that fail to match the displayed octane level on tested pumps as compared to the portable testing device. It is projected that the department would need an additional \$63,000 for testing such samples.

It should be noted that, as outlined in the bill, the department may recover program costs as a result of any civil penalties assessed to retailers selling nonconforming fuel. Plus, additional civil penalties may result from unfair or deceptive businesses practices, criminal proceedings or separate civil penalties on any person for breaking, mutilating or destroying seals.

**PREPARED BY:** Jeffrey Clukey  
House Appropriations Committee (R)

**DATE:** October 2, 2012

*Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*