

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 919 Session of 1995

INTRODUCED BY LEH, SURRA, FARGO, MICHLOVIC, GEIST, ITKIN, S. H. SMITH, WOZNIAK, DEMPSEY, LEDERER, ZUG, TRELLO, RUDY, MELIO, RAYMOND, ROHRER, B. SMITH, NYCE, RUBLEY, HERSHEY, KING, SEMMEL, YOUNGBLOOD AND BELFANTI, FEBRUARY 28, 1995

AS REPORTED FROM COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 13, 1995

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.~~
7 PROVIDING FOR THE ESTABLISHMENT OF AN AUTOMOTIVE FUEL TESTING <—
8 AND DISCLOSURE PROGRAM, FOR STANDARDS FOR AUTOMOTIVE FUEL AND
9 FOR INSPECTION, SAMPLING AND TESTING OF AUTOMOTIVE FUEL;
10 IMPOSING POWERS AND CONFERRING DUTIES ON THE DEPARTMENT OF
11 AGRICULTURE; AND PROVIDING FOR PENALTIES.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 ~~Section 1. Section 1 of the act of July 1, 1987 (P.L.187,~~ <—
15 ~~No.24), entitled "An act requiring retail gasoline dealers to~~
16 ~~post gasoline additive information; and imposing penalties," is~~
17 ~~amended by adding definitions to read:~~

18 ~~Section 1. Definitions.~~

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



1 ~~(b) Pump signs. ] A refiner, distributor or reseller shall~~  
2 ~~not transfer, sell or dispense gasoline for sale in this~~  
3 ~~Commonwealth without delivering to the purchaser a bill, invoice~~  
4 ~~or other instrument evidencing the transaction which shall~~  
5 ~~indicate:~~

6 ~~(1) the presence of methanol and co solvent, each as a~~  
7 ~~percentage of the total volume, if the quantity of methanol~~  
8 ~~exceeds 0.3%;~~

9 ~~(2) the presence of ethanol, as a percentage of the~~  
10 ~~total volume, if such quantity exceeds 1% of the total~~  
11 ~~volume;~~

12 ~~(3) the presence of lead additive, expressed in terms of~~  
13 ~~a part per gallon, if the quantity of lead additive is in~~  
14 ~~excess of the threshold adopted by the Secretary of~~  
15 ~~Agriculture; and~~

16 ~~(4) the minimum octane rating.~~

17 ~~(b) Form. For the purposes of this section, the instrument~~  
18 ~~evidencing the transaction shall be on such form as may be~~  
19 ~~required by the department. The department shall consult with~~  
20 ~~the Department of Revenue and to the extent practicable, the~~  
21 ~~form used for certification of prepayment of the sales tax and~~  
22 ~~payment of motor fuel tax shall be modified and adapted for this~~  
23 ~~purpose, such that said form shall indicate the brand, type and~~  
24 ~~quality of each product delivered.~~

25 ~~{(1) The manufacturers}~~

26 ~~(c) Pump signs. The manufacturer, refiner, distributor or~~  
27 ~~reseller also shall provide anyone who purchases the gasoline~~  
28 ~~for resale to the public or to retail service station dealers~~  
29 ~~with an adequate number of pump signs [meeting] to meet the~~  
30 ~~posting requirements of this act and which meet the following~~

1 criteria:

2 ~~[(i)] (1) The pump sign shall indicate [that] the octane~~  
3 ~~rating and whether the gasoline dispensed from that pump~~  
4 ~~contains gasoline additives and shall set forth the maximum~~  
5 ~~percentage by volume, to the nearest whole percent, of each~~  
6 ~~gasoline additive.~~

7 ~~[(ii)] (2) This information shall be set forth in block~~  
8 ~~lettering which is at least one quarter inch in size.~~

9 ~~[(2) When providing pump signs to purchasers of its~~  
10 ~~gasoline who intend to resell the gasoline to the public or~~  
11 ~~to retail service station dealers, the manufacturer shall~~  
12 ~~provide an adequate number of the signs for the purchaser or~~  
13 ~~retail service stations to whom the purchaser sells, to meet~~  
14 ~~the requirements of this act.]~~

15 ~~(d) Representatives. No person who distributes gasoline may~~  
16 ~~make any representation respecting the antiknock characteristics~~  
17 ~~of such gasoline unless such representation fairly discloses the~~  
18 ~~octane rating of such gasoline consistent with such gasoline's~~  
19 ~~octane rating as certified to, or determined by, such person~~  
20 ~~under this section.~~

21 ~~(e) Requirements. For purposes of this section, the octane~~  
22 ~~rating of any gasoline shall be considered to be certified,~~  
23 ~~displayed or represented:~~

24 ~~(1) in the case of gasoline which consists of a blend of~~  
25 ~~two or more quantities of gasoline of differing octane~~  
26 ~~ratings, only if the rating certified, displayed or~~  
27 ~~represented by such person is the average octane ratings of~~  
28 ~~such quantities, weighted by volume; or~~

29 ~~(2) in the case of gasoline which does not consist of~~  
30 ~~such a blend, only if the octane rating such person~~

1 ~~certifies, displays or represents is the same as the octane~~  
2 ~~rating of such gasoline certified to, or determined by, such~~  
3 ~~person.~~

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

5 ~~Section 3.1. Powers and duties of the department.~~

6 ~~The department shall have the power and its duty shall be:~~

7 ~~(1) To adopt rules and regulations setting forth~~  
8 ~~standards relating to petroleum product quality, including~~  
9 ~~octane levels and additives, specifications, sampling and~~  
10 ~~testing, consistent with standards established by the~~  
11 ~~American Society for Testing and Materials (ASTM) and~~  
12 ~~published in the ASTM annual book.~~

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

17 ~~(3) Upon the complaint of any distributor or retailer,~~  
18 ~~to test or cause to be tested, gasoline on the premises of~~  
19 ~~the person, firm or corporation named in the complaint.~~

20 ~~(4) To enter into agreements as deemed appropriate to~~  
21 ~~enforce standards established under this act.~~

22 ~~(5) To assess an administrative fee on complaints filed~~  
23 ~~under this section in an amount not to exceed the actual cost~~  
24 ~~incurred by the department.~~

25 ~~Section 3.2. Prohibitions.~~

26 ~~(a) Incorrect octane number. No person shall sell,~~  
27 ~~transfer, offer for sale or dispense any grade of gasoline~~  
28 ~~represented as having a particular octane number unless the~~  
29 ~~gasoline in fact has the octane number represented.~~

30 ~~(b) Failure to meet standards. No person shall sell, offer~~

1 ~~for sale or dispense gasoline in this Commonwealth which does~~  
2 ~~not meet or exceed applicable standards established under this~~  
3 ~~act.~~

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

5 ~~Section 5. Penalties.~~

6 ~~Any manufacturer, refiner, distributor, retail service~~  
7 ~~station dealer or other person who fails to comply with the~~  
8 ~~provisions of this act [after being notified by the manufacturer~~  
9 ~~under section 3, and a manufacturer who fails to comply with the~~  
10 ~~provisions of this act,] commits a summary offense and shall,~~  
11 ~~upon conviction, for the first offense, be sentenced to pay a~~  
12 ~~fine not exceeding \$100 and, for a second and each subsequent~~  
13 ~~offense, be sentenced to pay a fine not exceeding \$200.~~

14 ~~Section 5. This act shall take effect in 30 days.~~

15 SECTION 1. SHORT TITLE.

<—

16 THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE AUTOMOTIVE  
17 FUEL TESTING ACT.

18 SECTION 2. DEFINITIONS.

19 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL  
20 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
21 CONTEXT CLEARLY INDICATES OTHERWISE:

22 "AMERICAN SOCIETY FOR TESTING AND MATERIALS" OR "ASTM." AN  
23 ORGANIZATION WHICH DEVELOPS QUALITY STANDARDS AND TEST METHODS  
24 FOR PETROLEUM PRODUCTS.

25 "ANTIKNOCK CHARACTERISTICS." THE NUMBER ASSIGNED TO AN  
26 AUTOMOTIVE FUEL WHICH DESIGNATES THE ANTIKNOCK QUALITY OF SUCH  
27 FUEL.

28 "ANTIKNOCK QUALITY." THE DISTINCTIVE PROPERTIES OR  
29 COMPONENTS OF A GRADE OR TYPE OF AUTOMOTIVE FUEL WHICH ENHANCE  
30 THE PERFORMANCE OF SUCH FUEL.

1 "AUTOMOTIVE FUEL." A LIQUID FUEL OF A TYPE DISTRIBUTED FOR  
2 USE AS A FUEL IN ANY MOTOR VEHICLE. THE TERM SHALL INCLUDE, BUT  
3 IS NOT LIMITED TO:

4 (1) AUTOMOTIVE SPARK-IGNITION ENGINE FUEL, WHICH  
5 INCLUDES, BUT IS NOT LIMITED TO:

6 (I) GASOLINE.

7 (II) GASOHOL, A MIXTURE OF UNLEADED GASOLINE AND AT  
8 LEAST 10% DENATURED ETHANOL.

9 (III) FUELS DEVELOPED TO COMPLY WITH THE CLEAN AIR  
10 ACT (PUBLIC LAW 95-95, 42 U.S.C. § 7401 ET SEQ.), SUCH AS  
11 REFORMULATED GASOLINE AND OXYGENATED GASOLINE.

12 (2) ALTERNATIVE LIQUID AUTOMOTIVE FUELS, INCLUDING, BUT  
13 NOT LIMITED TO:

14 (I) METHANOL, DENATURED ETHANOL AND OTHER ALCOHOLS.

15 (II) MIXTURES OF GASOLINE CONTAINING 85% OR MORE BY  
16 VOLUME OF METHANOL, DENATURED ETHANOL AND OTHER ALCOHOLS.

17 (III) LIQUIFIED NATURAL GAS.

18 (IV) LIQUIFIED PETROLEUM GAS.

19 (V) COAL-DERIVED LIQUID FUELS.

20 "AUTOMOTIVE FUEL RATING." FOR AUTOMOTIVE SPARK-IGNITION  
21 ENGINE FUEL, THE OCTANE RATING OR, FOR ALTERNATIVE LIQUID  
22 AUTOMOTIVE FUEL, THE COMMONLY USED NAME OF THE FUEL WITH A  
23 DISCLOSURE OF THE AMOUNT, EXPRESSED AS A MINIMUM PERCENT BY  
24 VOLUME, OF THE PRINCIPAL COMPONENTS OF THE FUEL.

25 "CONSUMER." A PERSON WHO PURCHASES AUTOMOTIVE FUEL FOR  
26 PURPOSES OTHER THAN RESALE.

27 "DEPARTMENT." THE DEPARTMENT OF AGRICULTURE OF THE  
28 COMMONWEALTH.

29 "DISPENSER" OR "DISPENSING SYSTEM." A DEVICE DESIGNED TO  
30 MEASURE AND DELIVER AUTOMOTIVE FUEL INTO THE FUEL SUPPLY TANK OF

1 A MOTOR VEHICLE.

2 "DISTRIBUTOR." A PERSON WHO RECEIVES AUTOMOTIVE FUEL IN THIS  
3 COMMONWEALTH FOR STORAGE AND SUBSEQUENT DISTRIBUTION TO ANOTHER  
4 PERSON OTHER THAN THE CONSUMER.

5 "EPA." THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY.

6 "FTC." THE UNITED STATES FEDERAL TRADE COMMISSION.

7 "OCTANE RATING" OR "OCTANE NUMBER." THE RATING OF THE  
8 ANTIKNOCK CHARACTERISTICS OF A GRADE OR TYPE OF AUTOMOTIVE FUEL,  
9 AS DETERMINED BY DIVIDING BY TWO THE SUM OF THE RESEARCH OCTANE  
10 NUMBER PLUS THE MOTOR OCTANE NUMBER, UNLESS ANOTHER PROCEDURE IS  
11 DETERMINED BY THE DEPARTMENT OF AGRICULTURE TO BE MORE  
12 APPROPRIATE FOR THE PURPOSES OF THIS ACT.

13 "OXYGENATE." A SUBSTANCE WHICH, WHEN ADDED TO GASOLINE,  
14 INCREASES THE AMOUNT OF OXYGEN IN THAT GASOLINE BLEND.

15 "OXYGENATE BLENDER." A PERSON WHO OWNS, LEASES, OPERATES,  
16 CONTROLS OR SUPERVISES AN OXYGENATE BLENDING FACILITY.

17 "OXYGENATE BLENDING FACILITY." A REFINERY, BULK TERMINAL,  
18 BULK PLANT, OTHER FACILITY OR TRUCK OR ANOTHER PLACE AT WHICH  
19 OXYGENATED GASOLINE IS PRODUCED.

20 "OXYGENATED GASOLINE." GASOLINE WHICH CONTAINS AT LEAST 2%  
21 OXYGEN BY WEIGHT.

22 "PERSON." A NATURAL PERSON, CORPORATION, PARTNERSHIP,  
23 ASSOCIATION OR OTHER LEGAL ENTITY.

24 "PRODUCER." A PERSON WHO PURCHASES COMPONENT ELEMENTS AND  
25 BLENDS THEM TO PRODUCE AUTOMOTIVE FUEL.

26 "REFINER." A PERSON ENGAGED IN THE MANUFACTURE, PRODUCTION  
27 OR IMPORTATION OF AUTOMOTIVE FUEL.

28 "REFORMULATED GASOLINE." ANY GASOLINE WHICH IS CERTIFIED BY  
29 THE ENVIRONMENTAL PROTECTION AGENCY AS COMPLYING WITH THE  
30 REQUIREMENTS OF SECTION 211 OF THE CLEAN AIR ACT (PUBLIC LAW 95-

1 95, 42 U.S.C. § 7401 ET SEQ.) AND ANY REGULATIONS PROMULGATED  
2 PURSUANT TO THE CLEAN AIR ACT.

3 "RESEARCH OCTANE NUMBER" AND "MOTOR OCTANE NUMBER." THE  
4 TERMS SHALL HAVE THE MEANINGS GIVEN THESE TERMS IN THE  
5 SPECIFICATIONS OF THE AMERICAN SOCIETY FOR TESTING AND MATERIALS  
6 ENTITLED "STANDARD SPECIFICATIONS FOR AUTOMOTIVE SPARK IGNITION  
7 ENGINE FUEL," DESIGNATED D4814, AND, WITH RESPECT TO ANY GRADE  
8 OR TYPE OF AUTOMOTIVE FUEL, ARE DETERMINED IN ACCORDANCE WITH  
9 THE TEST METHODS SET FORTH IN AMERICAN SOCIETY FOR TESTING AND  
10 MATERIALS STANDARD TEST METHODS, DESIGNATED D2699, "STANDARD  
11 TEST METHOD FOR KNOCK CHARACTERISTICS OF MOTOR FUELS BY THE  
12 RESEARCH METHOD," AND ASTM D2700, "STANDARD TEST METHOD FOR  
13 KNOCK CHARACTERISTICS OF MOTOR AND AVIATION FUELS BY THE MOTOR  
14 METHOD."

15 "RETAILER." A PERSON WHO SELLS AUTOMOTIVE FUEL TO THE  
16 CONSUMER.

17 "SECRETARY." THE SECRETARY OF AGRICULTURE OF THE  
18 COMMONWEALTH.

19 SECTION 3. AUTOMOTIVE FUEL TESTING AND DISCLOSURE PROGRAM.

20 (A) ESTABLISHMENT.--THE DEPARTMENT SHALL ESTABLISH AND  
21 IMPLEMENT THE AUTOMOTIVE FUEL TESTING AND DISCLOSURE PROGRAM.

22 (B) PROGRAM REQUIREMENTS.--THE AUTOMOTIVE FUEL TESTING AND  
23 DISCLOSURE PROGRAM SHALL PROVIDE FOR THE TESTING OF AUTOMOTIVE  
24 FUEL ON A RANDOM AND PERIODIC BASIS AND OTHERWISE AS DETERMINED  
25 NECESSARY BY THE DEPARTMENT.

26 (C) DUTIES OF DEPARTMENT.--THE DEPARTMENT SHALL ENFORCE THE  
27 PROVISIONS OF THIS ACT AND SHALL:

28 (1) APPOINT OR EMPLOY SUCH INSPECTORS AS MAY BE  
29 NECESSARY TO CARRY OUT THE PROVISIONS OF THIS ACT.

30 (2) TAKE SAMPLES OF AUTOMOTIVE FUEL WHEREVER IT IS

1 PROCESSED, PRODUCED, BLENDED, HELD, STORED, IMPORTED,  
2 TRANSFERRED, OFFERED OR EXPOSED FOR SALE OR USE OR SOLD IN  
3 THIS COMMONWEALTH. THE SAMPLES SHALL BE TAKEN IN ACCORDANCE  
4 WITH PROCEDURES AND STANDARDS PRESCRIBED BY ASTM.

5 (3) INSPECT AND TEST AUTOMOTIVE FUEL SAMPLES IN  
6 ACCORDANCE WITH THE METHODS OF THE ASTM OR OTHER TEST METHODS  
7 ADOPTED BY THE FTC PURSUANT TO THE PETROLEUM MARKETING  
8 PRACTICES ACT (PUBLIC LAW 95-297, 15 U.S.C. § 2801 ET SEQ.)  
9 OR BY REGULATION OF THE DEPARTMENT TO DETERMINE WHETHER SUCH  
10 AUTOMOTIVE FUEL COMPLIES WITH THE REQUIREMENTS OF THIS ACT.

11 (4) INSPECT AUTOMOTIVE FUEL STORAGE TANKS TO ENSURE THAT  
12 THE PRODUCTS ARE FREE FROM EXCESS WATER AND IMPURITIES.

13 (5) MAINTAIN RECORDS OF ALL INSPECTIONS.

14 (6) INSPECT AND TEST SAMPLES SUBMITTED TO THE DEPARTMENT  
15 BY A DISTRIBUTOR OR RETAILER. THE DEPARTMENT MAY BY  
16 REGULATION ESTABLISH AND COLLECT FEES FROM ANY DISTRIBUTOR OR  
17 RETAILER WHO SUBMITS AUTOMOTIVE FUEL SAMPLES TO THE  
18 DEPARTMENT FOR TESTING.

19 (7) INSPECT THE LABELING OF AUTOMOTIVE FUEL DISPENSERS  
20 AND STORAGE TANKS AT RETAIL BUSINESSES OR LOCATIONS WHERE  
21 SUCH PRODUCTS ARE SOLD OR OFFERED OR EXPOSED FOR SALE OR USE.

22 (8) DEVELOP PROCEDURES TO COORDINATE INSPECTION, TESTING  
23 AND SAMPLING EFFORTS WITH CITY AND COUNTY SEALERS OF WEIGHTS  
24 AND MEASURES AND WITH THE DEPARTMENT OF ENVIRONMENTAL  
25 RESOURCES.

26 (9) ENTER INTO CONTRACTUAL AGREEMENTS WITH QUALIFIED  
27 LABORATORIES FOR THE PURPOSE OF ANALYZING AUTOMOTIVE FUEL  
28 SAMPLES.

29 (10) PROMULGATE SUCH REGULATIONS AS NECESSARY FOR THE  
30 ENFORCEMENT AND ADMINISTRATION OF THIS ACT.

1 (D) SEALERS OF WEIGHT AND MEASURES.--THE DEPARTMENT MAY  
2 ENTER INTO AGREEMENTS WITH ANY CITY OR COUNTY FOR WHICH A SEALER  
3 HAS BEEN APPOINTED FOR THE ENFORCEMENT OF PROVISIONS OF THIS ACT  
4 AND RULES OR REGULATIONS PROMULGATED UNDER THIS ACT. THE SEALER  
5 OF A CITY OR COUNTY SHALL HAVE THE SAME AUTHORITY AND SHALL  
6 PERFORM THE SAME DUTIES WITHIN THE CITY OR COUNTY AS ARE GRANTED  
7 TO AND IMPOSED UPON THE DEPARTMENT WITH RESPECT TO THE  
8 INSPECTION, TESTING AND TAKING OF AUTOMOTIVE FUEL SAMPLES.

9 (E) DEPARTMENT OF ENVIRONMENTAL RESOURCES.--THE DEPARTMENT  
10 SHALL ENTER INTO AN AGREEMENT WITH THE DEPARTMENT OF  
11 ENVIRONMENTAL RESOURCES WITH REGARD TO THE INSPECTION OF  
12 OXYGENATED AND REFORMULATED GASOLINE FACILITIES AND WITH REGARD  
13 TO THE TESTING OF OXYGENATED AND REFORMULATED GASOLINE. THE  
14 AGREEMENT SHALL SET FORTH THE RESPECTIVE RESPONSIBILITIES OF  
15 EACH AGENCY AND SHALL, TO THE MAXIMUM EXTENT FEASIBLE, AVOID  
16 DUPLICATE INSPECTION OF A FACILITY AND DUPLICATE TESTING OF  
17 OXYGENATED OR REFORMULATED GASOLINE FROM A FACILITY.

18 SECTION 4. STANDARDS FOR AUTOMOTIVE FUEL.

19 (A) ADOPTION OF STANDARDS.--THE DEPARTMENT SHALL ADOPT  
20 STANDARDS FOR AUTOMOTIVE SPARK-IGNITION ENGINE FUELS. THE  
21 DEPARTMENT SHALL ADOPT THE LATEST STANDARDS OF THE ASTM OR OTHER  
22 STANDARDS AS DETERMINED BY THE FTC.

23 (B) AUTOMOTIVE FUEL.--AUTOMOTIVE FUEL SOLD, OFFERED OR  
24 EXPOSED FOR SALE, STORED OR HELD FOR DISTRIBUTION IN THIS  
25 COMMONWEALTH SHALL NOT BE CONTAMINATED WITH WATER OR OTHER  
26 IMPURITIES AND, IN THE CASE OF GASOLINE, SHALL COMPLY WITH ASTM  
27 SPECIFICATION D4814 AND WITH THE VOLATILITY REQUIREMENTS  
28 PROMULGATED BY THE EPA UNDER 40 CFR PART 80. GASOLINE MAY BE  
29 BLENDED WITH AN AGRICULTURALLY DERIVED ETHANOL OR WITH A  
30 DETERGENT ADDITIVE, ANTIKNOCK ADDITIVE OR ANY OTHER ADDITIVE

1 APPROVED AND REGISTERED BY THE EPA. AFTER GASOLINE IS SOLD,  
2 TRANSFERRED OR OTHERWISE REMOVED FROM A REFINERY, THE GASOLINE  
3 SHALL NOT BE SOLD, OFFERED OR EXPOSED FOR SALE OR STORED OR HELD  
4 FOR DISTRIBUTION TO A CONSUMER IN THIS COMMONWEALTH IF IT HAS  
5 BEEN:

6 (1) BLENDED WITH ANY OTHER PETROLEUM PRODUCT WHICH IS  
7 NOT GASOLINE UNLESS THE BLENDED PRODUCT CONFORMS WITH ASTM  
8 STANDARDS.

9 (2) BLENDED WITH PRODUCTS COMMONLY AND COMMERCIALY  
10 KNOWN AS CASINGHEAD GASOLINE, ABSORPTION GASOLINE,  
11 CONDENSATION GASOLINE, DRIP GASOLINE OR NATURAL GASOLINE.

12 (3) BLENDED WITH ANY CONTAMINANT.

13 (C) RECORDS AND AUDITS.--EACH DISTRIBUTOR, PRODUCER OR  
14 RETAILER WHO DISTRIBUTES, PRODUCES, TRANSPORTS, STORES, SELLS OR  
15 OFFERS OR EXPOSES FOR SALE AUTOMOTIVE FUEL IN THIS COMMONWEALTH  
16 SHALL MAINTAIN FOR ONE YEAR ORIGINAL COPIES OF ALL BILLS,  
17 MANIFESTS, DELIVERY TICKETS, INVOICES AND ANY OTHER INFORMATION  
18 THE DEPARTMENT MAY BY REGULATION REQUIRE FOR THE PURPOSE OF  
19 AUDITS BY THE DEPARTMENT.

20 (D) OXYGENATED GASOLINE.--WHENEVER OXYGENATED GASOLINE IS  
21 REQUIRED TO BE SOLD, SUCH GASOLINE SHALL NOT BE SOLD OR OFFERED  
22 OR EXPOSED FOR SALE OR STORED OR HELD FOR DISTRIBUTION TO A  
23 CONSUMER UNLESS IT MEETS STANDARDS PROMULGATED PURSUANT TO THE  
24 REQUIREMENTS OF THE CLEAN AIR ACT (PUBLIC LAW 95-95, 42 U.S.C. §  
25 7401 ET SEQ.).

26 (E) REFORMULATED GASOLINE.--WHENEVER REFORMULATED GASOLINE  
27 IS REQUIRED TO BE SOLD, SUCH GASOLINE SHALL NOT BE SOLD OR  
28 OFFERED OR EXPOSED FOR SALE OR STORED OR HELD FOR DISTRIBUTION  
29 TO A CONSUMER UNLESS IT HAS BEEN CERTIFIED AS REFORMULATED  
30 GASOLINE IN ACCORDANCE WITH THE REQUIREMENTS OF THE CLEAN AIR

1 ACT.

2 SECTION 5. AUTOMOTIVE FUEL RATING; DISCLOSURE AND LABELING  
3 REQUIREMENTS.

4 (A) DISCLOSURE REQUIREMENTS.--EACH DISTRIBUTOR, PRODUCER OR  
5 REFINER WHO SELLS OR OFFERS OR EXPOSES FOR SALE, DELIVERS,  
6 DISTRIBUTES OR PRODUCES AUTOMOTIVE FUEL IN THIS COMMONWEALTH  
7 SHALL PROVIDE, AT THE TIME OF DELIVERY, A BILL, SHIPPING  
8 MANIFEST OR OTHER TYPE OF WRITTEN INVOICE TO THE PERSON WHO  
9 RECEIVES THE AUTOMOTIVE FUEL. THE BILL, SHIPPING MANIFEST OR  
10 OTHER WRITTEN INVOICE SHALL STATE THE AUTOMOTIVE FUEL RATING.

11 (B) POSTING AND LABELING REQUIREMENTS.--EACH RETAILER OF  
12 AUTOMOTIVE FUEL IN THIS COMMONWEALTH SHALL LABEL IN A CLEAR AND  
13 CONSPICUOUS MANNER EACH AUTOMOTIVE FUEL DISPENSER WHICH IS USED  
14 TO SELL OR OFFER OR EXPOSE FOR SALE AUTOMOTIVE FUEL, WITH THE  
15 AUTOMOTIVE FUEL RATING OF SUCH FUEL, WHICH SHALL BE CONSISTENT  
16 WITH THE AUTOMOTIVE FUEL RATING CERTIFIED TO SUCH RETAILER BY  
17 THE REFINER OR DISTRIBUTOR, AS THE CASE MAY BE. IN THE CASE OF  
18 GASOLINE WHICH IS BLENDED WITH OTHER GASOLINE BY THE RETAILER,  
19 THE AUTOMOTIVE FUEL RATING SHALL BE THE AVERAGE, WEIGHTED BY  
20 VOLUME, OF THE OCTANE RATING CERTIFIED TO THE RETAILER BY THE  
21 DISTRIBUTOR OR REFINER FOR EACH GASOLINE IN THE BLEND, OR  
22 CONSISTENT WITH THE LOWEST OCTANE RATING FOR ANY GASOLINE IN THE  
23 BLEND AS CERTIFIED TO THE RETAILER BY A REFINER OR DISTRIBUTOR.

24 (C) OXYGENATED GASOLINE LABELING REQUIREMENTS.--WHENEVER  
25 OXYGENATED GASOLINE IS REQUIRED TO BE SOLD, A PERSON WHO SELLS  
26 OR OFFERS OR EXPOSES SUCH GASOLINE FOR SALE SHALL CLEARLY AND  
27 CONSPICUOUSLY LABEL THE DISPENSER WHICH IS USED TO SELL  
28 OXYGENATED GASOLINE AT RETAIL OR TO DISPENSE OXYGENATED GASOLINE  
29 INTO THE FUEL SUPPLY TANKS OF MOTOR VEHICLES WITH A NOTICE  
30 STATING THAT THE GASOLINE IS OXYGENATED AND WILL REDUCE THE

1 CARBON MONOXIDE EMISSIONS FROM THE MOTOR VEHICLE.

2 (D) REFORMULATED GASOLINE LABELING REQUIREMENTS.--WHENEVER  
3 REFORMULATED GASOLINE IS REQUIRED TO BE SOLD, A PERSON WHO SELLS  
4 OR OFFERS OR EXPOSES SUCH GASOLINE FOR SALE SHALL CLEARLY AND  
5 CONSPICUOUSLY LABEL THE DISPENSER WHICH IS USED TO SELL  
6 REFORMULATED GASOLINE AT RETAIL OR TO DISPENSE REFORMULATED  
7 GASOLINE INTO THE FUEL SUPPLY TANKS OF MOTOR VEHICLES WITH A  
8 NOTICE STATING THAT THE GASOLINE IS REFORMULATED.

9 (E) REPRESENTATION OF ANTIKNOCK CHARACTERISTICS OF  
10 AUTOMOTIVE FUEL.--NO DISTRIBUTOR OF AUTOMOTIVE FUEL IN THIS  
11 COMMONWEALTH SHALL MAKE ANY REPRESENTATION OF THE ANTIKNOCK  
12 CHARACTERISTICS OF AUTOMOTIVE FUEL UNLESS THE REPRESENTATION  
13 DISCLOSES THE AUTOMOTIVE FUEL RATING OF THE FUEL.

14 (F) STORAGE TANK LABELS; RETAIL LOCATIONS.--EACH RETAILER OF  
15 AUTOMOTIVE FUEL SHALL ATTACH AN IDENTIFICATION DEVICE ON THE  
16 INLET END OF THE FILL PIPE OF AN AUTOMOTIVE FUEL STORAGE TANK AT  
17 RETAIL LOCATIONS WHERE AUTOMOTIVE FUEL IS SOLD OR OFFERED OR  
18 EXPOSED FOR SALE. THE IDENTIFICATION DEVICE SHALL CLEARLY  
19 DISPLAY THE AUTOMOTIVE FUEL RATING OF THE AUTOMOTIVE FUEL HELD  
20 IN THE STORAGE TANK. THE AUTOMOTIVE FUEL RATING DISPLAYED ON THE  
21 IDENTIFICATION DEVICE SHALL BE CONSISTENT WITH THE AUTOMOTIVE  
22 FUEL RATING DISPLAYED ON THE DISPENSING SYSTEM THROUGH WHICH THE  
23 FUEL IS DISPENSED.

24 (G) LABELING TOLERANCE.--IN ACCORDANCE WITH SPECIFICATIONS  
25 OF THE ASTM ENTITLED "SPECIFICATIONS FOR AUTOMOTIVE SPARK  
26 IGNITION-ENGINE FUEL," DESIGNATED D4814, IN THE CASE OF  
27 GASOLINE, TOLERANCE ALLOWED SHALL BE LIMITED TO 0.7 FOR 87  
28 OCTANE AND UNDER AND 0.6 FOR ALL OTHER OCTANE GRADES.

29 (H) FEDERAL REGULATIONS.--ALL REGULATIONS AND SUPPLEMENTS  
30 THERETO OR REVISIONS THEREOF ADOPTED BY THE FTC PURSUANT TO THE

1 PETROLEUM MARKETING PRACTICES ACT (PUBLIC LAW 95-297, 15 U.S.C.  
2 § 2801 ET SEQ.) TO GOVERN THE CERTIFICATION, DISCLOSURE, POSTING  
3 AND LABELING OF AUTOMOTIVE FUEL BEFORE, ON OR AFTER THE  
4 EFFECTIVE DATE OF THIS ACT ARE HEREBY ADOPTED AS REGULATIONS IN  
5 THIS COMMONWEALTH AND SHALL REMAIN IN EFFECT UNLESS SUBSEQUENTLY  
6 MODIFIED BY REGULATIONS PROMULGATED BY THE DEPARTMENT.

7 SECTION 6. INVESTIGATIONS.

8 (A) GENERAL RULE.--THE DEPARTMENT MAY CONDUCT INVESTIGATIONS  
9 TO DETERMINE COMPLIANCE WITH THIS ACT OR ANY REGULATION  
10 PROMULGATED PURSUANT TO THIS ACT. INSPECTIONS SHALL BE PERFORMED  
11 DURING NORMAL BUSINESS HOURS AND SHALL INCLUDE THE COLLECTION  
12 AND REMOVAL OF SAMPLES FOR LABORATORY TESTING.

13 (B) ENTRY UPON PREMISES.--THE DEPARTMENT SHALL HAVE THE  
14 RIGHT OF ACCESS TO THE PREMISES AND RECORDS OF ANY ESTABLISHMENT  
15 WHERE AUTOMOTIVE FUEL IS STORED, HELD, PROCESSED, DISTRIBUTED,  
16 OFFERED OR EXPOSED FOR SALE OR SOLD IN THIS COMMONWEALTH TO:

17 (1) INSPECT THE AUTOMOTIVE FUEL IN STORAGE TANKS AND  
18 TAKE SAMPLES FROM SUCH TANKS AND THE DISPENSING SYSTEM  
19 CONNECTED TO THE STORAGE TANKS. THE RETAILER OR DISTRIBUTOR  
20 MAY REQUEST A SECOND SAMPLE TO BE TAKEN BY THE INSPECTOR AT  
21 THE SAME TIME THE INITIAL SAMPLE IS DRAWN. ALL COSTS OF THE  
22 SECOND SAMPLE SHALL BE PAID BY THE RETAILER OR DISTRIBUTOR,  
23 AS THE CASE MAY BE, MAKING THE REQUEST. IF THE REQUEST FOR A  
24 SECOND SAMPLE IS MADE BY THE RETAILER IN ACCORDANCE WITH  
25 PROCEDURES ESTABLISHED THROUGH AN AGREEMENT WITH THE  
26 DISTRIBUTOR, PRODUCER OR REFINER, ALL COSTS OF DRAWING,  
27 HANDLING AND SHIPPING THE SAMPLE SHALL BE BORNE BY THE  
28 DISTRIBUTOR, PRODUCER OR REFINER WHO SUPPLIED THE AUTOMOTIVE  
29 FUEL TO THE RETAILER. IF THE REQUEST FOR A SECOND SAMPLE IS  
30 MADE BY THE DISTRIBUTOR IN ACCORDANCE WITH PROCEDURES

1 ESTABLISHED THROUGH AN AGREEMENT WITH THE PRODUCER OR  
2 REFINER, ALL COSTS OF DRAWING, HANDLING AND SHIPPING THE  
3 SAMPLE SHALL BE BORNE BY THE PRODUCER OR REFINER WHO SUPPLIED  
4 THE AUTOMOTIVE FUEL TO THE DISTRIBUTOR.

5 (2) INSPECT AUTOMOTIVE FUEL DISPENSING SYSTEMS AND  
6 RELATED EQUIPMENT, OXYGENATE LABELS, REFORMULATED LABELS AND  
7 OCTANE LABELS.

8 (3) AUDIT AND MAKE COPIES OF AUTOMOTIVE FUEL SHIPPING,  
9 RECEIVING AND INVOICE DOCUMENTS AND RECORDS TO DETERMINE  
10 COMPLIANCE WITH SECTIONS 4 AND 5.

11 THE DEPARTMENT SHALL LIMIT SUCH INSPECTIONS, AUDITING AND  
12 COPYING TO INFORMATION AND DATA RELATING TO PRODUCT QUANTITY,  
13 QUALITY, OXYGEN CONTENT AND OCTANE.

14 (C) REMEDIES.--WHENEVER THE DEPARTMENT DETERMINES THAT AN  
15 AUTOMOTIVE FUEL SAMPLE DOES NOT CONFORM WITH THE STANDARDS SET  
16 FORTH IN SECTION 4 OR THAT A LABEL DISPLAYED ON A DISPENSING  
17 SYSTEM, STORAGE TANK OR OTHER DISPENSING DEVICE DOES NOT CONFORM  
18 WITH THE REQUIREMENTS OF SECTION 5, THE DEPARTMENT MAY INITIATE  
19 ANY OR ALL OF THE FOLLOWING ACTIONS TO PROHIBIT SALE OF THE  
20 NONCONFORMING AUTOMOTIVE FUEL OR TO PROHIBIT THE USE OF THE  
21 NONCONFORMING DISPENSING SYSTEM, STORAGE TANK OR OTHER  
22 DISPENSING DEVICE:

23 (1) REJECT AND MARK AS REJECTED THE DISPENSING SYSTEM,  
24 STORAGE TANK OR OTHER DISPENSING DEVICE FROM WHICH THE SAMPLE  
25 WAS OBTAINED OR ON WHICH THE NONCONFORMING LABEL IS ATTACHED.

26 (2) SEAL AND MARK AS SEALED THE STORAGE TANKS FROM WHICH  
27 THE SAMPLE WAS DRAWN OR THE NONCONFORMING LABEL ATTACHED.

28 (3) INITIATE CRIMINAL PROCEEDINGS UNDER SECTION 7(D).

29 (4) ISSUE A CITATION.

30 (5) ISSUE A STOP SALE NOTICE UNDER SUBSECTION (E).

1           (6) ADVISE THE RETAILER OR DISTRIBUTOR THAT THE  
2 AUTOMOTIVE FUEL MUST BE BLENDED WITH ANOTHER AUTOMOTIVE FUEL  
3 TO BRING IT INTO COMPLIANCE, PROVIDED THAT THE PRODUCT DOES  
4 NOT ENDANGER PUBLIC HEALTH OR SAFETY OR ADVERSELY AFFECT THE  
5 EMISSIONS CHARACTERISTICS OF THE MOTOR VEHICLES IN WHICH IT  
6 IS USED.

7           (7) ISSUE A WRITTEN WARNING DIRECTING THE RETAILER OR  
8 DISTRIBUTOR TO CORRECT THE NONCONFORMING LABEL.

9           (D) NONCONFORMING OXYGENATED OR REFORMULATED GASOLINE.--  
10 WHENEVER THE DEPARTMENT FINDS OR DETERMINES THAT AN OXYGENATED  
11 OR REFORMULATED GASOLINE SAMPLE DOES NOT CONFORM WITH THE  
12 REQUIREMENTS OF THIS ACT OR WITH STANDARDS ADOPTED BY THE EPA,  
13 THE DEPARTMENT SHALL NOTIFY IN WRITING THE DEPARTMENT OF  
14 ENVIRONMENTAL RESOURCES OF ITS DETERMINATION. WRITTEN  
15 NOTIFICATION SHALL INCLUDE THE NAME OF THE RETAILER,  
16 DISTRIBUTOR, OXYGENATED FUEL BLENDER OR PRODUCER FROM WHOM THE  
17 SAMPLE WAS OBTAINED, THE BUSINESS ADDRESS OF SUCH RETAILER,  
18 DISTRIBUTOR, OXYGENATED FUEL BLENDER OR PRODUCER AND THE  
19 PARTICULARS OF THE DEPARTMENT'S FINDINGS. NOTHING IN THIS  
20 SECTION SHALL REQUIRE THE DEPARTMENT TO INSPECT OXYGENATED OR  
21 REFORMULATED GASOLINE FACILITIES OR RETAIL ESTABLISHMENTS WHERE  
22 OXYGENATED OR REFORMULATED GASOLINE IS PRODUCED OR SOLD OR  
23 OFFERED OR EXPOSED FOR SALE IF THE DEPARTMENT OF ENVIRONMENTAL  
24 RESOURCES IS PERFORMING SUCH FUNCTION.

25           (E) STOP SALE NOTICE.--THE DEPARTMENT SHALL HAVE THE  
26 AUTHORITY TO IMMEDIATELY SEIZE AND SEAL, IN ORDER TO PREVENT  
27 FURTHER SALES, ANY DISPENSING SYSTEM, STORAGE TANK OR OTHER  
28 DISPENSING DEVICE FROM WHICH AUTOMOTIVE FUEL IS SOLD OR OFFERED  
29 OR EXPOSED FOR SALE IN VIOLATION OF THE PROVISIONS OF THIS ACT  
30 AND TO ISSUE A STOP SALE NOTICE TO THE RETAILER OR DISTRIBUTOR,

1 IF THE RETAILER OR DISTRIBUTOR HAS PREVIOUSLY BEEN ASSESSED A  
2 CIVIL PENALTY FOR A VIOLATION OF THIS ACT OR THE REGULATIONS  
3 PROMULGATED IN ACCORDANCE WITH THIS ACT. ANY AUTOMOTIVE FUEL  
4 SUBJECT TO A STOP SALE NOTICE SHALL NOT BE SOLD OR EXPOSED OR  
5 OFFERED FOR SALE OR TRANSPORTED UNLESS THE RETAILER OR  
6 DISTRIBUTOR HAS RECEIVED APPROVAL FROM THE DEPARTMENT.  
7 AUTOMOTIVE FUEL WHICH HAS BEEN SEIZED AND SEALED BY THE  
8 DEPARTMENT FOR VIOLATION OF SECTION 4 OR 5 SHALL NOT BE OFFERED  
9 OR EXPOSED FOR SALE UNTIL THE DEPARTMENT HAS BEEN FULLY  
10 SATISFIED THAT THE AUTOMOTIVE FUEL HAS BEEN BLENDED OR REFINED  
11 OR PROPERLY LABELED TO MEET THE REQUIREMENTS OF THIS ACT, AND  
12 THE RETAILER OR DISTRIBUTOR HAS BEEN NOTIFIED OF THE  
13 DEPARTMENT'S DECISION TO PERMIT THE SALE OR RELABELING OF THE  
14 FUEL.

15 (F) POSTING OF STOP SALE NOTICE.--THE DEPARTMENT SHALL CAUSE  
16 TO BE POSTED IN A CONSPICUOUS PLACE ON THE PREMISES WHERE A  
17 DISPENSING SYSTEM, STORAGE TANK OR OTHER DISPENSING DEVICE HAS  
18 BEEN SEALED A NOTICE STATING THAT SEALING HAS TAKEN PLACE AND  
19 GIVING WARNING THAT IT SHALL BE UNLAWFUL TO BREAK, MUTILATE OR  
20 DESTROY THE SEAL OR TO REMOVE THE CONTENTS OF THE DISPENSING  
21 SYSTEM, STORAGE TANK OR OTHER DISPENSING DEVICE WITHOUT THE  
22 APPROVAL OF THE DEPARTMENT.

23 (G) NOTICE REQUIRED TO REMOVE SEAL.--ANY RETAILER,  
24 DISTRIBUTOR OR PRODUCER WHO OWNS AN AUTOMOTIVE FUEL DISPENSING  
25 SYSTEM, STORAGE TANK OR OTHER DISPENSING DEVICE WHICH HAS BEEN  
26 SEALED BY THE DEPARTMENT SHALL OBTAIN THE APPROVAL OF THE  
27 DEPARTMENT BEFORE THE FUEL IS REMOVED OR A PROPER LABEL  
28 ATTACHED. A WRITTEN NOTICE OF ANY CORRECTIVE ACTION TAKEN SHALL  
29 BE SUBMITTED TO THE DEPARTMENT WITHIN THREE WORKING DAYS. THE  
30 DEPARTMENT MAY REINSPECT THE AUTOMOTIVE FUEL DISPENSING SYSTEM,

1 STORAGE TANK OR OTHER DISPENSING DEVICE TO DETERMINE COMPLIANCE.  
2 THE RETAILER, DISTRIBUTOR, PRODUCER OR REFINER WHO OWNS THE  
3 SYSTEM OR DEVICE WHICH HAS BEEN SEALED SHALL PROVIDE  
4 DOCUMENTATION OF THE CORRECTIVE ACTION TAKEN, INCLUDING ANY  
5 APPLICABLE SHIPPING PAPERS OR BILLS OF LADING SHOWING THE  
6 DISPOSAL OR FINAL DISPOSITION OF THE AUTOMOTIVE FUEL AND SUCH  
7 OTHER INFORMATION NECESSARY TO PERMIT THE DEPARTMENT TO AUDIT  
8 AND CONFIRM THAT THE CORRECTIVE ACTION WAS AS PREVIOUSLY  
9 APPROVED BY THE DEPARTMENT. A RETAILER, DISTRIBUTOR, PRODUCER OR  
10 REFINER SHALL NOT REMOVE A SEAL EXCEPT WHEN GIVEN SPECIFIC  
11 APPROVAL BY THE DEPARTMENT.

12 SECTION 7. VIOLATIONS AND PENALTIES.

13 (A) RETAIL VIOLATIONS.--THE DEPARTMENT MAY ASSESS A CIVIL  
14 PENALTY OF NOT MORE THAN \$5,000 UPON A RETAILER WHO SELLS OR  
15 OFFERS OR EXPOSES FOR SALE AUTOMOTIVE FUEL FROM ANY DISPENSING  
16 SYSTEM, STORAGE TANK OR OTHER DISPENSING DEVICE WHICH HAS NOT  
17 BEEN LABELED IN ACCORDANCE WITH THE PROVISIONS OF THIS ACT, OR  
18 WHO SELLS OR OFFERS OR EXPOSES FOR SALE ANY AUTOMOTIVE FUEL  
19 WHICH DOES NOT MEET THE REQUIRED STANDARDS FOR AUTOMOTIVE FUEL  
20 RATING DISPLAYED ON THE LABEL ATTACHED TO THE DISPENSING SYSTEM,  
21 STORAGE TANK OR OTHER DISPENSING DEVICE, OR WHO SELLS OR OFFERS  
22 OR EXPOSES FOR SALE AUTOMOTIVE FUEL WHICH HAS BEEN CONTAMINATED.

23 (B) DISTRIBUTOR, PRODUCER OR REFINER VIOLATIONS.--THE  
24 DEPARTMENT MAY ASSESS A CIVIL PENALTY OF NOT MORE THAN \$5,000  
25 UPON A DISTRIBUTOR, PRODUCER OR REFINER WHO SELLS OR OFFERS OR  
26 EXPOSES FOR SALE AUTOMOTIVE FUEL WHICH DOES NOT MEET THE  
27 AUTOMOTIVE FUEL RATING CERTIFIED BY THE DISTRIBUTOR, PRODUCER OR  
28 REFINER OR WHO SELLS OR OFFERS OR EXPOSES FOR SALE AUTOMOTIVE  
29 FUEL WHICH DOES NOT MEET THE REQUIREMENTS OF SECTION 4.

30 (C) KNOWLEDGE OF DECEPTIVE PRACTICE.--IN ADDITION TO ANY

1 CIVIL PENALTY IMPOSED FOR VIOLATIONS OF SUBSECTION (A) OR (B),  
2 THE DEPARTMENT MAY ASSESS A DISTRIBUTOR, PRODUCER, REFINER OR  
3 RETAILER WITH AN ADDITIONAL CIVIL PENALTY EQUAL TO THE  
4 DIFFERENCE BETWEEN THE PRICE PER GALLON CHARGED TO THE CONSUMER  
5 FOR THE AUTOMOTIVE FUEL IN QUESTION AND THE PRICE PER GALLON  
6 CHARGED TO THE CONSUMER FOR THE LOWEST OCTANE GRADE AT THE  
7 RETAIL DISPENSING FACILITY AT THE TIME OF THE VIOLATION,  
8 MULTIPLIED BY THE CAPACITY OF THE STORAGE TANK FROM WHICH THE  
9 PRODUCT IN QUESTION WAS DISPENSED, IF THE DISTRIBUTOR, PRODUCER,  
10 REFINER OR RETAILER VIOLATES ANY PROVISIONS OF THIS ACT OR ANY  
11 REGULATIONS PROMULGATED PURSUANT TO THIS ACT WITH ACTUAL  
12 KNOWLEDGE THAT THE ACT OR PRACTICE UNDERLYING THE VIOLATION IS  
13 UNFAIR OR DECEPTIVE.

14 (D) REPEAT VIOLATIONS.--IN ADDITION TO ANY CIVIL PENALTY  
15 ASSESSED IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION, THE  
16 DEPARTMENT MAY INITIATE CRIMINAL PROCEEDINGS FOR A THIRD OR  
17 SUBSEQUENT VIOLATION OF SECTIONS 4 AND 5 OR ANY REGULATIONS  
18 PROMULGATED PURSUANT TO SUCH SECTIONS. SUCH A THIRD OR  
19 SUBSEQUENT VIOLATION SHALL CONSTITUTE A MISDEMEANOR OF THE THIRD  
20 DEGREE.

21 (E) REMOVAL OF SEALS.--THE DEPARTMENT MAY ASSESS A CIVIL  
22 PENALTY OF NOT LESS THAN \$1,000 NOR MORE THAN \$5,000 ON ANY  
23 PERSON, OTHER THAN A PERSON DESIGNATED BY THE DEPARTMENT, WHO  
24 BREAKS, MUTILATES OR DESTROYS ANY SEAL PLACED UPON A DISPENSING  
25 SYSTEM, STORAGE TANK OR OTHER DISPENSING DEVICE USED TO DELIVER  
26 OR STORE AUTOMOTIVE FUEL, OR WHO REMOVES AUTOMOTIVE FUEL FROM A  
27 DISPENSING SYSTEM, STORAGE TANK OR OTHER DISPENSING DEVICE WHICH  
28 HAS BEEN SEALED, OR WHO DEFACES OR REMOVES A POSTED NOTICE OF  
29 SEALING.

30 (F) HEARINGS.--NO CIVIL PENALTY SHALL BE ASSESSED UNDER THIS

1 SECTION UNLESS THE PERSON CHARGED HAS BEEN GIVEN NOTICE AND  
2 OPPORTUNITY FOR HEARING IN ACCORDANCE WITH 2 PA.C.S. (RELATING  
3 TO ADMINISTRATIVE LAW AND PROCEDURE).

4 (G) INNOCENT SELLERS EXEMPTION.--THE DEPARTMENT SHALL NOT  
5 IMPOSE A CIVIL PENALTY FOR A VIOLATION OF SUBSECTION (A)  
6 REGARDING LABELING IF THE RETAILER LABELED THE DISPENSING  
7 SYSTEM, STORAGE TANK OR OTHER DISPENSING DEVICE IN REASONABLE  
8 RELIANCE ON DOCUMENTATION PROVIDED BY THE DISTRIBUTOR, PRODUCER  
9 OR REFINER CERTIFYING THE STANDARDS FOR AUTOMOTIVE FUEL RATING.

10 (H) PRIVATE ACTION BY RETAILER.--WHENEVER A RETAILER  
11 UNKNOWINGLY AND WITHOUT DECEPTION SELLS OR OFFERS OR EXPOSES FOR  
12 SALE AUTOMOTIVE FUEL WHICH DOES NOT CONFORM WITH THE PROVISIONS  
13 OF THIS ACT, THE DISTRIBUTOR, PRODUCER, OXYGENATE BLENDER OR  
14 REFINER, AS THE CASE MAY BE, OF THE NONCONFORMING AUTOMOTIVE  
15 FUEL SHALL BE LIABLE IN DAMAGES TO THE RETAILER FOR ANY  
16 ASCERTAINABLE LOSS OF MONEY OR PROPERTY.

17 (I) ACTS OR PRACTICES CONSTITUTING UNFAIR TRADE.--IT SHALL  
18 BE AN UNFAIR METHOD OF COMPETITION AND AN UNFAIR OR DECEPTIVE  
19 ACT OR PRACTICE IN OR AFFECTING TRADE AND COMMERCE IN THIS  
20 COMMONWEALTH WITHIN THE MEANING OF SECTION 3 OF THE ACT OF  
21 DECEMBER 17, 1968 (P.L.1224, NO.387), KNOWN AS THE UNFAIR TRADE  
22 PRACTICES AND CONSUMER PROTECTION LAW, FOR ANY RETAILER,  
23 PRODUCER, DISTRIBUTOR, OXYGENATE BLENDER OR REFINER TO VIOLATE  
24 THE PROVISIONS OF THIS ACT OR ANY REGULATIONS PROMULGATED  
25 PURSUANT TO THIS ACT.

26 SECTION 8. DISPOSITION OF FUNDS.

27 PENALTIES COLLECTED UNDER SECTION 7, AS WELL AS MONEYS  
28 DERIVED FROM THE IMPOSITION OF ANY FEES, SHALL BE PAID INTO A  
29 SPECIAL RESTRICTED ACCOUNT IN THE STATE TREASURY, TO BE KNOWN AS  
30 THE AUTOMOTIVE FUEL TESTING ACCOUNT, FOR USE BY THE DEPARTMENT

1 IN ADMINISTERING THE PROVISIONS OF THIS ACT. ALL MONEYS PLACED  
2 IN THE AUTOMOTIVE FUEL TESTING ACCOUNT UNDER THE PROVISIONS OF  
3 THIS SECTION ARE HEREBY MADE AVAILABLE IMMEDIATELY AND ARE  
4 HEREBY SPECIFICALLY APPROPRIATED TO THE DEPARTMENT FOR THE  
5 PURPOSES SPECIFIED IN THIS ACT.

6 SECTION 9. EFFECTIVE DATE.

7 THIS ACT SHALL TAKE EFFECT JULY 1, 1995, OR, IF ENACTED AFTER  
8 THAT DATE, THE DATE OF ENACTMENT.