

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1147 Session of
1993

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SANTONI, VITALI, STETLER, JAMES, STURLA, HARLEY, ZUG, FLICK
AND LLOYD, APRIL 19, 1993

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, APRIL 11, 1994

AN ACT

1 Providing for the establishment of an automotive fuel testing
2 and disclosure program, for standards for automotive fuel and
3 for inspection, sampling and testing of automotive fuel;
4 imposing powers and conferring duties on the Department of
5 Agriculture; and providing for penalties.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the Automotive
10 Fuel Testing Act.

11 Section 2. Definitions.

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

15 "American Society for Testing Materials" or "ASTM." An
16 organization which develops quality standards and test methods

1 for petroleum products.

2 "Antiknock characteristics." The number assigned to an
3 automotive fuel which designates the antiknock quality of such
4 fuel.

5 "Antiknock quality." The distinctive properties or
6 components of a grade or type of automotive fuel which enhance
7 the performance of such fuel.

8 "Area designated nonattainment for carbon monoxide." A
9 geographic area as designated by the United States Environmental
10 Protection Agency, in which oxygenated ~~or reformulated~~ gasoline <—
11 is required for use in gasoline fueled motor vehicles.

12 "Automotive fuel." A liquid fuel of a type distributed for
13 use as a fuel in any motor vehicle. The term shall include, but
14 is not limited to:

15 (1) Automotive spark-ignition engine fuel, which
16 includes, but is not limited to:

17 (i) Gasoline.

18 (ii) Gasohol, a mixture of unleaded gasoline and at
19 least 10% denatured ethanol.

20 (iii) Fuels developed to comply with the Clean Air
21 Act (Public Law 95-95, 42 U.S.C. § 7401 et seq.), such as
22 reformulated gasoline and oxygenated gasoline.

23 (2) Alternative liquid automotive fuels, including, but
24 not limited to:

25 (i) Methanol, denatured ethanol and other alcohols.

26 (ii) Mixtures of gasoline containing 85% or more by
27 volume of methanol, denatured ethanol and other alcohols.

28 (iii) Liquified natural gas.

29 (iv) Liquified petroleum gas.

30 (v) Coal-derived liquid fuels.

1 "Automotive fuel rating." For automotive spark-ignition
2 engine fuel, the octane rating or, for alternative liquid
3 automotive fuel, the commonly used name of the fuel with a
4 disclosure of the amount, expressed as a minimum percent by
5 volume, of the principal components of the fuel.

6 "Carbon monoxide control period." A period of ~~months~~ TIME, <—
7 as designated by the United States Environmental Protection
8 Agency, during which an area is prone to high ambient
9 concentrations of carbon monoxide.

10 "Consumer." A person who purchases automotive fuel for
11 purposes other than resale.

12 "Department." The Department of Agriculture of the
13 Commonwealth.

14 "Dispenser" or "dispensing system." A device designed to
15 measure and deliver automotive fuel into the fuel supply tank of
16 a motor vehicle.

17 "Distributor." A person who receives automotive fuel in this
18 Commonwealth for storage and subsequent distribution to another
19 person other than the consumer.

20 "EPA." The United States Environmental Protection Agency.

21 "FTC." The United States Federal Trade Commission.

22 "Octane rating" or "octane number." The rating of the
23 antiknock characteristics of a grade or type of automotive fuel,
24 as determined by dividing by two the sum of the research octane
25 number plus the motor octane number, unless another procedure is
26 determined by the Department of Agriculture to be more
27 appropriate for the purposes of this act.

28 "Oxygenate." A substance which, when added to gasoline,
29 increases the amount of oxygen in that gasoline blend.

30 "Oxygenate blender." A person who owns, leases, operates,

1 controls or supervises a carbon monoxide control area blending
2 facility.

3 "Oxygenate blending facility." A refinery, bulk terminal,
4 bulk plant, other facility or truck or another place at which
5 oxygenated gasoline, which is intended for use in a carbon
6 monoxide control area, is produced solely through the addition
7 of oxygenate to gasoline and at which the quality or quantity of
8 gasoline is not altered in another manner.

9 "Oxygenated gasoline." Gasoline which contains at least 2%
10 oxygen by weight ~~and which is intended for sale or use in a~~ <—
11 ~~carbon monoxide control area.~~

12 "Person." A natural person, corporation, partnership,
13 association or other legal entity.

14 "Producer." A person who purchases component elements and
15 blends them to produce automotive fuel.

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

18 "Reformulated gasoline." Any gasoline which is certified by
19 the Environmental Protection Agency as complying with the
20 requirements of section 211 of the Clean Air Act (Public Law 95-
21 95, 42 U.S.C. § 7401 et seq.) and any regulations promulgated
22 pursuant to the Clean Air Act.

23 "Research octane number" and "motor octane number." The
24 terms shall have the meanings given these terms in the
25 specifications of the American Society for Testing Materials
26 entitled "Standard Specifications for Automotive Spark Ignition
27 Engine Fuel," designated D4814, and, with respect to any grade
28 or type of automotive fuel, are determined in accordance with
29 the test methods set forth in American Society Testing Materials
30 standard test methods, designated ~~D2699-92~~ D2699, "Standard Test <—

1 Method for Knock Characteristics of Motor Fuels by the Research
2 Method," and ASTM ~~D2700-92~~ D2700, "Standard Test Method for
3 Knock Characteristics of Motor and Aviation Fuels by the Motor
4 Method."

5 "Retailer." A person who sells automotive fuel to the
6 consumer.

7 "Secretary." The Secretary of Agriculture of the
8 Commonwealth.

9 Section 3. Automotive Fuel Testing and Disclosure Program.

10 (a) Establishment.--The department shall establish and
11 implement the Automotive Fuel Testing and Disclosure Program.

12 (b) Program requirements.--The Automotive Fuel Testing and
13 Disclosure Program shall provide for the testing of automotive
14 fuel on a random and periodic basis and otherwise as determined
15 necessary by the department.

16 (c) Duties of department.--The department shall enforce the
17 provisions of this act and shall:

18 (1) Appoint or employ such inspectors as may be
19 necessary to carry out the provisions of this act.

20 (2) Take samples of automotive fuel wherever it is
21 processed, produced, blended, held, stored, imported,
22 transferred, offered or exposed for sale or use or sold in
23 this Commonwealth. SUCH SAMPLES SHALL BE TAKEN IN ACCORDANCE
24 WITH PROCEDURES AND STANDARDS PRESCRIBED BY ASTM.

25 (3) Inspect and test automotive fuel samples in
26 accordance with the methods of ASTM or other test methods
27 adopted by the FTC pursuant to the Petroleum Marketing
28 Practices Act (Public Law 95-297, 15 U.S.C. § 2801 et seq.)
29 or by regulation of the department to determine whether such
30 automotive fuel complies with the requirements of this act.

1 (4) Inspect automotive fuel storage tanks to ensure that
2 the products are free from excess water and impurities.

3 (5) Maintain records of all inspections.

4 (6) Inspect and test samples submitted to the department
5 by a distributor or retailer. The department may by
6 regulation establish and collect fees from any distributor or
7 retailer who submits automotive fuel samples to the
8 department for testing.

9 (7) Inspect the labeling of automotive fuel dispensers
10 and storage tanks at retail businesses or locations where
11 such products are sold or offered or exposed for sale or use.

12 (8) Develop procedures to coordinate inspection, testing
13 and sampling efforts with city and county sealers of weights
14 and measures AND WITH THE DEPARTMENT OF ENVIRONMENTAL <—
15 RESOURCES.

16 (9) Enter into contractual agreements with qualified
17 laboratories for the purpose of analyzing automotive fuel
18 samples.

19 (10) Promulgate such regulations as necessary for the
20 enforcement and administration of this act.

21 (d) Sealers of weight and measures.--The department may
22 enter into agreements with any city or county for which a sealer
23 has been appointed for the enforcement of provisions of this act
24 and rules or regulations promulgated under this act. The sealer
25 of a city or county shall have the same authority and shall
26 perform the same duties within the city or county as are granted
27 to and imposed upon the department with respect to the
28 inspection, testing and taking of automotive fuel samples.

29 (E) DEPARTMENT OF ENVIRONMENTAL RESOURCES.--THE DEPARTMENT <—
30 SHALL ENTER INTO AN AGREEMENT WITH THE DEPARTMENT OF

1 ENVIRONMENTAL RESOURCES WITH REGARD TO THE INSPECTION OF
2 OXYGENATED AND REFORMULATED GASOLINE FACILITIES AND WITH REGARD
3 TO THE TESTING OF OXYGENATED AND REFORMULATED GASOLINE. SUCH
4 AGREEMENT SHALL SET FORTH THE RESPECTIVE RESPONSIBILITIES OF
5 EACH AGENCY AND SHALL, TO THE MAXIMUM EXTENT FEASIBLE, AVOID
6 DUPLICATE INSPECTION OF A FACILITY AND DUPLICATE TESTING OF
7 OXYGENATED OR REFORMULATED GASOLINE FROM A FACILITY.

8 Section 4. Standards for automotive fuel.

9 (a) Adoption of standards.--The department shall adopt
10 standards for automotive spark-ignition engine fuels. The
11 department shall adopt the latest standards of the American
12 Society for Testing and Materials or other standards as
13 determined by the FTC.

14 (b) Automotive fuel.--Automotive fuel sold, offered or
15 exposed for sale, stored or held for distribution in this
16 Commonwealth shall not be contaminated with water or other
17 impurities and, in the case of gasoline, shall comply with ASTM
18 specification D4814 and with the volatility requirements
19 promulgated by the EPA under 40 CFR Part 80. Gasoline may be
20 blended with an agriculturally derived ethanol or with a
21 detergent additive, antiknock additive or any other additive
22 approved and registered by the EPA. After gasoline is sold,
23 transferred or otherwise removed from a refinery, the gasoline
24 shall not be sold, offered or exposed for sale OR stored or held <—
25 for distribution TO A CONSUMER in this Commonwealth if it has <—
26 been:

27 (1) Blended with any other petroleum product which is
28 not gasoline UNLESS THE BLENDED PRODUCT CONFORMS WITH ASTM <—
29 STANDARDS.

30 (2) Blended with products commonly and commercially

known as casinghead gasoline, absorption gasoline,
condensation gasoline, drip gasoline or natural gasoline.

(3) Blended with any contaminant.

(c) Records and audits.--Each distributor, producer or
retailer who distributes, produces, transports, stores, sells or
offers or exposes for sale automotive fuel in this Commonwealth
shall maintain for one year original copies of all bills,
manifests, delivery tickets, invoices and any other information
the department may by regulation require for the purpose of
audits by the department.

~~(d) Oxygenated gasoline. Pursuant to the requirements of
the Clean Air Act (Public Law 95-95, 42 U.S.C. § 7401 et seq.),
gasoline sold or offered or exposed for sale or dispensed to the
consumer or sold or offered or exposed for sale or dispensed
directly or indirectly by refiners or distributors to retailers
for use in an area designated as nonattainment for carbon
monoxide, during a carbon monoxide control period, shall not
have an oxygen content of less than 2.7% by weight, unless such
other standards are adopted by the EPA.~~

(D) OXYGENATED GASOLINE.--OXYGENATED GASOLINE SHALL NOT BE
SOLD OR OFFERED OR EXPOSED FOR SALE OR STORED OR HELD FOR
DISTRIBUTION TO A CONSUMER IN AN AREA DESIGNATED AS
NONATTAINMENT FOR CARBON MONOXIDE DURING A CARBON MONOXIDE
CONTROL PERIOD UNLESS IT MEETS STANDARDS PROMULGATED PURSUANT TO
THE REQUIREMENTS OF THE CLEAN AIR ACT (PUBLIC LAW 95-95, 42
U.S.C. § 7401 ET SEQ.).

(e) Reformulated gasoline.--Reformulated gasoline shall not
be sold or offered or exposed for sale or stored or held for
distribution in this Commonwealth unless it meets standards
promulgated by the EPA for reformulated gasoline to be used in

1 ~~gasoline fueled motor vehicles~~ PURSUANT TO THE REQUIREMENTS OF <—
2 THE CLEAN AIR ACT.

3 Section 5. Automotive fuel rating; disclosure and labeling
4 requirements.

5 (a) Disclosure requirements.--Each distributor, producer or
6 refiner who sells or offers or exposes for sale, delivers,
7 distributes or produces automotive fuel in this Commonwealth
8 shall provide, at the time of delivery, a bill, shipping
9 manifest or other type of written invoice to the person who
10 receives the automotive fuel. The bill, shipping manifest or
11 other written invoice shall state the automotive fuel rating.

12 (b) Posting and labeling requirements.--Each retailer of
13 automotive fuel in this Commonwealth shall label in a clear and
14 conspicuous manner each automotive fuel dispenser which is used
15 to sell or offer or expose for sale automotive fuel, with the
16 automotive fuel rating of such fuel, which shall be consistent
17 with the automotive fuel rating certified to such retailer by
18 the refiner or distributor, as the case may be. In the case of
19 gasoline which is blended with other gasoline by the retailer,
20 the automotive fuel rating shall be the average, weighted by
21 volume, of the octane rating certified to the retailer by the
22 distributor or refiner for each gasoline in the blend, or
23 consistent with the lowest octane rating for any gasoline in the
24 blend as certified to the retailer by a refiner or distributor.

25 (c) Oxygenated gasoline labeling requirements.--A person who
26 sells or offers or exposes for sale oxygenated gasoline in an
27 area designated nonattainment for carbon monoxide during a
28 carbon monoxide control period shall clearly and conspicuously
29 label the dispenser which is used to sell oxygenated gasoline at
30 retail or to dispense oxygenated gasoline into the fuel supply

1 tanks of motor vehicles with a notice stating that the gasoline
2 is oxygenated and will reduce the carbon monoxide emissions from
3 the motor vehicle.

4 (d) Representation of antiknock characteristics of
5 automotive fuel.--No distributor of automotive fuel in this
6 Commonwealth shall make any representation of the antiknock
7 characteristics of automotive fuel unless such representation
8 discloses the automotive fuel rating of such fuel.

9 (e) Storage tank labels; retail locations.--Each retailer of
10 automotive fuel shall attach ~~a plastic or stamped~~ AN <—
11 identification device on the inlet end of the fill pipe of an
12 automotive fuel storage tank at retail locations where
13 automotive fuel is sold or offered or exposed for sale. The
14 identification device shall clearly display the automotive fuel
15 rating ~~and the brand or trade name~~ of the automotive fuel held <—
16 in the storage tank. The automotive fuel rating ~~and brand or~~ <—
17 ~~trade name~~ displayed on the identification device shall be
18 consistent with the automotive fuel rating ~~and brand or trade~~ <—
19 ~~name displayed on the dispenser~~ DISPLAYED ON THE DISPENSING <—
20 system through which such fuel is dispensed.

21 (f) Labeling tolerance.--In accordance with specifications
22 of the American Society for Testing Materials entitled
23 "Specifications for Automotive Spark Ignition-Engine Fuel,"
24 designated D4814, in the case of gasoline, tolerance allowed
25 shall be limited to 0.7 for 87 octane and under and 0.6 for all
26 other octane grades.

27 (g) Federal regulations.--All regulations and supplements
28 thereto or revisions thereof adopted by the FTC pursuant to the
29 Petroleum Marketing Practices Act (Public Law 95-297, 15 U.S.C.
30 § 2801 et seq.) to govern the certification, disclosure, posting

1 and labeling of automotive fuel before, on or after the
2 effective date of this act are hereby adopted as regulations in
3 this Commonwealth and shall remain in effect unless subsequently
4 modified by regulations promulgated by the department.

5 Section 6. Investigations.

6 (a) General rule.--The department may conduct investigations
7 to determine compliance with this act or any regulation
8 promulgated pursuant to this act. Inspections shall be performed
9 during normal business hours and shall include the collection
10 and removal of samples for laboratory testing.

11 (b) Entry upon premises.--The department shall have the
12 right of access to the premises and records of any establishment
13 where automotive fuel is stored, held, processed, distributed,
14 offered or exposed for sale or sold in this Commonwealth to:

15 (1) Inspect the automotive fuel in storage tanks and
16 take samples from such tanks and the dispensing system
17 connected to the storage tanks. THE RETAILER OR DISTRIBUTOR <—
18 MAY REQUEST A SECOND SAMPLE TO BE TAKEN BY THE INSPECTOR AT
19 THE SAME TIME THE INITIAL SAMPLE IS DRAWN. ALL COSTS OF SUCH
20 SECOND SAMPLE SHALL BE PAID BY THE RETAILER OR DISTRIBUTOR,
21 AS THE CASE MAY BE, MAKING THE REQUEST. IF THE REQUEST FOR A
22 SECOND SAMPLE IS MADE BY THE RETAILER IN ACCORDANCE WITH
23 PROCEDURES ESTABLISHED THROUGH AN AGREEMENT WITH THE
24 DISTRIBUTOR, PRODUCER OR REFINER, ALL COSTS OF DRAWING,
25 HANDLING AND SHIPPING THE SAMPLE SHALL BE BORNE BY SUCH
26 DISTRIBUTOR, PRODUCER OR REFINER WHO SUPPLIED THE AUTOMOTIVE
27 FUEL TO THE RETAILER. IF THE REQUEST FOR A SECOND SAMPLE IS
28 MADE BY THE DISTRIBUTOR IN ACCORDANCE WITH PROCEDURES
29 ESTABLISHED THROUGH AN AGREEMENT WITH THE PRODUCER OR
30 REFINER, ALL COSTS OF DRAWING, HANDLING AND SHIPPING THE

1 SAMPLE SHALL BE BORNE BY SUCH PRODUCER OR REFINER WHO
2 SUPPLIED THE AUTOMOTIVE FUEL TO THE DISTRIBUTOR.

3 (2) Inspect automotive fuel ~~dispenser~~ DISPENSING systems <—
4 and related equipment, oxygenate labels and octane labels.

5 (3) Audit and make copies of automotive fuel shipping,
6 receiving and invoice documents and records to determine
7 compliance with sections 4 and 5.

8 The department shall limit such inspections, auditing and
9 copying to information and data relating to product quantity,
10 quality, oxygen content and octane.

11 (c) Remedies.--Whenever the department determines that an
12 automotive fuel sample does not conform with the standards set
13 forth in section 4 or that a label displayed on a ~~dispenser~~ <—
14 DISPENSING system, storage tank or other dispensing device does <—
15 not conform with the requirements of section 5, the department
16 may initiate any or all of the following actions to prohibit
17 sale of the nonconforming automotive fuel or to prohibit the use
18 of the nonconforming ~~dispenser~~ DISPENSING system, storage tank <—
19 or other dispensing device:

20 (1) Reject and mark as rejected the ~~dispenser~~ DISPENSING <—
21 system, storage tank or other dispensing device from which
22 the sample was obtained or on which the nonconforming label
23 is attached.

24 (2) Seal and mark as sealed the storage tanks from which
25 the sample was drawn or the nonconforming label attached.

26 (3) Initiate criminal proceedings UNDER SECTION 7(D). <—

27 (4) Issue a citation.

28 (5) Issue a stop sale notice UNDER SUBSECTION (E). <—

29 (6) Advise the retailer or distributor that the
30 automotive fuel must be blended with another automotive fuel

1 to bring it into compliance, provided that the product does
2 not endanger public health or safety or adversely affect the
3 emissions characteristics of the motor vehicles in which it
4 is used.

5 (7) Issue a written warning directing the retailer or
6 distributor to correct the nonconforming label.

7 (d) Nonconforming oxygenated or reformulated gasoline.--

8 Whenever the department finds or determines that an oxygenated
9 or reformulated gasoline sample does not conform with the

10 requirements of this act or with standards adopted by the EPA,

11 the department shall notify in writing the Department of

12 Environmental Resources of its determination. Such written

13 notification shall include the name of the retailer,

14 distributor, oxygenated fuel blender or producer from whom the

15 sample was obtained, the business address of such retailer,

16 distributor, oxygenated fuel blender or producer and the

17 particulars of the department's findings. Nothing herein shall

18 require the department to inspect oxygenated ~~fuel~~ OR

<—

19 REFORMULATED GASOLINE facilities or retail establishments where

20 oxygenated OR REFORMULATED gasoline is produced or sold or

<—

21 offered or exposed for sale if the Department of Environmental

22 Resources is performing such function.

23 (e) Stop sale notice.--The department shall have the

24 authority to immediately seize and seal, to prevent further

25 sales, any ~~dispenser~~ DISPENSING system, storage tank or other

<—

26 dispensing device from which automotive fuel is sold or offered

27 or exposed for sale in violation of the provisions of this act

28 and to issue a stop sale notice to the retailer or distributor,

29 if such retailer or distributor has previously been assessed a

30 civil penalty for a violation of this act or the regulations

1 promulgated in accordance with this act. Any automotive fuel
2 subject to a stop sale notice shall not be sold or exposed or
3 offered for sale or transported unless the retailer or
4 distributor has received ~~written~~ approval from the department. <—
5 Automotive fuel which has been seized and sealed by the
6 department for violation of section 4 or 5 shall not be offered
7 or exposed for sale until the department has been fully
8 satisfied that the automotive fuel has been blended or refined
9 or properly labeled to meet the requirements of this act, and
10 the retailer or distributor has been notified ~~in writing~~ of the <—
11 department's decision to permit the sale or relabeling of such
12 fuel.

13 (f) Posting of stop sale notice.--The department shall cause
14 to be posted in a conspicuous place on the premises where a
15 dispensing system, storage tank or other dispensing device has
16 been sealed a notice stating that sealing has taken place and
17 giving warning that it shall be unlawful to break, mutilate or
18 destroy the seal or to remove the contents of such dispensing
19 system, storage tank or other dispensing device without the
20 approval of the department.

21 (g) Notice required to remove seal.--Any retailer,
22 distributor or producer who owns an automotive fuel dispensing
23 system, storage tank or other dispensing device which has been
24 sealed by the department shall ~~submit written notice to the~~ <—
25 ~~department before such fuel is removed or a proper label~~
26 ~~attached. The written notice shall specify the time and date~~
27 ~~during normal business hours on which such automotive fuel will~~
28 ~~be removed or a proper label attached. At the time and date~~
29 ~~specified in the written notice, the department shall break the~~
30 ~~seal for the purpose of permitting the removal of the automotive~~

1 ~~fuel or to permit the sale or use of such fuel after a proper~~
2 ~~label has been attached. A retailer, distributor or producer~~
3 ~~shall not remove a seal except at the time specified in the~~
4 ~~written notice and in the presence of the department.~~ OBTAIN THE <—
5 APPROVAL OF THE DEPARTMENT BEFORE SUCH FUEL IS REMOVED OR A
6 PROPER LABEL ATTACHED. A WRITTEN NOTICE OF ANY CORRECTIVE ACTION
7 TAKEN SHALL BE SUBMITTED TO THE DEPARTMENT WITHIN THREE WORKING
8 DAYS. THE DEPARTMENT MAY REINSPECT THE AUTOMOTIVE FUEL
9 DISPENSING SYSTEM, STORAGE TANK OR OTHER DISPENSING DEVICE TO
10 DETERMINE COMPLIANCE. THE RETAILER, DISTRIBUTOR, PRODUCER OR
11 REFINER WHO OWNS THE SYSTEM OR DEVICE WHICH HAS BEEN SEALED
12 SHALL PROVIDE DOCUMENTATION OF THE CORRECTIVE ACTION TAKEN,
13 INCLUDING ANY APPLICABLE SHIPPING PAPERS OR BILLS OF LADING
14 SHOWING THE DISPOSAL OR FINAL DISPOSITION OF THE AUTOMOTIVE FUEL
15 AND SUCH OTHER INFORMATION NECESSARY TO PERMIT THE DEPARTMENT TO
16 AUDIT AND CONFIRM THAT THE CORRECTIVE ACTION WAS AS PREVIOUSLY
17 APPROVED BY THE DEPARTMENT. A RETAILER, DISTRIBUTOR, PRODUCER OR
18 REFINER SHALL NOT REMOVE A SEAL EXCEPT WHEN GIVEN SPECIFIC
19 APPROVAL BY THE DEPARTMENT.

20 Section 7. Violations and penalties.

21 (a) Retail violations.--The department may assess a civil
22 penalty of not ~~less than \$1,000 nor~~ more than \$5,000 upon a <—
23 retailer who sells or offers or exposes for sale automotive fuel
24 from any dispensing system, storage tank or other dispensing
25 device which has not been labeled in accordance with the
26 provisions of this act, or who sells or offers or exposes for
27 sale any automotive fuel which does not meet the required
28 standards for automotive fuel rating displayed on the label
29 attached to the dispensing system, storage tank or other
30 dispensing device, or who sells or offers or exposes for sale

1 automotive fuel which has been contaminated.

2 (b) Distributor, producer or refiner violations.--The
3 department may assess a civil penalty of not ~~less than \$1,000~~ <—
4 ~~nor~~ more than \$5,000 upon a distributor, producer or refiner who
5 sells or offers or exposes for sale automotive fuel which does
6 not meet the automotive fuel rating certified by such
7 distributor, producer or refiner or who sells or offers or
8 exposes for sale automotive fuel which does not meet the
9 requirements of section 4.

10 (c) Knowledge of deceptive practice.--In addition to any
11 civil penalty imposed for violations of subsection (a) or (b),
12 the department may assess a distributor, producer, refiner or
13 retailer with an additional CIVIL penalty equal to the <—
14 difference between the price per gallon charged to the consumer
15 for the automotive fuel in question and the price per gallon
16 charged to the consumer for the lowest octane grade at the
17 retail dispensing facility at the time of the violation,
18 multiplied by the capacity of the storage tank from which the
19 product in question was dispensed, if the distributor, producer,
20 refiner or retailer violates any provisions of this act or any
21 regulations promulgated pursuant to this act with actual
22 knowledge that the act or practice underlying the violation is
23 unfair or deceptive.

24 (d) Repeat violations.--In addition to any civil penalty
25 assessed in accordance with the provisions of this section, the
26 department may initiate criminal proceedings for a third or
27 subsequent violation of sections 4 and 5 or any regulations
28 promulgated pursuant to such sections. SUCH A THIRD OR <—
29 SUBSEQUENT VIOLATION SHALL CONSTITUTE A MISDEMEANOR OF THE THIRD
30 DEGREE.

1 (e) Removal of seals.--The department may assess a civil
2 penalty of not less than \$1,000 nor more than \$5,000 on any
3 person, other than a person designated by the department, who
4 breaks, mutilates or destroys any seal placed upon a dispensing
5 system, storage tank or other dispensing device used to deliver
6 or store automotive fuel, or who removes automotive fuel from a
7 dispensing system, storage tank or other dispensing device which
8 has been sealed, or who defaces or removes a posted notice of
9 sealing.

10 (f) Hearings.--No civil penalty shall be assessed under this
11 section unless the person charged has been given notice and
12 opportunity for hearing in accordance with 2 Pa.C.S. (relating
13 to administrative law and procedure).

14 (g) Innocent sellers exemption.--~~In any enforcement action~~ <—
15 ~~pursuant to subsection (a) regarding labeling, it shall be a~~
16 ~~defense that~~ THE DEPARTMENT SHALL NOT IMPOSE A CIVIL PENALTY FOR <—
17 A VIOLATION OF SUBSECTION (A) REGARDING LABELING IF the retailer
18 labeled the dispensing system, storage tank or other dispensing
19 device in reasonable reliance on documentation provided by the
20 distributor, producer or refiner certifying the standards for
21 automotive fuel rating.

22 (h) Private action by retailer.--Whenever a retailer
23 unknowingly and without deception sells or offers or exposes for
24 sale automotive fuel which does not conform with the provisions
25 of this act, the distributor, producer, ~~oxygenated fuel~~ <—
26 OXYGENATE blender or refiner, as the case may be, of the <—
27 nonconforming automotive fuel shall be liable in damages to such
28 retailer for any ascertainable loss of money or property.

29 (i) Acts or practices constituting unfair trade.--It shall
30 be an unfair method of competition and an unfair or deceptive

1 act or practice in or affecting trade and commerce in this
2 Commonwealth within the meaning of section 3 of the act of
3 December 17, 1968 (P.L.1224, No.387), known as the Unfair Trade
4 Practices and Consumer Protection Law, for any retailer,
5 producer, distributor, OXYGENATE BLENDER or refiner to violate <—
6 the provisions of this act or any regulations promulgated
7 pursuant to this act.

8 Section 8. Disposition of funds.

9 Penalties collected under section 7, 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 made available immediately and are
16 hereby specifically appropriated to the department for the
17 purposes herein specified.

18 Section 9. ~~Appropriation~~ EFFECTIVE DATE. <—

19 ~~The sum of \$450,000, or as much thereof as may be necessary,~~ <—
20 ~~is hereby appropriated to the Department of Agriculture for the~~
21 ~~fiscal year July 1, 1994, to June 30, 1995, to administer the~~
22 ~~provisions of this act.~~

23 ~~Section 10. Effective date.~~

24 This act shall take effect July 1, 1994, OR IF ENACTED AFTER <—
25 THAT DATE, THE DATE OF ENACTMENT.