

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. Senate Bill 138

PRINTER'S NO. 1070

AMOUNT

\$441,720

FUND

General

DATE INTRODUCED

Jan. 30, 2009

PRIME SPONSOR

Senator Greenleaf

HISTORY OF BILL

Referred to CONSUMER PROTECTION & PROFESSIONAL LICENSURE,
Jan. 30, 2009

Reported as committed, Feb. 10, 2009

First consideration, Feb. 10, 2009

Re-referred to APPROPRIATIONS, Feb. 11, 2009

Re-reported as amended, June 1, 2009

DESCRIPTION AND PURPOSE OF BILL

Senate Bill 138 establishes a new Subchapter F (Automotive Fuel Testing Program) in Title 3 (Agriculture). The legislation provides the Department of Agriculture the authority to randomly test octane level and gasoline quality at up to 10 percent of the approximately 100,000 meters across the Commonwealth that dispense automotive fuel and requires verification of labeling on fuel dispensers and storage tanks.

Agreements may be made with any city or county to provide for the enforcement of the provisions of this subchapter. The enforcing entity shall retain any revenues generated from enforcement.

The legislation provides for the Department to assess civil penalties up to \$5,000 for retailers, distributors, producers and refiners that fail to label fuel correctly or remove seals. Additional civil penalties may be assessed in cases where the party involved had knowledge that the act was unfair or deceptive. In the case of a second or subsequent

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violation of the act, the department may initiate criminal proceedings which shall constitute a misdemeanor of the 3rd degree. An innocent seller's exemption is included to protect retailers that reasonably relied on documentation from a distributor, refiner or producer.

The Department is also required to file a report with the Transportation Committee of the Senate and the Transportation Committee of the House of Representative no later than May 1 each year summarizing the details and impact of the program.

The act is scheduled to take effect July 1, 2009, or immediately, whichever is later.

FISCAL IMPACT:

The Department of Agriculture estimates that \$200,000 in start-up costs would be necessary to implement the new octane testing program. These costs would include the following components: 8 Zeltex portable octane testing devices (\$88,000); Bureau of Weights and Measures staff training (\$50,000); Development of IT program for tracking the testing program (\$50,000); and, miscellaneous equipment and supplies (\$12,000).

Additional funds would be needed on an annual basis for lab analysis and packaging of samples obtained from field tests of dispensers and storage tanks that were found to not match the displayed octane levels. According to the Department, laboratory analysis, packaging and shipping costs approximately \$170 per sample. Assuming that on an annual basis, 10 percent of the field tests fail to match the displayed octane level on the portable testing device, the department would need to expend funds to analyze approximately 1,416 tests (includes blind samples necessary for verification) at a cost of \$240,720 annually.

In future years, revenues from fines levied for noncompliance may offset some of the costs associated with the program.