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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL**

**No. 851**      Session of  
1999

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INTRODUCED BY GREENLEAF, MUSTO, RHOADES, BELL, BOSCOLA, EARLL,  
GERLACH, LAVALLE, LEMMOND, O'PAKE, SALVATORE, WAGNER AND  
THOMPSON, APRIL 28, 1999

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REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, APRIL 28, 1999

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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; establishing the  
7 Automotive Fuel Testing Account; and making an appropriation.

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

10 Section 1. The definitions of "gasoline" and "gasoline  
11 additive" 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:

20 "American Society for Testing and Materials" or "ASTM." An

1 organization which develops quality standards and test methods  
2 for petroleum products.

3 \* \* \*

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

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

9 \* \* \*

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

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

19 \* \* \*

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

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

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

29 \* \* \*

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

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

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

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

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

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

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

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

30 (1) the presence of methanol and co-solvent, each as a

1 percentage of the total volume, if the quantity of methanol  
2 exceeds 0.3%;

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

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

9 (4) the minimum octane rating; and

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

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

19 [(1) The manufacturers]

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

26 [(i)] (1) 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)] (2) 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          (d) 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          (e) 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 made available immediately and are  
16 hereby specifically appropriated to the department for the  
17 purposes specified in this act.

18 Section 6. The sum of \$1,800,000, or as much thereof as may  
19 be necessary, is hereby appropriated from the General Fund to  
20 the Department of Agriculture to implement this act.

21 Section 7. This act shall take effect in 30 days.