



House Bill 5005 (Substitute H-2 as passed by the House)
Sponsor: Representative Larry Julian
House Committee: Transportation
Senate Committee: Transportation and Tourism

Date Completed: 1-29-02

CONTENT

The bill would amend the Motor Fuels Quality Act to do the following:

- Remove the distinction between "leaded" and "unleaded" gasoline in grading standards.**
- Phase in a license fee increase from \$15 to \$100 for gasoline distributors and retail dealers.**
- Require the Department of Agriculture to review the proposed fee structure and report to the Legislature by 2004.**
- Increase administrative fines for violations of the Act, and require the fines to be paid before a license could be renewed.**
- Increase criminal penalties for repeated violations of the Act.**

Gasoline Grades

The Act requires the Director of the Department of Agriculture to establish standards for the amount and type of additives allowed to be included in gasoline, and for the grading of gasoline. The current standards include grading of leaded and unleaded subregular, regular, midgrade, and premium, based on a minimum AKI (antiknock index) or a minimum MON (motor octane number). The grades based on AKI range from unleaded subregular with a minimum 85 AKI, and to unleaded premium with a minimum 90 AKI. The bill would delete references to "leaded" and "unleaded" in these grades.

The Act also provides that leaded gasoline with a 94 AKI or more, and unleaded gasoline with a 91 AKI or more, may be offered for sale labeled with the minimum AKI number if the gas has been listed with and approved by the Department. The leaded gas with 94 AKI or more must be labeled as leaded premium followed by the approved AKI number. The unleaded gas with 91 AKI or more must be labeled unleaded premium followed by the approved AKI number. The bill would delete this language. Instead, the required standards for grading would include premium with a minimum 91 AKI, premium 92 with a minimum 92 AKI, premium 93 with a minimum 93 AKI, and premium 94 with a minimum 94 AKI.

(The Act defines "antiknock index" as the number arrived at by adding the motor octane number and the research octane number and dividing by two.)

In addition, the Director no longer would be required to set standards for alcohol fuels.

The Act requires the Director to adopt the latest standards for gasoline established by the American Society for Testing and Materials, and to adopt the latest standards for gasoline

established by Federal law or regulation. The standards established by the Director must not prohibit a gasoline blend that is permitted by a valid waiver granted by the U.S. Environmental Protection Agency. Beginning June 3, 2002, the Director may not permit the use of the additive methyl tertiary butyl ether (MTBE). The bill would retain these provisions.

License Fees

Under the Act, before a gasoline distributor or retail dealer transfers, sells, dispenses, or offers to sell gasoline, the distributor or retail dealer must obtain a license from the Department for each retail outlet operated by that person. Currently, the fee for a license is \$15 for each year or portion of a year. The bill would retain that amount through July 31, 2002. The bill then would increase the fee to \$50 through July 31, 2003; \$75 through July 31, 2004; and \$100 beginning August 1, 2004, at which point it would remain \$100. The fees would continue to be collected and deposited in the Gasoline Inspection and Testing Fund.

Further, the bill would add a requirement that the Department conduct a review of the proposed fee structure and the status of the Gasoline Inspection and Testing Fund in the 2003 calendar year, and report its recommendations for any change or adjustment in the fee schedule to the House and Senate Transportation Committees by January 1, 2004.

Administrative Fines

Currently, a license may not be issued or renewed until the license fee is paid. The bill also would require that administrative fines be paid before a license could be renewed.

The Act requires that a person who violates the Act or a rule promulgated under it is subject to an administrative fine. The Act specifies the amount of fines, which rise as the number of violations increases. The bill proposes an increase in fines, as shown in Table 1.

Table 1

Number of Violations	Number of years following previous violation		Fine Range	
	<u>Current</u>	<u>Proposed</u>	<u>Current</u>	<u>Proposed</u>
First	N/A		\$50-100	\$100-500
Second	2	5	\$100-250	\$500-1,000
Third	2	5	\$250-500	\$1,000-2,000

In addition to the current fines described in Table 1, an offender must pay the actual costs of the investigation and the amount of any economic benefit associated with the violation. The bill would require an offender to pay the investigative costs and *double* the amount of economic benefit.

Penalties

The Act provides that a person is guilty of a misdemeanor punishable by imprisonment for up to 90 days, or a fine between \$1,000 and \$2,000, or both, for committing certain acts. These acts include:

- Rendering less effective or inoperable any part of a stage I or stage II vapor-recovery system.
- Making a false statement, representation, or certification on an application, report, plan, or

- other document required to be maintained under the Act or rules promulgated under it. (The bill would add "label" to the list of documents prohibited to be falsified.)
- Failing to disclose to the Department any knowledge or information relating to or observation of any modification of a stage I or stage II vapor-recovery system that makes the system less effective or inoperable, or falsification of records required to be maintained under the Act or rules.
 - Removing a tag, seal, or mark placed on a dispensing device by the Director.
 - Violating the Act or a rule promulgated under it for which a specific penalty is not prescribed.

The bill would retain the penalties for these prohibited actions.

The bill, however, would increase the maximum fine from \$5,000 to \$10,000, for a second violation within 24 months after a violation that resulted in a conviction, or for impersonation of the Director or a Department inspector.

In addition, the Act provides that a person is guilty of a felony punishable by imprisonment for up to two years, or a fine of not less than \$5,000 or more than \$10,000, or both, for *intentionally* committing one of the prohibited acts listed above, or for a third violation within 24 months after two previous violations that resulted in convictions. The bill would increase this fine to an amount not less than \$10,000 and not more than \$15,000.

Other Provisions

References to the Act. The bill would replace references to Public Act 150 of 1927 with references to the Motor Fuel Tax Act (Public Act 403 of 2000, which replaced the 1927 Act).
Dispensing Permit. The bill would retain the annual \$25 dispensing permit provision, a requirement that began on November 15, 1990, and specify that the permit could not be issued or renewed until all fees and administrative fines were paid.

Distributor License. The Act specifies that a refiner or distributor may not transfer, sell, dispense, or offer to sell gasoline to a distributor unless the refiner or distributor indicates on each bill or invoice the name and license number of the wholesale distributor. The bill would retain this provision, but delete the requirement to list the wholesale distributor's license number.

MCL 290.643 et al.

Legislative Analyst: C. Layman

FISCAL IMPACT

Under current law, the license to distribute or sell gasoline is \$15. The bill would increase the fee to \$100 over a three-year phase-in period. The initial increase from \$15 to \$50, effective August 1, 2002, would generate nearly \$200,000. Current annual license fee revenue (for fiscal year 2000-01) totaled almost \$77,000. The new annual amount would be \$277,000 under the bill. The second increase (from \$50 to \$75) would occur August 1, 2003, raising the annual fee revenue from \$277,000 to \$417,000. The third and final increase would occur on August 1, 2004, and generate an additional \$140,000 in annual fee revenue. Total annual fee revenue would be \$557,000 following the third fee increase.

The bill also would increase the penalties for violations of the Act. Collections from motor fuel quality administrative fines ranged from a low of \$55,000 to a high of \$309,000 over the past four fiscal years. The increase in penalties would result in additional fine revenue assuming the same level of violations. The fiscal impact of these changes is indeterminate and would be contingent on the number and nature of the violations. The bill also would require a violator to pay double the amount of any economic benefit associated with the violation. All revenue

increases resulting from the administrative fine increases would be dedicated to the Gasoline Inspection and Testing Fund and used by the Department of Agriculture for gasoline and motor fuel testing activities.

The bill also would raise the criminal fines authorized under the Act. Any increase in criminal fine revenue would be dedicated to libraries.

Fiscal Analyst: C. Thiel