

**SUBSTITUTE FOR
HOUSE BILL NO. 5005**

A bill to amend 1984 PA 44, entitled "Motor fuels quality act," by amending sections 3, 4a, 5, 6, 9i, 10a, and 10b (MCL 290.643, 290.644a, 290.645, 290.646, 290.649i, 290.650a, and 290.650b), section 3 as amended by 2000 PA 206, section 4a as added by 1986 PA 127, and sections 5 and 6 as amended and sections 9i, 10a, and 10b as added by 1993 PA 236.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) The director shall establish standards pursuant
2 to this act to ensure the purity and quality of gasoline sold or
3 offered for sale in this state.

4 (2) The director shall establish standards for the amount
5 and type of additives allowed to be included in gasoline.

6 (3) The director shall establish standards for the grading
7 of gasoline, including, but not limited to, ~~leaded~~ subregular

HB5005, As Passed House, October 30, 2001

House Bill No. 5005

2

1 ~~with a minimum 87 AKI, leaded regular with a minimum 89 AKI,~~
2 ~~leaded premium with a minimum 93 AKI, unleaded~~ subregular with a
3 minimum 85 AKI, ~~unleaded~~ regular with a minimum 87 AKI and a
4 minimum 82 MON, ~~unleaded~~ midgrade 88 with a minimum 88 AKI and
5 A minimum 82 MON, ~~unleaded~~ midgrade 89 with a minimum 89 AKI
6 and a minimum 83 MON, ~~unleaded~~ premium with a minimum 90 AKI,
7 ~~and grades for alcohol fuels. Leaded gasoline with a 94 AKI or~~
8 ~~more, and unleaded gasoline with a 91 AKI or more, may be offered~~
9 ~~for sale labeled with the minimum AKI number if the gasoline has~~
10 ~~been listed with and approved by the department. The leaded gas-~~
11 ~~oline with 94 AKI or more shall be labeled as leaded premium fol-~~
12 ~~lowed by the approved AKI number, and the unleaded gasoline with~~
13 ~~91 AKI or more shall be labeled unleaded premium followed by the~~
14 ~~approved AKI number. PREMIUM 91 WITH A MINIMUM 91 AKI, PREMIUM~~
15 ~~92 WITH A MINIMUM 92 AKI, PREMIUM 93 WITH A MINIMUM 93 AKI, AND~~
16 ~~PREMIUM 94 WITH A MINIMUM 94 AKI.~~

17 (4) The director shall establish standards for Reid vapor
18 pressure as specified by the American society for testing and
19 materials, except as otherwise required to conform to federal or
20 state law. The director shall establish the Reid vapor pressure
21 as 9.0 pounds per square inch (psi) for retail outlets during the
22 period beginning June 1 through September 15 of each year, except
23 for dispensing facilities where the director shall establish the
24 Reid vapor pressure as 7.8 psi in the year 1996 and thereafter.
25 As used in this subsection and section 10d, "Reid vapor pressure"
26 means the vapor pressure of gasoline or gasoline oxygenate blend
27 as determined by ASTM test method D323, standard test method for

HB5005, As Passed House, October 30, 2001

House Bill No. 5005

3

1 vapor pressure of petroleum products (Reid method) or test method
2 D4953, standard test method for vapor pressure of gasoline and
3 gasoline oxygenate blends (dry method).

4 (5) In establishing additive and grading standards the
5 director shall adopt the latest standards for gasoline estab-
6 lished by the American society for testing and materials and
7 shall adopt the latest standards for gasoline established by fed-
8 eral law or regulation. The standards established by the direc-
9 tor shall not prohibit a gasoline blend that is permitted by a
10 valid waiver granted by the United States environmental protec-
11 tion agency pursuant to the fuel or fuel additive waiver in sec-
12 tion 211(f)(4) of part A of title II of the clean air act, chap-
13 ter 360, 81 Stat. 502, 42 U.S.C. 7545, and the ethanol waiver of
14 1.0 psi in section 211(h)(4) of part A of title II of the clean
15 air act, chapter 360, 81 Stat. 502, 42 U.S.C. 7545, if the gaso-
16 line blend meets all of the conditions set forth in the waiver.
17 Beginning June 1, 2003, the director shall not permit the use of
18 the additive methyl tertiary butyl ether (MTBE) in this state.
19 The director, in consultation with the department of environmen-
20 tal quality, shall determine if the additive is likely to cause
21 harmful effects on the environment or public health within the
22 state. By June 1, 2002, the director, in consultation with the
23 director of the department of environmental quality, shall review
24 the status of the use of MTBE in this state. The review shall
25 include the following:

26 (a) The amount of the additive methyl tertiary butyl ether
27 (MTBE) currently in use in gasoline in this state.

HB5005, As Passed House, October 30, 2001

House Bill No. 5005

4

1 (b) An estimate of the amount of MTBE that is imported in
2 gasoline transported into this state from other states or
3 countries.

4 (c) Recommendations as to whether the June 1, 2003 prohibi-
5 tion can be achieved and, if not, determine a more feasible
6 date.

7 (d) Any other information considered appropriate.

8 (6) Standards established pursuant to this section shall be
9 by rules promulgated pursuant to the administrative procedures
10 act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

11 Sec. 4a. A storage tank at a retail outlet shall be period-
12 ically tested BY THE RETAIL DEALER to insure that the tank does
13 not have water or water-alcohol at the bottom of that tank in an
14 amount greater than 2 inches. If there is more than 2 inches of
15 water or water-alcohol at the bottom of the storage tank, gaso-
16 line shall not be sold to a consumer from that tank until the
17 water or water-alcohol level is reduced to a level of less than 2
18 inches. Adequate testing supplies, as determined by the depart-
19 ment, shall be maintained at the retail outlet and shall also be
20 made available to the department to determine the water or
21 water-alcohol level in the storage tank. The department may
22 promulgate rules pursuant to the administrative procedures act of
23 1969, ~~Act No. 306 of the Public Acts of 1969, being sections~~
24 ~~24.201 to 24.328 of the Michigan Compiled Laws~~ 1969 PA 306, MCL
25 24.201 TO 24.328, to implement this section.

26 Sec. 5. (1) Except as provided by federal law or
27 regulation, in the manufacture of gasoline at any refinery in

HB5005, As Passed House, October 30, 2001

House Bill No. 5005

5

1 this state, a refiner shall not manufacture gasoline at a
2 refinery in this state unless the gasoline meets the requirements
3 in section 3. Except as provided by federal law or regulation, a
4 blender shall not blend gasoline unless the finished blend meets
5 the requirements in section 3.

6 (2) Except as provided by federal law or regulation, a dis-
7 tributor shall not sell or transfer to any distributor, retail
8 dealer, or bulk purchaser-end user any gasoline unless that gaso-
9 line meets the requirements in section 3.

10 (3) A carrier or an employee or agent of a carrier, whether
11 operating under contract or tariff, shall not cause gasoline
12 tendered to the carrier for shipment or transfer to another car-
13 rier, distributor, or retail dealer to fail to comply, at the
14 time of delivery, with the requirements in section 3.

15 (4) A person shall not knowingly sell, dispense, or offer
16 for sale gasoline unless that gasoline meets the requirements in
17 section 3.

18 (5) A refiner or distributor shall not transfer, sell, dis-
19 pense, or offer gasoline for sale in this state to a distributor
20 unless the refiner or distributor indicates on each bill,
21 invoice, or other instrument evidencing a delivery of gasoline,
22 the name ~~and wholesale distributors license number issued pursu-~~
23 ~~ant to Act No. 150 of the Public Acts of 1927, being sections~~
24 ~~207.101 to 207.202 of the Michigan Compiled Laws,~~ of the whole-
25 sale distributor who received delivery of the gasoline.

26 (6) A distributor or refiner shall not transfer, sell,
27 dispense, or offer gasoline for sale in this state to a retail

HB5005, As Passed House, October 30, 2001

House Bill No. 5005

6

1 dealer unless the distributor indicates on each bill, invoice, or
2 other instrument evidencing a delivery of gasoline, the name and
3 license number issued pursuant to this act, of the retail dealer
4 who received delivery of the gasoline.

5 (7) A bill, invoice, or other instrument evidencing a deliv-
6 ery of gasoline issued by a refiner or distributor for deliveries
7 of gasoline to purchasers who are not required to hold a license
8 issued pursuant to ~~Act No. 150 of the Public Acts of 1927~~ THE
9 MOTOR FUEL TAX ACT, 2000 PA 403, MCL 207.1001 TO 207.1170, or
10 this act shall clearly indicate the name and address and other
11 information necessary to identify the purchaser of the gasoline.

12 (8) A bill, invoice, or other instrument evidencing a deliv-
13 ery of gasoline required by subsection (5), (6), or (7) shall
14 include a guarantee that the gasoline delivered meets the
15 requirements in section 3 and shall indicate the concentration
16 range of alcohol in the gasoline, except for alcohols or ethers
17 that have a molecular weight greater than ethanol and are not
18 mixed with methanol or ethanol, or both, and shall indicate the
19 possible presence, without regard to concentration range, of any
20 alcohols or ethers that have a molecular weight greater than eth-
21 anol and are not mixed with methanol or ethanol, or both.

22 (9) A refiner, distributor, bulk purchaser-end user, or
23 retail dealer shall not transfer, sell, dispense, or offer gaso-
24 line for sale unless that gasoline is visibly free of undissolved
25 water, sediments, and other suspended matter and is clear and
26 bright at an ambient temperature ~~of~~ OR 70 degrees Fahrenheit,
27 WHICHEVER IS GREATER.

HB5005, As Passed House, October 30, 2001

House Bill No. 5005

7

1 (10) A person who violates this section or rules promulgated
2 under this section is liable for a civil fine not to exceed
3 \$10,000.00 for each ~~and every~~ day of the continuance of the
4 violation. A civil fine ordered pursuant to this section shall
5 be submitted to the state treasurer for deposit in the gasoline
6 inspection and testing fund created by section 8.

7 Sec. 6. (1) Before a distributor or retail dealer engages
8 in transferring, selling, dispensing, or the offering for sale
9 gasoline in this state, the distributor or retail dealer shall
10 obtain a license from the department for each retail outlet oper-
11 ated by that person. In administering the licensing under this
12 section, the department may attempt to coordinate such licensing
13 with the licensing applicable to gasoline administered by the
14 department of treasury pursuant to ~~Act No. 150 of the Public~~
15 ~~Acts of 1927, being sections 207.101 to 207.202 of the Michigan~~
16 ~~Compiled Laws~~ THE MOTOR FUEL TAX ACT, 2000 PA 403, MCL 207.1001
17 TO 207.1170, and the general sales tax act, ~~Act No. 167 of the~~
18 ~~Public Acts of 1933, being sections 205.51 to 205.78 of the~~
19 ~~Michigan Compiled Laws~~ 1933 PA 167, MCL 205.51 TO 205.78.

20 (2) A license expires annually on November 30 unless renewed
21 before December 1 of each year or unless suspended, denied, or
22 revoked by the department.

23 (3) The fee for a license is \$15.00 for each year or portion
24 of a year THROUGH JULY 31, 2002, \$50.00 FOR EACH YEAR OR PORTION
25 OF A YEAR THROUGH JULY 31, 2003, \$75.00 FOR EACH YEAR OR PORTION
26 OF A YEAR THROUGH JULY 31, 2004, AND \$100.00 BEGINNING AUGUST 1,
27 2004 AND EACH YEAR OR PORTION OF A YEAR THEREAFTER. A license

HB5005, As Passed House, October 30, 2001

House Bill No. 5005

8

1 shall not be issued or renewed until the fee ~~is~~ AND ANY
2 ADMINISTRATIVE FINES ISSUED UNDER SECTION 10A HAVE BEEN paid. A
3 hearing is not required ~~prior to~~ BEFORE the refusal to issue or
4 ~~review~~ RENEW a license under this subsection. Fees collected
5 shall be deposited in the gasoline inspection and testing fund.
6 THE DEPARTMENT SHALL CONDUCT A REVIEW OF THE FEE STRUCTURE PRO-
7 VIDED BY THIS SUBSECTION AND THE STATUS OF THE GASOLINE INSPEC-
8 TION AND TESTING FUND IN THE 2003 CALENDAR YEAR AND REPORT ITS
9 RECOMMENDATIONS FOR ANY CHANGE OR ADJUSTMENT IN THE FEE SCHEDULE
10 TO THE HOUSE AND SENATE TRANSPORTATION COMMITTEES NOT LATER THAN
11 JANUARY 1, 2004.

12 (4) An application for a license shall be made to the
13 department upon a form furnished by the department. The com-
14 pleted form shall contain the information requested by the
15 department and shall be accompanied by the fee specified in sub-
16 section (3).

17 (5) The director may suspend, deny, or revoke a license
18 issued pursuant to this act for failure to comply with the
19 requirements provided for in section 3, for failure to provide
20 notice as provided in section 4, for violating section 31 of the
21 weights and measures act of 1964, ~~Act No. 283 of the Public Acts~~
22 ~~of 1964, being section 290.631 of the Michigan Compiled Laws~~
23 1964 PA 283, MCL 290.631, if that violation occurs at any of the
24 licensee's retail outlets and involves the transferring, selling,
25 dispensing, or the offering for sale of gasoline in this state,
26 or for otherwise failing to comply with this act or a rule
27 promulgated under this act or an order issued under this act.

HB5005, As Passed House, October 30, 2001

House Bill No. 5005

9

1 (6) This section does not apply until June 29, 1985.

2 (7) If a person licensed under this act is convicted of a
3 willful violation under section 31 of the weights and measures
4 act of 1964, ~~Act No. 283 of the Public Acts of 1964~~ 1964 PA
5 283, MCL 290.631, any license issued pursuant to this act shall
6 be revoked for 2 years.

7 (8) A suspension, revocation, or denial of a license of a
8 person who is an individual shall result in the suspension, revo-
9 cation, or denial of any other license held or applied for by
10 that individual under this act. The license of a corporation,
11 partnership, or other association shall be suspended when a
12 license or license application of a partner, trustee, director,
13 or officer, member, or a person exercising control of the corpo-
14 ration, partnership, or other association is suspended, revoked,
15 or denied. The suspension shall remain in force until the direc-
16 tor determines that the disability created by the suspension,
17 revocation, or denial has been removed.

18 (9) Before a blender engages in the transferring, selling,
19 dispensing, or offering for sale blended gasoline in this state,
20 the blender shall register the finished product with the depart-
21 ment and provide to the department test results as the department
22 considers necessary. If the product does not comply with the
23 requirements of section 3, the blender shall provide the depart-
24 ment with a written list of the business names and addresses to
25 whom the blended product is sold.

26 Sec. 9i. (1) A dispensing facility constructed after
27 November 15, 1990, shall obtain a dispensing permit. ~~from the~~

HB5005, As Passed House, October 30, 2001

House Bill No. 5005

10

1 ~~department within 180 days of the effective date of this~~
2 ~~section. A dispensing facility dispensing 100,000 gallons or~~
3 ~~more of gasoline a month shall obtain a dispensing permit from~~
4 ~~the department within 1 year of the effective date of this~~
5 ~~section. A dispensing facility dispensing less than 100,000 gal-~~
6 ~~lons of gasoline a month shall obtain a dispensing permit from~~
7 ~~the department within 2 years of the effective date of this~~
8 ~~section. The fee for a dispensing permit is \$25.00 for each year~~
9 ~~or portion of a year.~~

10 (2) Before a dispensing permit is issued, a dispensing
11 facility shall install an approved stage I and, IF REQUIRED,
12 stage II vapor-recovery system and, in addition to the fee for
13 the dispensing permit, shall pay a registration fee for each dis-
14 pensing unit located at the dispensing facility. A permit shall
15 not be issued or renewed until all fees AND ADMINISTRATIVE FINES
16 ISSUED UNDER SECTION 10A are paid. A hearing shall not be
17 required ~~prior to~~ BEFORE the refusal to issue or renew a permit
18 under this subsection.

19 (3) A dispensing permit expires annually on November 30
20 unless renewed before December 1 of each year or unless sus-
21 pended, denied, or revoked by the department. Application for a
22 dispensing permit shall be made on a form furnished by the
23 department. The completed form shall contain the information
24 requested by the department and shall be accompanied by the fees
25 specified.

26 (4) The director may suspend, deny, or revoke a dispensing
27 permit issued pursuant to this act for failure to pay the fee

HB5005, As Passed House, October 30, 2001

House Bill No. 5005

11

1 required by subsection (1) or (2), or for failure to comply with
2 the requirements of sections 9a to 10c.

3 (5) A fee shall be charged to the operator of stage I and
4 stage II vapor-recovery or gasoline-dispensing equipment for its
5 inspection if any of the following occur:

6 (a) The inspection is a reinspection of equipment that has
7 already been tested and found to contain a substantial defect as
8 defined under section 9c.

9 (b) The inspection is performed at the request of the
10 operator.

11 (6) The department shall establish the fees and expenses for
12 special services, including the fee for an operator requested
13 inspection or reinspection, for registrations, for training
14 courses, and for accreditation of a trainer, to provide that each
15 fee is sufficient to cover the cost of an operator requested
16 inspection, reinspection, registration, training, or trainer
17 accreditation, respectively, and that the aggregate of all fees
18 collected is sufficient to pay for all salaries and other
19 expenses connected with the activity. The department shall
20 review and adjust the fees at the end of each year and have all
21 fees approved by the director before they are adopted. Fees col-
22 lected under this section shall be deposited in the gasoline
23 inspection and testing fund and reserved for conducting the
24 vapor-recovery program.

25 Sec. 10a. (1) A person who individually, or by the action
26 of his or her agent or employee, or as the agent or employee of
27 another violates this act or a rule promulgated under this act is

HB5005, As Passed House, October 30, 2001

House Bill No. 5005

12

1 subject to an administrative fine. Upon the request of a person
2 to whom an administrative fine is issued, the director shall con-
3 duct a hearing conducted pursuant to the administrative proce-
4 dures act of 1969, ~~Act No. 306 of the Public Acts of 1969, being~~
5 ~~sections 24.201 to 24.328 of the Michigan Compiled Laws~~ 1969 PA
6 306, MCL 24.201 TO 24.328. A fine authorized by this section
7 shall be as follows:

8 (a) For a first violation, not less than ~~-\$50.00~~ \$100.00 or
9 more than ~~-\$100.00~~ \$500.00, plus actual costs of the investiga-
10 tion and DOUBLE the amount of any economic benefit associated
11 with the violation.

12 (b) For a second violation within ~~2~~ 5 years ~~of~~ AFTER the
13 first violation, not less than ~~-\$100.00~~ \$500.00 or more than
14 ~~-\$250.00~~ \$1,000.00, plus actual costs of the investigation and
15 DOUBLE the amount of any economic benefit associated with the
16 violation.

17 (c) For a third violation within ~~2~~ 5 years ~~from~~ AFTER
18 the date of the first violation, not less than ~~-\$250.00~~
19 \$1,000.00 or more than ~~\$500.00~~ \$2,000.00, plus actual costs of
20 the investigation and DOUBLE the amount of any economic benefit
21 associated with the violation.

22 (2) A decision of the director under this section is subject
23 to judicial review as provided by law.

24 (3) The director shall advise the attorney general of the
25 failure of any person to pay an administrative fine imposed under
26 this section. The attorney general shall bring an action in
27 court of competent jurisdiction to recover the fine.

HB5005, As Passed House, October 30, 2001

House Bill No. 5005

13

1 (4) Any administrative fine, costs, and the recovery of any
2 economic benefit associated with a violation collected under this
3 section shall be paid to the state treasury and deposited into
4 the gasoline inspection and testing fund.

5 Sec. 10b. (1) A person who individually, or by the action
6 of his or her agent or employee, or as the agent or employee of
7 another, performs any of the following is guilty of a misdemeanor
8 punishable by imprisonment for not more than 90 days, or a fine
9 of not less than \$1,000.00 or more than \$2,000.00, or both:

10 (a) Renders less effective or inoperable any part of a stage
11 I or stage II vapor-recovery system.

12 (b) Makes a false statement, representation, or certifica-
13 tion ~~in any~~ ON AN application, report, plan, LABEL, or other
14 document that is required to be maintained under this act or
15 rules promulgated under this act.

16 (c) Fails to disclose to the department any knowledge or
17 information relating to or observation of any modification of a
18 stage I or stage II vapor-recovery system which makes the system
19 less effective or inoperable, or falsification of records
20 required to be maintained under this act or rules promulgated
21 under this act.

22 (d) Removes a tag, seal, or mark placed on a dispensing
23 device by the director.

24 (e) Violates this act or a rule promulgated under this act
25 for which a specific penalty is not prescribed.

26 (2) A person who individually, or by the action of his or
27 her agent or employee, or as the agent or employee of another,

HB5005, As Passed House, October 30, 2001

House Bill No. 5005

14

1 performs any of the following acts is guilty of a misdemeanor
2 punishable by imprisonment for not more than 90 days, or a fine
3 of not less than \$2,000.00 or more than ~~\$5,000.00~~ \$10,000.00,
4 or both:

5 (a) Violates a prohibited act listed in this section within
6 24 months ~~of~~ AFTER another violation of this section that
7 results in a conviction.

8 (b) Impersonates in any way the director or any department
9 inspector.

10 (3) A person who individually, or by the action of his or
11 her agent or employee, or as the agent or employee of another,
12 performs any of the following acts is guilty of a felony punish-
13 able by imprisonment for not more than 2 years, or a fine of not
14 less than ~~\$5,000.00~~ \$10,000.00 or more than ~~\$10,000.00~~
15 \$15,000.00, or both:

16 (a) Intentionally commits a prohibited act under this
17 section.

18 (b) Violates a prohibited act listed in this section within
19 24 months ~~of~~ AFTER 2 previous violations of this section that
20 result in convictions.

21 (4) If a violation of this section results in a conviction,
22 the court shall assess against the defendant the costs of the
23 department's investigation, and these costs shall be paid to the
24 state treasury and deposited in the gasoline inspection and test-
25 ing fund to be used for the enforcement of this act.

HB5005, As Passed House, October 30, 2001

House Bill No. 5005

15

1 Enacting section 1. Except as otherwise provided in this
2 amendatory act, this amendatory act takes effect January 1,
3 2002.