

# HOUSE BILL No. 5120

September 6, 2005, Introduced by Reps. Sheltroun, Kehrl, Vagnozzi, Lemmons, Jr., Brown, Adamini, McDowell, Byrum, Meisner, Alma Smith, Hopgood, Williams, Zelenko, Leland, Mayes, Clemente, Tobocman, Polidori, Farrah, Lipsey, Kolb, Byrnes, Bennett, Kathleen Law, Espinoza and Lemmons, III and referred to the Committee on Agriculture.

A bill to amend 1984 PA 44, entitled  
"Motor fuels quality act,"  
by amending sections 2, 3, and 5 (MCL 290.642, 290.643, and  
290.645), section 2 as amended by 1993 PA 236 and sections 3 and 5  
as amended by 2002 PA 13.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 2. As used in this act:

2           (a) "Additive" means any substance in gasoline other than  
3 gasoline but does not include approved blending components, other  
4 than lead, sodium, and phosphate components, introduced at  
5 refineries or terminals as octane or product quality enhancers in  
6 quantities of less than 1% of volume.

7           (b) "American society for testing and materials" means an

1 international nonprofit scientific and educational society devoted  
2 to the promotion of knowledge of the materials of engineering and  
3 the standardization of specification and methods of testing.

4 (c) "Antiknock index" or "AKI" means an index number arrived  
5 at by adding the motor octane number and the research octane  
6 number, then dividing by 2.

7 (D) "BIODIESEL" MEANS A FUEL COMPOSED OF MONO-ALKYL ESTERS OF  
8 LONG CHAIN FATTY ACIDS DERIVED FROM VEGETABLE OILS OR ANIMAL FATS,  
9 AND, IN ACCORDANCE WITH STANDARDS SPECIFIED BY THE AMERICAN SOCIETY  
10 FOR TESTING AND MATERIALS, DESIGNATED B100, AND MEETING THE  
11 REQUIREMENTS OF D-6751, AS APPROVED BY THE DEPARTMENT.

12 (E) ~~(d)~~ "Blender" means a person who as an individual or  
13 through his or her agent adds an oxygenate to a gasoline.

14 (F) ~~(e)~~ "Bulk purchaser-end user" means a person who is an  
15 ultimate consumer of gasoline and receives delivery of gasoline  
16 into a storage tank of at least 550-gallon capacity substantially  
17 under his or her control.

18 (G) ~~(f)~~ "CARB" means the California air resources board.

19 (H) ~~(g)~~ "Delivery vessel" means a tank truck, tank equipped  
20 trailer, or a similar vessel used for the delivery of gasoline to a  
21 dispensing facility.

22 (I) ~~(h)~~ "Department" means the department of agriculture.

23 (J) "DIESEL FUEL" MEANS ANY LIQUID OTHER THAN GASOLINE THAT IS  
24 CAPABLE OF USE AS A FUEL OR A COMPONENT OF A FUEL IN A MOTOR  
25 VEHICLE THAT IS PROPELLED BY A DIESEL-POWERED ENGINE OR IN A  
26 DIESEL-POWERED TRAIN.

27 (K) ~~(i)~~ "Director" means the director of the department of

1 agriculture or his or her authorized representative.

2       (I) ~~(j)~~ "Dispensing facility" means a site used for vehicle  
3 gasoline refueling that is located in an area of this state that  
4 has been designated as ozone nonattainment and classified as  
5 moderate, serious, severe, or extreme by the E.P.A. pursuant to 40  
6 C.F.R.— **CFR** section 81.323, November 6, 1991. Dispensing facility  
7 does not include a facility used exclusively for the refueling of  
8 aircraft, watercraft, or vehicles that are designed for  
9 agricultural purposes and used exclusively in agricultural  
10 operations.

11       (M) ~~(k)~~ "Dispensing unit" means a device designed for the  
12 delivery of gasoline in which 1 nozzle equates to 1 dispensing  
13 unit.

14       (N) ~~(l)~~ "Distributor" means a person who purchases,  
15 transports, or stores or causes the transportation or storage of  
16 gasoline at any point between a gasoline refinery and a retail  
17 outlet or bulk purchaser-end user facility.

18       (O) ~~(m)~~ "E.P.A." means the United States environmental  
19 protection agency.

20       (P) ~~(n)~~ "Gasoline" means any fuel sold in this state that is  
21 suitable for use in spark-ignition internal combustion engines, and  
22 commonly or commercially known or sold as gasoline.

23       (Q) ~~(o)~~ "Leak" means liquid or vapor loss from the gasoline  
24 dispensing system or stage I or stage II vapor-recovery system as  
25 determined by visual inspection or functional testing.

26       (R) ~~(p)~~ "Modification" means any change, removal, or  
27 addition, other than an identical replacement, of any component

1 contained within a stage I or stage II vapor-recovery system. The  
2 resultant modification must constitute an approved vapor-recovery  
3 system.

4 (S) ~~(q)~~ "Motor octane number" or "MON" means a knock  
5 characteristic of gasoline determined by use of standard procedures  
6 on a motor engine.

7 (T) ~~(r)~~ "Operator" means a person who owns, leases,  
8 operates, manages, supervises, or controls, directly or indirectly,  
9 a gasoline-dispensing facility.

10 (U) ~~(s)~~ "Oxygenate" means an oxygen-containing, ashless,  
11 organic compound, such as alcohol or ether, that may be used as  
12 fuel or fuel supplement.

13 (V) ~~(t)~~ "Person" means an individual, sole proprietorship,  
14 partnership, corporation, association, or other legal entity.

15 (W) ~~(u)~~ "Refiner" means a person who owns, leases, operates,  
16 controls, or supervises a refinery.

17 (X) ~~(v)~~ "Refinery" means a plant at which gasoline **OR DIESEL**  
18 **FUEL** is produced.

19 (Y) ~~(w)~~ "Research octane number" or "RON" means a knock  
20 characteristic of gasoline determined by use of standard procedures  
21 on a research engine.

22 (Z) ~~(x)~~ "Retail dealer" means a person who owns, leases,  
23 operates, controls, or supervises a retail outlet.

24 (AA) ~~(y)~~ "Retail outlet" means an establishment at which  
25 gasoline is sold or offered for sale to the public.

26 (BB) ~~(z)~~ "Rule" means a rule promulgated pursuant to the  
27 administrative procedures act of 1969, ~~Act No. 306 of the Public~~

1 ~~Acts of 1969, being sections 24.201 to 24.328 of the Michigan~~  
2 ~~Compiled Laws~~ **1969 PA 306, MCL 24.201 TO 24.328.**

3 **(CC)** ~~—(aa)—~~ "Stage I vapor-recovery system" means a vapor  
4 tight collection system that is approved by the department and is  
5 designed to capture the gasoline vapors displaced during delivery  
6 into a stationary storage tank and to return not less than 90% of  
7 the displaced vapors to the delivery vessel.

8 **(DD)** ~~—(bb)—~~ "Stage II vapor-recovery system" means a gasoline-  
9 dispensing system approved by the department that prevents 95% or  
10 more of the volatile organic compounds from being emitted during  
11 gasoline refueling.

12 Sec. 3. (1) The director shall establish standards pursuant to  
13 this act to ensure the purity and quality of gasoline **AND DIESEL**  
14 **FUEL** sold or offered for sale in this state.

15 (2) The director shall establish standards for the amount and  
16 type of additives allowed to be included in gasoline **AND DIESEL**  
17 **FUEL.**

18 (3) The director shall establish standards for the grading of  
19 gasoline, including, but not limited to, subregular with a minimum  
20 85 AKI, regular with a minimum 87 AKI and a minimum 82 MON,  
21 midgrade 88 with a minimum 88 AKI and a minimum 82 MON, midgrade 89  
22 with a minimum 89 AKI and a minimum 83 MON, premium with a minimum  
23 90 AKI, premium 91 with a minimum 91 AKI, premium 92 with a minimum  
24 92 AKI, premium 93 with a minimum 93 AKI, and premium 94 with a  
25 minimum 94 AKI.

26 (4) The director shall establish standards for Reid vapor  
27 pressure as specified by the American society for testing and

1 materials, except as otherwise required to conform to federal or  
2 state law. The director shall establish the Reid vapor pressure as  
3 9.0 pounds per square inch (psi) for retail outlets during the  
4 period beginning June 1 through September 15 of each year, except  
5 for dispensing facilities where the director shall establish the  
6 Reid vapor pressure as 7.8 psi in the year 1996 and thereafter. As  
7 used in this subsection and section 10d, "Reid vapor pressure"  
8 means the vapor pressure of gasoline or gasoline oxygenate blend as  
9 determined by ASTM test method D323, standard test method for vapor  
10 pressure of petroleum products (Reid method) or test method D4953,  
11 standard test method for vapor pressure of gasoline and gasoline  
12 oxygenate blends (dry method).

13 (5) In establishing additive and grading standards the  
14 director shall adopt the latest standards for gasoline established  
15 by the American society for testing and materials and shall adopt  
16 the latest standards for gasoline established by federal law or  
17 regulation. The standards established by the director shall not  
18 prohibit a gasoline blend that is permitted by a valid waiver  
19 granted by the United States environmental protection agency  
20 pursuant to the fuel or fuel additive waiver in section 211(f)(4)  
21 of part A of title II of the clean air act, ~~chapter 360, 81 Stat.~~  
22 ~~502, 42 U.S.C. USC 7545~~, and the ethanol waiver of 1.0 psi in  
23 section 211(h)(4) of part A of title II of the clean air act,  
24 ~~chapter 360, 81 Stat. 502, 42 U.S.C. USC 7545~~, if the gasoline  
25 blend meets all of the conditions set forth in the waiver.  
26 Beginning June 1, 2003, the director shall not permit the use of  
27 the additive methyl tertiary butyl ether (MTBE) in this state. The

1 director, in consultation with the department of environmental  
2 quality, shall determine if the additive is likely to cause harmful  
3 effects on the environment or public health within the state. By  
4 June 1, 2002, the director, in consultation with the director of  
5 the department of environmental quality, shall review the status of  
6 the use of MTBE in this state. The review shall include the  
7 following:

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

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

13 (c) Recommendations as to whether the June 1, 2003 prohibition  
14 can be achieved and, if not, determine a more feasible date.

15 (d) Any other information considered appropriate.

16 (6) THE DIRECTOR SHALL ESTABLISH STANDARDS PURSUANT TO THIS  
17 ACT TO ENSURE THE PURITY AND QUALITY OF DIESEL FUEL SOLD OR OFFERED  
18 FOR SALE IN THIS STATE. BEGINNING JUNE 30, 2006, THE DIRECTOR SHALL  
19 DETERMINE THE ANNUAL CAPACITY FOR THE PRODUCTION OF BIODIESEL FUEL  
20 IN THIS STATE AND, WITHIN 30 DAYS OF MAKING THE DETERMINATION,  
21 SHALL PUBLISH THE ANNUAL CAPACITY FOR THE PRODUCTION OF BIODIESEL  
22 FUEL IN THIS STATE. BEGINNING DECEMBER 31, 2006, WITHIN 30 DAYS OF  
23 THE PUBLICATION THAT THE ANNUAL CAPACITY FOR THE PRODUCTION OF  
24 BIODIESEL FUEL IN THIS STATE IS GREATER THAN 12,000,000 GALLONS,  
25 STANDARDS FOR DIESEL FUEL SOLD OR OFFERED FOR SALE IN THIS STATE  
26 SHALL INCLUDE A REQUIREMENT THAT THE COMPOSITION OF DIESEL FUEL  
27 SOLD IN THIS STATE INCLUDE AT LEAST 5% BIODIESEL. THIS MINIMUM

1 **CONTENT REQUIREMENT DOES NOT APPLY TO DIESEL FUEL SOLD FOR USE IN**  
2 **RAILROAD LOCOMOTIVES OR TO DIESEL FUEL SOLD FOR USE IN OFF-ROAD**  
3 **TACONITE AND COPPER MINING EQUIPMENT AND MACHINERY.**

4 (7) ~~(6)~~ Standards established pursuant to this section shall  
5 be by rules promulgated pursuant to the administrative procedures  
6 act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

7 Sec. 5. (1) Except as provided by federal law or regulation,  
8 in the manufacture of gasoline **OR DIESEL FUEL** at any refinery in  
9 this state, a refiner shall not manufacture gasoline **OR DIESEL FUEL**  
10 at a refinery in this state unless the gasoline **OR DIESEL FUEL**  
11 meets the requirements in section 3. Except as provided by federal  
12 law or regulation, a blender shall not blend gasoline unless the  
13 finished blend meets the requirements in section 3.

14 (2) Except as provided by federal law or regulation, a  
15 distributor shall not sell or transfer to any distributor, retail  
16 dealer, or bulk purchaser-end user any gasoline **OR DIESEL FUEL**  
17 unless that gasoline **OR DIESEL FUEL** meets the requirements in  
18 section 3.

19 (3) A carrier or an employee or agent of a carrier, whether  
20 operating under contract or tariff, shall not cause gasoline **OR**  
21 **DIESEL FUEL** tendered to the carrier for shipment or transfer to  
22 another carrier, distributor, or retail dealer to fail to comply,  
23 at the time of delivery, with the requirements in section 3.

24 (4) A person shall not knowingly sell, dispense, or offer for  
25 sale gasoline **OR DIESEL FUEL** unless that gasoline **OR DIESEL FUEL**  
26 meets the requirements in section 3.

27 (5) A refiner or distributor shall not transfer, sell,



1 dispense, or offer gasoline for sale in this state to a distributor  
2 unless the refiner or distributor indicates on each bill, invoice,  
3 or other instrument evidencing a delivery of gasoline, the name of  
4 the wholesale distributor who received delivery of the gasoline.

5 (6) A distributor or refiner shall not transfer, sell,  
6 dispense, or offer gasoline for sale in this state to a retail  
7 dealer unless the distributor indicates on each bill, invoice, or  
8 other instrument evidencing a delivery of gasoline, the name and  
9 license number issued pursuant to this act, of the retail dealer  
10 who received delivery of the gasoline.

11 (7) A bill, invoice, or other instrument evidencing a delivery  
12 of gasoline issued by a refiner or distributor for deliveries of  
13 gasoline to purchasers who are not required to hold a license  
14 issued pursuant to the motor fuel tax act, 2000 PA 403, MCL  
15 207.1001 to 207.1170, or this act shall clearly indicate the name  
16 and address and other information necessary to identify the  
17 purchaser of the gasoline.

18 (8) A bill, invoice, or other instrument evidencing a delivery  
19 of gasoline required by subsection (5), (6), or (7) shall include a  
20 guarantee that the gasoline delivered meets the requirements in  
21 section 3 and shall indicate the concentration range of alcohol in  
22 the gasoline, except for alcohols or ethers that have a molecular  
23 weight greater than ethanol and are not mixed with methanol or  
24 ethanol, or both, and shall indicate the possible presence, without  
25 regard to concentration range, of any alcohols or ethers that have  
26 a molecular weight greater than ethanol and are not mixed with  
27 methanol or ethanol, or both.

1           (9) A refiner, distributor, bulk purchaser-end user, or retail  
2 dealer shall not transfer, sell, dispense, or offer gasoline for  
3 sale unless that gasoline is visibly free of undissolved water,  
4 sediments, and other suspended matter and is clear and bright at an  
5 ambient temperature or 70 degrees Fahrenheit, whichever is greater.

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