

By: Holland (By Request)

To: Agriculture

HOUSE BILL NO. 730

1 AN ACT TO AMEND SECTION 75-55-3, MISSISSIPPI CODE OF 1972, TO
2 CLARIFY THE DUTIES OF THE COMMISSIONER OF AGRICULTURE AND THE
3 STATE CHEMIST REGARDING ENFORCEMENT OF THE PETROLEUM PRODUCTS
4 INSPECTION LAW; TO CREATE A NEW CODE SECTION TO BE CODIFIED AS
5 SECTION 75-55-4, MISSISSIPPI CODE OF 1972, TO PROVIDE DEFINITIONS;
6 TO AMEND SECTION 75-55-5, MISSISSIPPI CODE OF 1972, TO PROVIDE THE
7 STANDARDS AND SPECIFICATIONS REQUIRED FOR SALE OF GASOLINE OR
8 OTHER PETROLEUM PRODUCTS; TO AMEND SECTION 75-55-6, MISSISSIPPI
9 CODE OF 1972, TO PROVIDE LICENSE FEES FOR PERSONS ENGAGING IN THE
10 WHOLESALE OR RETAIL SALE OF GASOLINE OR OTHER PETROLEUM PRODUCTS;
11 TO PROVIDE CERTAIN LABELING REQUIREMENTS ON PUMPS DISPENSING MOTOR
12 FUEL; TO AMEND SECTION 75-55-7, MISSISSIPPI CODE OF 1972, TO
13 PROVIDE EXEMPTIONS; TO AMEND SECTION 75-55-9, MISSISSIPPI CODE OF
14 1972, TO PROVIDE COLOR CODING REQUIREMENTS FOR STORAGE TANKS
15 REPRESENTING THE VARIOUS GRADES OF PETROLEUM PRODUCTS; TO AMEND
16 SECTIONS 75-55-11, 75-55-13, 75-55-15 AND 75-55-19, MISSISSIPPI
17 CODE OF 1972, TO INCLUDE OXYGENATED GASOLINE BLENDS UNDER THE
18 REGULATION OF THIS CHAPTER; TO AMEND SECTION 75-55-21, MISSISSIPPI
19 CODE OF 1972, TO PROVIDE LABELING REQUIREMENTS FOR ALTERNATIVE
20 FUELS THAT CLAIM A HIGHER STANDARD; TO AMEND SECTION 75-55-22,
21 MISSISSIPPI CODE OF 1972, TO REQUIRE A LICENSE FEE FOR CERTAIN
22 PERSONS WHO BLEND OR MIX OXYGENATED GASOLINE BLENDS FOR SALE IN
23 THIS STATE; TO AMEND SECTION 75-55-23, MISSISSIPPI CODE OF 1972,
24 TO EXPAND THE INSPECTION AUTHORITY OF THE COMMISSIONER OF
25 AGRICULTURE; TO AMEND SECTION 75-55-27, MISSISSIPPI CODE OF 1972,
26 TO REQUIRE THAT CERTAIN RETAIL STATION PUMP METERS SHALL NOT
27 DISPENSE MORE THAN ONE PRODUCT AND THAT PETROLEUM PRODUCTS SHALL
28 BE KEPT ENTIRELY SEPARATE FROM EACH OTHER; TO AMEND SECTION
29 75-55-29, MISSISSIPPI CODE OF 1972, TO GIVE THE STATE CHEMIST
30 AUTHORITY TO ESTABLISH RULES AND REGULATIONS IN CONNECTION WITH
31 THE ANALYSIS OF SAMPLES AND THE OPERATION OF THE PETROLEUM
32 PRODUCTS LABORATORY; TO AMEND SECTION 75-55-37, MISSISSIPPI CODE
33 OF 1972, TO REQUIRE A LICENSED PETROLEUM EQUIPMENT REPAIRMAN TO BE
34 PRESENT BEFORE A PUMP MAY BE UNLOCKED OR THE SEAL BROKEN FOR THE
35 PURPOSE OF REPAIR OF THE PUMP; TO AMEND SECTION 75-55-38,
36 MISSISSIPPI CODE OF 1972, TO DELETE THE PENALTIES FOR VIOLATIONS
37 OF LICENSING PROVISIONS; TO CREATE A NEW CODE SECTION TO BE
38 CODIFIED AS SECTION 75-55-43, MISSISSIPPI CODE OF 1972, TO PROVIDE
39 PENALTIES FOR VIOLATIONS; TO CREATE A NEW CODE SECTION TO BE

40 CODIFIED AS SECTION 75-55-45, MISSISSIPPI CODE OF 1972, TO PROVIDE
41 COMPLAINT AND HEARING PROCEDURES FOR VIOLATORS; AND FOR RELATED
42 PURPOSES.

43 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

44 SECTION 1. Section 75-55-3, Mississippi Code of 1972, is
45 amended as follows:

46 75-55-3. (1) The Commissioner of Agriculture and Commerce,
47 hereinafter referred to as the "commissioner," is vested with
48 power and authority and is charged with the duty of administering
49 all the provisions of this chapter except for those specifically
50 assigned herein to the State Chemist. The commissioner may adopt
51 such rules and regulations as he deems necessary or desirable to
52 carry out the provisions of this chapter.

53 (2) The commissioner and the State Chemist shall have joint
54 authority for setting specifications of petroleum products and
55 shall have the authority to establish rules and regulations in
56 connection with the enforcement of this chapter.

57 (3) The commissioner may publish the names and addresses and
58 such other information as he deems appropriate for persons found
59 guilty of violating the provisions of this chapter.

60 SECTION 2. The following section shall be codified as
61 Section 75-55-4, Mississippi Code of 1972:

62 75-55-4. The words, terms and phrases as used in this
63 chapter shall have the following meanings, unless the context
64 requires otherwise:

65 (a) The term "API" means the American Petroleum
66 Institute.

67 (b) The term "ASTM" means the American Society for
68 Testing and Materials.

69 (c) The term "approved lead substitute" means an EPA
70 registered gasoline additive formulated to reduce valve seat
71 recession in engines designed to operate on leaded gasoline.

72 (d) The term "commissioner" means the Commissioner of

73 the Mississippi Department of Agriculture and Commerce, his agents
74 and employees.

75 (e) The term "cetane number" means the relative
76 ignition quality of diesel fuels as determine by ASTM Cetane
77 Method D 613, Test Method for Cetane Number of Diesel Fuel Oil.

78 (f) The term "denatured fuel ethanol" means ethanol
79 (ethyl alcohol) meeting the provisions of ASTM D 4806, Standard
80 Specification for Denatured Fuel ethanol to be Blended with
81 Gasolines for Use as an Automotive Spark-Ignition Fuel.

82 (g) The term "department" means the Mississippi
83 Department of Agriculture and Commerce.

84 (h) The term "diesel fuel" means any petroleum product
85 intended for use or offered for sale as a fuel for engines in
86 which the fuel is injected into the combustion chamber and ignited
87 by pressure without the presence of an electric spark.

88 (i) The term "diesel fuel pump" includes pumps, meters
89 and all measuring devices used for measuring diesel fuel.

90 (j) The term "distributor" means any person who
91 transports, stores, or causes the transportation or storage of
92 gasoline or any petroleum product at any point between any
93 gasoline refinery or importer's facility and any retail outlet or
94 wholesale purchaser-consumer's facility.

95 (k) The term "EPA" means the United States
96 Environmental Protection Agency.

97 (l) The term "gasohol" means any gasoline containing a
98 nominal ten (10) volume percent anhydrous denatured fuel ethanol
99 and ninety (90) volume percent unleaded gasoline, regardless of
100 other name, label, or designation.

101 (m) The term "gasoline" means (I) all products commonly
102 or commercially known or sold as gasoline (excluding casing-head
103 and absorption or natural gasoline) regardless of their
104 classification or other uses; and (ii) a volatile mixture of
105 either liquid hydrocarbons only or of liquid hydrocarbons with
106 oxygenate(s), generally containing small amounts of additives
107 suitable for use a fuel in a spark ignition, internal combustion
108 engine.

109 (n) The term "gasoline pump" includes pumps, meters and
110 all measuring devices used for measuring gasoline and all
111 oxygenated blended fuels.

112 (o) The term "illuminating oil" includes coal oil,
113 kerosene or other petroleum products used for illuminating
114 purposes.

115 (p) The term "kerosene pump" includes pumps, meters and
116 all measuring devices used for measuring kerosene.

117 (q) The term "liquefied compressed gas pump" includes
118 pumps, meters and all measuring devices used for measuring
119 liquefied compressed gas.

120 (r) The term "lubricating oil" means all petroleum
121 based oils or synthetic lubricants intended for use in the
122 crankcase of an internal combustion engine, either spark ignition
123 or diesel type. The purpose of the lubricating oil is to reduce
124 friction between two (2) solid surfaces moving relative to one
125 another.

126 (s) The term "motor octane number" means the number
127 describing the relative antiknock characteristic of a motor fuel
128 determined by ASTM D 2700, Test Method for Knock Characteristics

129 of Motor and Aviation Fuels by the Motor Method.

130 (t) The term "nonoxygenated gasoline" means any
131 gasoline which does not meet the definition of oxygenated
132 gasoline.

133 (u) The term "octane number or antiknock index" means
134 the number obtained by adding the research octane number and the
135 motor octane number and dividing the sum by two (2).

136 (v) The term "oil" as used in this chapter includes
137 diesel fuel, kerosene, fuel oil, distillate, gas oil, or any other
138 product other than gasoline, as defined in this chapter, which is
139 usable as fuel in an internal combustion engine, and any product
140 which, on distillation in accordance with the method of test of
141 the American Society for Testing and Materials shows not more than
142 ten percent (10%) recovered when the thermometer shows two hundred
143 sixty-one (261) degrees Fahrenheit; and not more than ninety-five
144 percent (95%) recovered when the thermometer shows four hundred
145 sixty-five (465) degrees Fahrenheit or more; provided that nothing
146 in this paragraph shall be construed to include oils received or
147 sold as lubricants when such oils cannot be used as a fuel in
148 internal combustion engines.

149 (w) The term "oxygenate blending facility" means any
150 facility at which the oxygen content of gasoline is altered,
151 excluding retail outlets, and wholesale purchaser-consumer
152 facilities.

153 (x) The term "oxygen content of gasoline" means the
154 percentage of oxygen by weight contained in a gasoline, based upon
155 its percentage oxygenate by volume, excluding denaturants and
156 other nonoxygen-containing components with all measurements

157 adjusted to sixty (60) degrees Fahrenheit.

158 (y) The term "oxygenate" means any substance which,
159 when added to gasoline, increases the amount of oxygen in that
160 gasoline, and which has been approved by The EPA for use in
161 gasoline. An oxygenate is an oxygen-containing, ashless organic
162 compound which may be used as a fuel supplement or additive and
163 includes alcohols and ethers. An oxygenated gasoline blend is a
164 hydrocarbon gasoline containing one or more oxygenates.

165 (z) The term "person" means any individual, firm,
166 partnership, joint venture, association, corporation, distributor,
167 wholesaler, terminal or any other business entity.

168 (aa) The term "petroleum products" means products
169 obtained from distilling and processing of crude oil, unfinished
170 oils, recycled oils, natural gas liquids, refinery blend stocks
171 and other miscellaneous hydrocarbon compounds, including, but not
172 limited to, gasoline, oxygenated gasoline blends, kerosene and
173 diesel fuel.

174 (bb) The term "State Chemist" means the Director of the
175 Mississippi State Chemical Laboratory, or his agents and
176 employees.

177 (cc) The term "terminal" means a facility which is
178 capable of receiving gasoline in bulk, by pipeline, marine vessel,
179 tank truck or barge, or at which gasoline is altered either in
180 quantity or quality, excluding the addition of deposit control
181 additives.

182 (dd) The term "total oxygenate content" means the
183 aggregate total in volume percent of all oxygenates contained in
184 any fuel defined in this law.

185 (ee) The term "unleaded" means any gasoline or
186 gasoline-oxygenate blend to which no lead or phosphorus compounds
187 have been intentionally added and which contains not more than
188 five one-hundredth (0.05) gram lead per U. S. gallon (thirteen
189 one-thousandths (0.013) gram lead per liter) and not more than
190 five one-thousandths (0.005) gram phosphorus per U. S. gallon
191 (thirteen ten-thousandths (0.0013) gram phosphorus per liter).

192 (ff) The term "wholesale purchaser-consumer" means any person who
193 is an ultimate consumer of gasoline, fuel methanol, fuel ethanol,
194 diesel fuel, biodiesel, fuel oil, kerosene, aviation turbine
195 fuels, natural gas, compressed gas, or liquefied petroleum gas who
196 purchases or obtains gasoline from a supplier for use in motor
197 vehicles and receives delivery of that product into a storage
198 tank.

199 SECTION 3. Section 75-55-5, Mississippi Code of 1972, is
200 amended as follows:

201 75-55-5. No person shall sell or offer for sale any gasoline
202 or any of the other petroleum products described in this section
203 unless such products meet the standards and specifications
204 described below:

205 (a) **Gasoline.** Gasoline shall be free of undissolved
206 water, suspended matter and of any harmful ingredient or
207 component. Gasoline shall conform to the requirements of the
208 current ASTM D 4814, Standard Specification for Automotive
209 Spark-Ignition Engine fuel. The intent of this chapter is that
210 requirements shall be kept current with subsequent amendments and
211 editions of ASTM D 4814. Federal or state regulations shall
212 preempt these specifications where applicable. The required test

213 methods are listed below. In case of dispute, the current version
214 of the listed methods shall be the referee methods.

215	<u>Corrosion</u>	<u>ASTM D 130</u>
216	<u>Distillation temperatures</u>	<u>ASTM D 86</u>
217	<u>Residue</u>	<u>ASTM D 86</u>
218	<u>Gum</u>	<u>ASTM D 381</u>
219	<u>Sulfur</u>	<u>ASTM D 2622 or D 4294</u>
220	<u>Vapor pressure</u>	<u>ASTM D 4953 or D 5191</u>
221	<u>Vapor liquid equilibrium</u>	<u>ASTM D 2533 or ASTM D 4814,</u>
222		<u>Appendix 2</u>
223	<u>Research octane number</u>	<u>ASTM D 2699 or D 2885</u>
224	<u>Motor octane number</u>	<u>ASTM D 2700 or D 2885</u>

225 Grades of unleaded gasoline and gasoline-oxygenate blends shall be
226 classified as follows:

227 (i) Unleaded premium grade gasoline shall have an
228 antiknock index of at least 91. The research octane number shall
229 be at least 94.

230 (ii) Unleaded midgrade or unleaded plus gasoline
231 shall have an antiknock index of at least 89. The research octane
232 number shall be at least 92.

233 (iii) Unleaded regular grade gasoline shall have
234 an antiknock index of at least 87. The research octane number
235 shall be at least 90 and the motor octane number shall be at least
236 82.

237 All retail pumps or delivery devices shall be labeled with
238 the appropriate (R + M)/2 octane antiknock index in accordance
239 with the Federal Trade Commission Octane Posting and Certification
240 Regulation 306.

241 Sale of leaded gasoline is prohibited except where allowed by
242 the EPA.

243 (b) Oxygenated gasoline or oxygenated gasoline blends.

244 This fuel means a blend consisting primarily of gasoline and a
245 substantial amount of one or more oxygenates. It must be a
246 homogeneous blend of hydrocarbons and oxygenates and must meet the
247 specifications of the current ASTM D 4814.

248 (i) These blends include, but are not limited to,
249 the following designations:

250 1. Gasohol

251 2. Any gasoline-oxygenate blend which meets
252 the EPA's "Substantially Similar" rule, Section 211(f)(1) of the
253 Clean Air Act, 42 USCS 7545(f)(1).

254 3. Any gasoline-oxygenate blend for which
255 there is an existing Clean Air Act waiver issued by the EPA.

256 (ii) Gasoline/oxygenate blends shall meet the
257 state requirements for gasoline with the following modifications:

258 1. An increase in vapor pressure not
259 exceeding one (1) pound per square inch may be allowed for gasohol
260 January through December. The method of determination shall be
261 ASTM D 4953 or D 5191.

262 2. Federal or state regulations affecting
263 vapor pressure shall preempt these standards during the applicable
264 months.

265 3. For gasohol the minimum distillation
266 temperature at fifty percent (50%) evaporated may be one hundred
267 fifty-eight (158) degrees Fahrenheit in months when the D4814
268 recommended specification is one hundred seventy (170) degrees

269 Fahrenheit. The method of determination shall be ASTM D 86.
270 During the winter months when class D specifications are
271 applicable, the minimum fifty percent (50%) evaporated temperature
272 shall be One hundred fifty (150) degrees Fahrenheit or the
273 temperature recommended by ASTM D 4814 for this class.

274 4. Gas - liquid chromatographic procedures
275 shall be considered as official for the determination of oxygenate
276 content as described in ASTM D 4814.

277 5. Gasohol shall contain ten plus/minus
278 five-tenths (10+/-0.5) volume percent anhydrous denatured ethanol.

279 6. Gasoline-oxygenate blends not otherwise
280 defined in this chapter may contain the maximum percentage and
281 type of oxygenates as allowed by the "Substantially Similar" rule
282 and the Clean Air Act.

283 7. Water tolerance shall be such that no
284 phase separation occurs when the product is subjected to a
285 temperature equal to the lowest expected ambient temperature based
286 on seasonal volatility classifications as specified in the current
287 ASTM D 4814.

288 (c) **Diesel fuel.** Diesel fuel shall be hydrocarbon oils
289 free from acids and grit, fibrous or other foreign material.
290 Diesel fuel shall meet the requirements for the current ASTM D
291 975, Standard Specification for Diesel Fuel Oils with the
292 exception of Grade No. 1 and Grade No. 2 Tax-exempt diesel fuel
293 oils, the sulfur content of which shall be a maximum of one
294 percent (1%) until superceded by the implementation of the Federal
295 Clean Air Act, or other federal law or regulation. The intent of
296 this chapter, except for sulfur content in Grade No. 1 and Grade

297 No. 2 Tax-exempt diesel fuel oils, is that requirements shall be
298 kept current with subsequent amendments and editions of ASTM D
299 975. Federal or state regulations shall preempt these
300 specifications where applicable. The required test methods are
301 listed below. In case of a dispute, the current version of the
302 listed methods shall be the referee methods.

303	<u>Flash Point</u>	<u>D 93</u>
304	<u>Water and sediment</u>	<u>D 1796</u>
305	<u>Distillation temperature at 90%</u>	
306	<u> volume recovered</u>	<u>D 86</u>
307	<u>Kinematic viscosity</u>	<u>D 445</u>
308	<u>Ash</u>	<u>D 482</u>
309	<u>Sulfur</u>	<u>D 2622 or D 4294</u>
310	<u>(Specifications for Tax exempt Grade 2-D diesel fuel sulfur</u>	
311	<u>content shall remain at a maximum of one percent (1%) until</u>	
312	<u>superseded by the implementation of the Federal Clean Air Act.)</u>	

313	<u>Copper strip corrosion</u>	<u>D 130</u>
314	<u>Cetane number</u>	<u>D 613</u>
315	<u>Cloud point</u>	<u>D 2500</u>
316	<u>Ramsbottom carbon residue</u>	<u>D 524</u>

317 For low sulfur diesel fuel the required methods for determining
318 cetane index and aromaticity are as follows:

319	<u>(i) Cetane index</u>	<u>D 976</u>
320	<u>(ii) Aromaticity</u>	<u>D 1319</u>

321 (d) **Kerosene.** Kerosene shall include lamp oil,
322 illuminating oil and coal oil which shall conform to the detailed
323 requirements set forth in the current ASTM D 3699, Standard
324 Specification for Kerosene. The intent of this chapter is that

325 requirements shall be kept current with subsequent amendments and
326 editions of ASTM D 3699. Federal or state regulations shall
327 preempt these specifications where applicable. The required test
328 methods are listed below. In case of a dispute, the current
329 version of the listed methods shall be the referee methods.

330	<u>Flash point</u>	<u>D 56</u>
331	<u>Distillation temperature</u>	<u>D 86</u>
332	<u>Sulfur</u>	<u>D 1266 or D 129</u>
333	<u>Mercaptan sulfur</u>	<u>D 3227</u>
334	<u>Copper strip corrosion</u>	<u>D 130</u>
335	<u>Freezing point</u>	<u>D 2386</u>
336	<u>Burning quality</u>	<u>D 187</u>
337	<u>Saybolt color</u>	<u>D 156</u>

338 In addition the gravity shall not be less than forty-one (41)
339 degrees API, and the kerosene shall be free of water and suspended
340 matter.

341 (e) **Racing gasoline.** Racing gasoline means any
342 gasoline which is sold for racing purposes. Racing gasolines may
343 be sold from retail dispensing equipment under the following
344 conditions:

345 (i) The product brand name and octane number must
346 be disclosed to the commissioner in the retail petroleum
347 licensee's application.

348 (ii) The manufacturer shall provide a list of
349 marketers selling these product(s) and the product(s) sold by each
350 retail outlet.

351 (iii) Marketers shall register their retail
352 outlets by location and provide a list of the product(s) sold for

353 each retail outlet.

354 (iv) The dispensing equipment shall contain a
355 conspicuous sign stating that the fuel is racing gasoline. The
356 dispensing equipment shall not contain any kind of representation
357 indicating that the product is suitable for vehicles other than
358 for racing.

359 (v) The dispensing equipment shall be dedicated to
360 and isolated from any other motor fuel dispensing equipment in a
361 manner that a vehicle cannot access both the commercial gasoline
362 and the racing gasoline at the same time.

363 (vi) Any violation shall result in revocation of
364 the approval to market and/or confiscation of the product.

365 (f) The commissioner and the State Chemist may change
366 the specifications set forth in this section to comply with the
367 currently recommended ASTM or federally required specifications.

368 (g) The commissioner may prohibit the sale of any
369 taxable petroleum product which is not in compliance with the
370 provisions of this article.

371 SECTION 4. Section 75-55-6, Mississippi Code of 1972, is
372 amended as follows:

373 75-55-6. (1) Every person, partnership, joint venture,
374 individual, firm, association, distributor, wholesaler, terminal
375 or corporation, before engaging in the wholesale sale of gasoline
376 or other petroleum products in this state, shall obtain from the
377 commissioner a wholesale petroleum license for each wholesale
378 establishment owned or operated by such person. The fee for such
379 license shall be Twenty-five Dollars (\$25.00). The application
380 for such license shall be made on forms prescribed and furnished

381 by the commissioner. Licenses issued hereunder shall expire on
382 December 31 of each year. License(s) issued hereunder shall not
383 be transferable and application must be made for a new license if
384 there is any change in the location, owner or operator of the
385 establishment. The licensee shall display his license in a
386 prominent and accessible place in the establishment where such
387 products are sold.

388 (2) Every person who owns the pumps or tanks, or both, at a
389 station or store at which gasoline or other petroleum products are
390 sold to the consuming public, regardless of who may own the
391 station or store, shall be considered to be a gasoline or
392 petroleum retailer, and he shall obtain from the commissioner a
393 retail petroleum license for each such establishment where he owns
394 the pumps or tanks, or both, before engaging in the sale of such
395 products. The fee for such license shall be Ten Dollars (\$10.00).
396 The application for license shall be on forms prescribed and
397 furnished by the commissioner. Licenses issued hereunder shall
398 expire on December 31 of each year. Licenses issued hereunder
399 shall not be transferable and application must be made for a new
400 license if there is any change in the location or ownership of the
401 pumps or tanks, or both. The license shall be displayed as
402 designated by the commissioner.

403 (3) Every applicant for a retail or wholesale petroleum
404 license shall state in his application the name or brand name of
405 the gasoline or other petroleum products he desires to offer for
406 sale or sell at his place of business, stating the (R+M)/2 octane
407 rating or antiknock index of such products, as described in the
408 Federal Trade Commission Octane Posting and Certification Rule.

409 Such applicants shall provide all the information that may be
410 requested by the commissioner in the application forms. A retail
411 or wholesale petroleum licensee may sell only those products that
412 have been registered with the commissioner.

413 (4) The commissioner may deny a license to any applicant
414 proposing to sell gasoline or a petroleum product under a name
415 that is misleading to the public.

416 (5) When a retail or wholesale petroleum licensee
417 discontinues the sale of any product that he has been approved to
418 sell, his authorization from the commissioner to sell such product
419 shall automatically terminate. The licensee shall notify the
420 commissioner within thirty (30) days after he discontinues the
421 sale of such product.

422 (6) Every person selling or offering to sell gasoline or
423 other petroleum products at retail shall comply with the
424 following:

425 (a) Every pump dispensing motor fuel at retail shall
426 conspicuously display the name or brand name, or both, being sold
427 therefrom exactly as the name or brand name has been approved for
428 sale by the commissioner. Each pump shall conspicuously display
429 the octane number of the product. The octane number designation
430 shall be changed whenever the product is changed. Each diesel
431 pump dispensing highway fuel at retail shall display the words
432 "No. 1 Diesel" or "No. 2 Diesel." Each diesel pump dispensing off
433 road diesel fuel at retail shall display the words "Tax-exempt
434 Diesel Fuel." Each kerosene pump or fuel oil pump dispensing
435 those products at retail shall display the words "No. 1-K
436 Kerosene" or "No. 2-K Kerosene" or indicate the proper grade of

437 fuel oil depending on the product dispensed.

438 (b) The labeling of all petroleum products on pumps
439 shall be on both sides of the dispensing device, and must be
440 conspicuously displayed on the upper fifty percent (50%) of the
441 product dispenser front panel in a position that is clear and
442 visible from the driver's position in type of at least one-half
443 (1/2) inch in height and one-sixteenth (1/16) inch stroke (width of
444 type).

445 SECTION 5. Section 75-55-7, Mississippi Code of 1972, is
446 amended as follows:

447 75-55-7. (1) * * * Gasoline * * * shall not be subject to
448 specifications required under * * * Section 75-55-5, when it is
449 purchased or received in this state for uses other than for sale
450 or distribution to the consuming public or is not used on the
451 highways or roadways.

452 (2) The commissioner * * * and the State Chemist shall have
453 authority, but are not compelled, to establish specifications for
454 aviation and other special gasolines when received in this state
455 for any purpose other than * * * propelling motor vehicles on the
456 highways, or for sale or distribution to the consuming public.

457 (3) It is provided that the specifications adopted for
458 gasoline shall not apply to "gas machine gasoline" prepared or
459 received in this state for use in industrial equipment, when such
460 gasoline is not used or not capable of use in propelling motor
461 vehicles on the highways.

462 (4) The commissioner and the State Chemist shall have
463 authority but they are not compelled to establish specifications
464 for fuel oils and oil for other engines.

465 SECTION 6. Section 75-55-9, Mississippi Code of 1972, is
466 amended as follows:

467 75-55-9. Every person selling at retail gasoline, oxygenated
468 gasoline blends, diesel fuel or kerosene, as defined in this
469 chapter, shall at all times display signs as herein defined:

470 (a) All pumps and dispensing equipment for gasoline,
471 oxygenated gasoline blends, diesel fuel or kerosene shall be
472 marked conspicuously to show the total price per gallon of
473 gasoline, oxygenated gasoline blends, diesel fuel or kerosene
474 offered for sale, in figures of equal size and where fractional
475 cents or figures are used therein, the combined height and width
476 of the numerator and denominator shall be equal to the height and
477 width of the other figures used. Provided, however, that any sign
478 provided by the manufacturer of the retail pump or dispensing
479 equipment which shows the total price per gallon and is part of
480 the computing mechanism of such pumps and dispensing equipment
481 shall be considered as being in compliance with this subsection.

482 (b) All signs placed on the premises of any service
483 station and any highway, road, street or alley leading thereto
484 advertising the price per gallon of gasoline, oxygenated gasoline
485 blends, diesel fuel or kerosene offered for sale, shall show the
486 registered brand name and total price in figures of equal size,
487 and where fractional figures are used therein, the width of the
488 numerator and denominator of the fraction shall be equal to
489 one-third (1/3) of the width of the other figures, but the
490 combined height of the numerator and denominator shall be the same
491 as that of the other figures. Where a decimal is used, then the
492 fraction shall be at least one-half (1/2) the height of the other

493 figures used in the sign, and the fraction shall be at least
494 one-third (1/3) of the width of the other figures used in the
495 sign. All figures and fractional figures shall be painted the
496 same color as the other figures used in the sign. The total price
497 per gallon on signs located on all premises of any service station
498 and on highways, roads, streets or alleys leading to the service
499 station shall be in agreement as to the total price per gallon
500 shown on the retail pump dispensing the same brand of gasoline,
501 oxygenated gasoline blends, diesel fuel or kerosene as that being
502 so advertised. All signs advertising the price per gallon of
503 gasoline, oxygenated gasoline blends, diesel fuel or kerosene
504 offered for sale through self-service operated pumps at retail
505 service stations shall clearly indicate that the posted price per
506 gallon and brand is offered for sale through self-service pumps.

507 (c) Containers of gasoline or oxygenated gasoline
508 blends below fifty (50) gallons capacity, or any product flashing
509 below one hundred (100) degrees Fahrenheit, shall be painted red;
510 provided that containers, not of metal and of a capacity of one
511 (1) gallon or less, may carry a red label designating the product.

512 (d) All filler pipes for petroleum bulk storage tanks
513 and retail station storage tanks shall be identified by color
514 coding with the following colors representing the following grades
515 of gasoline, or oxygenated gasoline blends, diesel fuel and
516 kerosene. Eighty-seven (87) octane or unleaded regular gasoline
517 or oxygenated gasoline blends shall be designated by the color
518 white; eighty-nine (89) octane or unleaded midgrade gasoline or
519 unleaded plus gasoline or oxygenated gasoline blends shall be
520 designated by the color blue; ninety and one-half (90.5) octane or

521 unleaded superior or unleaded super midgrade or oxygenated
522 gasoline blends shall be designated by the color yellow;
523 ninety-one (91) octane through ninety-three (93) or unleaded
524 premium gasoline or oxygenated gasoline blends shall be designated
525 by the color red; diesel fuel shall be designated by the color
526 green; dyed diesel fuel or tax exempt diesel fuel shall be
527 designated by the color orange; kerosene shall be designated by
528 the color black. Such color coding shall be painted on the intake
529 pipe cap or within six (6) inches thereof * * *. However, an
530 installation with a permanent embossment or engraving
531 designating the grades of petroleum products within twelve (12)
532 inches from each filler cap shall be acceptable. Nothing in this
533 subsection shall apply to bulk storage tanks located at marine or
534 pipeline terminals, nor bulk storage tanks used for the storage of
535 liquefied compressed gas * * *.

536 SECTION 7. Section 75-55-11, Mississippi Code of 1972, is
537 amended as follows:[BD1]

538 75-55-11. No person shall sell or offer to sell any
539 gasoline, oxygenated gasoline blends or other petroleum product
540 which fails to meet the standard specifications, or requirements
541 set forth in this chapter, nor sell or offer to sell any gasoline,
542 oxygenated gasoline blends or other petroleum products at retail
543 without exhibiting the proper signs as required in this chapter,
544 and provided further, that all gasoline, oxygenated gasoline
545 blends or other petroleum products offered for sale by any person
546 shall always be as high octane number as advertised to be.

547 SECTION 8. Section 75-55-13, Mississippi Code of 1972, is
548 amended as follows:

549 75-55-13. It shall be unlawful for any person to sell, offer
550 or keep for sale, any lubricating oils, lubricants or mixtures of
551 lubricants which are adulterated or falsely labeled in any
552 particular. Reclaimed, recleaned, rerefined or previously used
553 oils shall be plainly labeled and sold as such. The labeling and
554 advertising appearing on any container used to store a previously
555 used lubricating oil shall be strictly in accord with the kind of
556 product contained therein. On the face of each sealed container
557 containing a previously used motor or lubricating oil, the wording
558 or sign used to indicate that the product has been previously used
559 must be in well-balanced letters.

560 Labels on containers of reclaimed, recleaned, rerefined or
561 recycled oil which meet the Society of Automotive Engineers (SAE)
562 and American Petroleum Institute (API) classifications for current
563 (one (1) of the previous two (2) chronological API service
564 classifications) model year automotive engines and which oil is
565 offered for sale, shall be at least one-eighth (1/8) inch high on
566 containers of one (1) gallon or less, and at least one-fourth
567 (1/4) inch high on containers larger than one (1) gallon.

568 Reclaimed, recleaned, rerefined or previously used motor or
569 lubricating oils, lubricants or mixtures of lubricants not meeting
570 the classifications described in the preceding paragraph and
571 offered for sale shall be labeled as follows: On one (1) quart
572 containers the lettering shall not be less than three-eighths
573 (3/8) inches high; on one-half (1/2) gallon containers the
574 lettering shall be at least one-half (1/2) inch high; on one (1)
575 gallon containers the lettering shall be at least three-fourths
576 (3/4) inch high; and on five (5) gallon containers at least one

577 (1) inch high; and on any storage can larger than five (5)
578 gallons, a well-proportioned sign or lettering must appear with
579 letters not less than two (2) inches high, indicating that the
580 product has been previously used.

581 All tanks used for the storage of gasoline, oxygenated
582 gasoline blends, other motor fuel, diesel fuel, kerosene or
583 liquefied compressed gas, for wholesale or retail sales, shall be
584 constructed and equipped in such manner as to allow the
585 commissioner * * * to safely sample or take an accurate physical
586 inventory of the contents of such tanks at all reasonable hours.

587 All above ground tanks, drums or other containers used by any
588 person to store previously used motor or lubricating oils, before
589 being rerefined or reprocessed, shall be marked "used oil" on a
590 contrasting background with well-balanced letters not less than
591 two (2) inches high.

592 * * *

593 SECTION 9. Section 75-55-15, Mississippi Code of 1972, is
594 amended as follows:

595 75-55-15. No person shall store, keep, expose for sale,
596 offer for sale, or sell from any tank or container or from any
597 pump or other distributing device or equipment, any gasoline,
598 oxygenated gasoline blends, diesel fuel, kerosene, illuminating
599 oil, or lubricating oils or other similar products other than
600 those indicated by the name, trade name, symbol, or sign of the
601 manufacturer or distributor of the trademark or trade name of the
602 product appearing upon the tank, container, pump, or other
603 distributing equipment from which the same are sold, offered for
604 sale or distributed; provided that the product of any manufacturer

605 may be sold from distributing equipment not bearing the name,
606 trade name, symbol or sign of any manufacturer. Provided further,
607 that no distributor or other person shall deliver any gasoline,
608 oxygenated gasoline blends, diesel fuel, kerosene, illuminating
609 oils, or other similar products when such products are for resale
610 to the consuming public and place said products in storage tanks,
611 containers, or other devices when such storage tanks, containers,
612 or other devices are labeled contrary to the true nature of the
613 products being delivered or when such storage tanks, containers,
614 or other devices bear any sign, symbol, trademark, or label not
615 reflecting the true sign, symbol, trademark or name of the product
616 being delivered.

617 All distributors or other persons receiving, storing, selling
618 or distributing gasoline, oxygenated gasoline blends or oil in the
619 State of Mississippi shall have plainly marked on the tanks,
620 pumps, or other containers in which gasoline, oxygenated gasoline
621 blends or oil is kept, words designating whether the product is
622 gasoline, oxygenated gasoline blends or oil. No distributor or
623 other person shall place any gasoline in a container marked oil or
624 oxygenated gasoline blends, or any oil in a container marked
625 gasoline or oxygenated gasoline blends, or oxygenated gasoline
626 blends in any container marked gasoline or oil, nor shall there be
627 any pipe or other connections between oil, gasoline and oxygenated
628 gasoline blends containers. Provided, however, that nothing in
629 this or any other law shall be construed to prohibit the use at
630 common carrier pipeline terminals, of the same unloading lines to
631 and between gasoline, oxygenated gasoline blends, and oil bulk
632 storage stations, where adequate precautions have been taken to

633 prevent contamination or adulteration of either oil, gasoline or
634 oxygenated gasoline blends. No distributor or other person shall
635 receive, store or distribute oil as gasoline or oxygenated
636 gasoline blends nor gasoline as oil or oxygenated gasoline blends,
637 nor oxygenated gasoline blends as oil or gasoline nor shall any
638 distributor or other person make a false statement to the
639 commissioner * * * or any of his employees with reference to
640 products received, stored, sold or delivered by such distributor
641 or other person.

642 No distributor or other person shall sell or distribute or
643 offer for sale or distribution gasoline and oil, or either, when
644 such gasoline or oil, or either, is mixed, blended, or adulterated
645 in this state in any manner or with any other product. Provided,
646 however, this section shall not be construed to prevent any
647 purchaser of gasoline and oil, or either, to adulterate such
648 products after purchase to meet requirements of his individual
649 uses and purposes, but in no event shall such purchaser sell or
650 distribute such adulterated products, and it is not intended to
651 levy a tax on crude oil produced in this state. Provided further,
652 that blending pumps from which gasoline and lubricating oil are
653 dispensed at the same time into a fuel tank or other container as
654 marine fuel, may be installed by a distributor upon the prior
655 issuance of a permit so to do by the commissioner or his
656 successor, when said pumps shall have been approved by the
657 Underwriter's Laboratories, Inc. Provided further, that nothing
658 in this paragraph shall be construed to prohibit the manufacture
659 of oxygenated gasoline blends.

660 Blending of grades of gasoline, additives, and compounds

661 shall be limited to refineries, terminals, and blending pumps, and
662 no person other than those employed at the aforesaid facilities
663 shall be permitted to blend any of the above-named products.

664 Provided, however, that gasoline may be blended with alcohol to
665 form oxygenated gasoline blends at other locations in the State of
666 Mississippi as may be designated and licensed by the commissioner.

667 * * *

668 SECTION 10. Section 75-55-19, Mississippi Code of 1972, is
669 amended as follows:

670 75-55-19. No person shall use any scales, measure or
671 measuring device or mechanism or device attached to such scale,
672 measure or measuring device in the handling or sale of gasoline or
673 other petroleum products, unless the same is true and accurate;
674 and the standards of weights and measures specifications and
675 tolerances shall be those most recently adopted by the National
676 Institute of Standards and Technology of the United States
677 Department of Commerce, and published in NIST Handbook 44 and
678 supplements thereto or in any publication revising or superceding
679 Handbook 44, except that in no event shall gasoline, oxygenated
680 gasoline blends, diesel fuel, or kerosene be dispensed for sale
681 through visible or bowl pumps with outside indicators, and in no
682 event shall any such bowl be drained by any device except through
683 the regular dispensing hose.

684 SECTION 11. Section 75-55-21, Mississippi Code of 1972, is
685 amended as follows:[BD2]

686 75-55-21. (1) It shall be unlawful for any person to entice
687 into a service station, store, expose for sale, or sell gasoline
688 or other petroleum products so as to deceive or as to tend to

689 deceive the purchaser as to the nature, quality or identity of the
690 same by false representation or by substitution, mixing, blending,
691 or adulteration, or by the use of disguised signs, camouflaged or
692 falsely labeled containers, tanks, pumps, or other dispensing
693 equipment, or by imitating the design, symbol, or trade name under
694 which recognized brands of such products are generally marketed.

695 * * * However, * * * nothing in this chapter shall prevent a
696 person, * * * or * * * agents or employees from storing, exposing
697 for sale, or selling any such gasoline or other petroleum products
698 under the tradename, sign, symbol, or distinguishing mark adopted
699 and used by such person, * * * in good faith, if such tradename,
700 sign, symbol, or distinguishing mark is not deceitfully similar to
701 that already in general use by any manufacturer or seller of such
702 products.

703 (2) Persons claiming to offer for sale alternative fuels or
704 gasoline or other petroleum products of a higher standard than any
705 legal or customary standard shall label the container or
706 dispensing equipment completely with reference to the special
707 standard claimed and such label shall constitute a full guaranty
708 that the product sold will meet the standards claimed in every
709 particular.

710 * * *

711 SECTION 12. Section 75-55-22, Mississippi Code of 1972, is
712 amended as follows:

713 75-55-22. Every person located in Mississippi, except the
714 holder of a refiner or a processor's license, before blending or
715 mixing oxygenated gasoline blends for sale, delivery, exchange or
716 use in Mississippi shall obtain from the commissioner a license

717 authorizing him to engage in business as a producer of oxygenated
718 gasoline blends. The fee for such license shall be Twenty-five
719 Dollars (\$25.00). Forms for the application shall be furnished by
720 the commissioner. Such license shall expire on December 31 of
721 each year. Licenses shall not be transferable. Each producer of
722 oxygenated gasoline blends shall have the necessary equipment to
723 insure a complete and homogeneous mixture. The finished product
724 shall meet all of the state's standards and specifications and
725 shall not be transferred, sold, exchanged, delivered, used or
726 disposed of by any other means until the product has been approved
727 by the commissioner * * *.

728 No person shall transport or import into the State of
729 Mississippi any oxygenated gasoline blends unless he has complied
730 with all specifications and standards adopted by this state for
731 such products.

732 All unleaded gasoline, * * * kept, offered, or exposed for
733 sale, or sold, at retail by any person containing one percent (1%)
734 or more by volume of ethanol, methanol or an ethanol/methanol
735 mixture, shall be identified as "with" or "containing" (or similar
736 wording) "ethanol," "methanol" or "ethanol/methanol" on the upper
737 fifty percent (50%) of the dispenser front panels in a position
738 clear and conspicuous from the driver's position, in a type at
739 least one-half (1/2) inch in height, and one-sixteenth (1/16) inch
740 stroke (width of type). All letters shall be black with a
741 contrasting background.

742 All distributors, processors, refiners, and any other persons
743 receiving, storing, selling, distributing or transporting gasoline
744 that contains one percent (1%) by volume or more of methanol,

745 ethanol or other alcohol shall identify the type or chemical name
746 and percentage of such alcohol on any invoice, bill of lading,
747 shipping paper or on any other type of documentation which is used
748 in normal and customary practice in the petroleum industry.

749 SECTION 13. Section 75-55-23, Mississippi Code of 1972, is
750 amended as follows:

751 75-55-23. The commissioner * * * shall have full access,
752 ingress and egress, at all reasonable hours, to any place or
753 building refinery, terminal, pipeline, barge, vessel, railcar,
754 truck, or other vehicle of transportation, tank, storage facility
755 or location wherein internal combustion engine fuels, lubricating
756 oils or other like products are stored, transported, sold, offered
757 or exposed for sale. The commissioner * * * may open for
758 inspection any case, package or other container, tank, pump, tank
759 car, storage tank, vehicle, stationary engine or tractor, and
760 enter upon any barge, vessel or other vehicle of transportation
761 and, with instruments conforming to the standards of weights and
762 measures most recently adopted by the National Institute of
763 Standards and Technology of the United States Department of
764 Commerce, check with any measuring device of the volume or weight
765 of the contents of any container. Furthermore, the
766 commissioner * * * may take samples, not exceeding one (1) gallon,
767 for analysis. All persons shall cooperate fully with the
768 commissioner in his inspection of such products.

769 * * *

770 Any room, house, building, boat, vehicle, structure or place
771 where any petroleum product is received, stored, manufactured,
772 refined, distilled, blended, compounded, sold or distributed in

773 violation of this chapter, and any such petroleum product and all
774 property kept and used in maintaining the same, is hereby declared
775 to be a common nuisance. If such nuisance be found to exist, any
776 judge or chancellor authorized to issue injunctions may issue an
777 injunction, enjoining and restraining the continuance of such
778 nuisance * * *.

779 SECTION 14. Section 75-55-27, Mississippi Code of 1972, is
780 amended as follows:

781 75-55-27. (1) With the exception of retail blending pumps
782 which are covered by a NIST Certificate of Conformance, no retail
783 station pump meter shall dispense more than one (1) product and
784 station pipelines for gasoline, oxygenated gasoline blends, diesel
785 fuel, kerosene, fuel oils or other products shall be entirely
786 separate from each other.

787 (2) No requirements or provisions of this chapter shall
788 prevent or abridge the use of gasoline, oxygenated gasoline
789 blends, diesel fuel, kerosene, liquefied compressed gases or other
790 petroleum products for heating or illuminating purposes through
791 the use of special devices approved by the commissioner when not
792 used on a highway.

793 (3) The provisions of this chapter are not to apply to
794 products unloaded in this state and intended for shipment into
795 another state; provided no portion of such products be offered for
796 sale in this state, and provided further, that all petroleum
797 products so unloaded be reported to the commissioner.

798 (4) It shall be unlawful for any person to obstruct or
799 hinder in any way the commissioner or his agents in the
800 performance of his duties.

801 (5) Where self-service pumps and attendant-operated pumps
802 are both operated at the same retail service station, the retail
803 petroleum licensee shall attach or paint on each island or each
804 pump or equipment the words "SELF-SERVICE" on the island or pump
805 or equipment where the customer must dispense product or the words
806 "FULL SERVICE" on the island or pump or equipment where the
807 licensee dispenses the product in letters of not less than one (1)
808 inch in height and not less than seven (7) inches across, on a
809 contrasting background.

810 SECTION 15. Section 75-55-29, Mississippi Code of 1972, is
811 amended as follows:

812 75-55-29. The State Chemist at the Mississippi State
813 University or his assistants provided for herein shall analyze all
814 samples of internal combustion engine fuels, lubricating oils and
815 other like products provided by any person desiring an analysis of
816 said product or provided by the * * * department * * * after an
817 inspection. Any person desiring an analysis of a sample of
818 internal combustion engine fuel, lubricating oil or similar
819 products shall pay to the State Chemist the actual cost of such
820 analysis. All funds collected by the State Chemist under the
821 provisions of this chapter shall be paid into a special account to
822 the credit of the Industrial and Agricultural Services Division of
823 the Mississippi State Chemical Laboratory. The cost of analysis
824 of those samples taken by the * * * department * * * shall be paid
825 for out of the General Fund, upon appropriation by the
826 Legislature. The certification of such analysis properly
827 certified by affidavit of said chemist or his assistants shall be
828 competent evidence in any court of this state. The State Chemist

829 shall have the authority to establish rules and regulations in
830 connection with the analysis of samples and the operation of the
831 Petroleum Products Laboratory.

832 SECTION 16. Section 75-55-37, Mississippi Code of 1972, is
833 amended as follows:

834 75-55-37. (1) The commissioner * * * shall have the right
835 to inspect any pump, truck, or other equipment that is used for
836 the transportation, loading, unloading, storage or dispensing of
837 gasoline or other petroleum products that shall be offered for
838 sale, and if upon such inspection any such pump, truck, or other
839 equipment is found to be inaccurate to the extent that a test
840 thereof shows a deficiency of more than twenty-five (25) cubic
841 inches on a five (5) gallon measurement, or if the right to
842 inspect any such pump, truck, or other equipment is refused or
843 denied, the commissioner * * * shall have the right to immediately
844 close and lock said pump and other equipment or to seal same with
845 the commissioner's seal. If such pump, truck, or other equipment
846 is found to be inaccurate but the deficiency is twenty-five (25)
847 cubic inches or less on a five (5) gallon measurement, then the
848 commissioner * * * shall give the owner or operator thereof
849 forty-eight (48) hours within which to correct such inaccuracy and
850 if such person fails or refuses to correct same within said period
851 then the commissioner * * * shall have the right to lock and seal
852 such pump or other equipment in the same manner as provided above.

853 It shall be prima facie presumed upon the refusal of the
854 owner to allow the right to inspect that the pump, truck, or other
855 equipment sought to be inspected is inaccurate to the extent of
856 more than twenty-five (25) cubic inches on a five (5) gallon

857 measurement or is operating in violation of this chapter. When
858 any such pump or other equipment is locked or sealed, it may not
859 be unlocked or the seal thereon broken except in the presence of a
860 licensed petroleum equipment repairman called for the purpose of
861 repairing the inaccuracy in the machinery of such pump or other
862 equipment, and such inaccuracy shall be immediately thereafter
863 repaired, and the pump or other equipment properly regulated. The
864 commissioner may, in his discretion, require an affidavit from the
865 licensed petroleum equipment repairman repairing such pump or
866 other equipment, or any other proof which he may deem advisable to
867 the effect that said pump was unlocked or the seal thereon broken
868 in the presence of such licensed petroleum equipment repairman,
869 and that the inaccuracies therein were thereupon completely
870 repaired or regulated.

871 When a state or factory seal is broken on the measuring
872 adjustment device on a retail pump, it shall be the duty of the
873 station operator to notify the commissioner by United States mail,
874 within twenty-four (24) hours, after the breaking of said seal.
875 After the commissioner has received written notice as herein
876 provided and he or his agent has resealed the measuring adjustment
877 device on the pump or pumps at this station, it shall be unlawful
878 for any person to break a state or factory seal on the measuring
879 adjustment device on any pump at the station during the ensuing
880 ninety (90) days without the prior approval of the
881 commissioner * * *.

882 The State of Mississippi shall have a lien on all pumps,
883 trucks, and other equipment used by any distributor, retailer or
884 other person, in the operation of his gasoline or petroleum

885 business for any fee or penalty due the State of Mississippi
886 because of such persons violation of this chapter. Such lien
887 shall be paramount to any and all private liens and the state
888 shall be entitled to sell the pumps, trucks and equipment to
889 satisfy the fee or penalty, and any excess proceeds from the sale
890 shall be paid according to law.

891 * * *

892 SECTION 17. Section 75-55-38, Mississippi Code of 1972, is
893 amended as follows:

894 75-55-38. (1) Any person who repairs, adjusts or removes an
895 official seal from a petroleum pump or metering device shall,
896 before engaging in such activity, obtain a license from the
897 commissioner upon showing that he is qualified to repair, adjust
898 and test petroleum pumps and/or metering devices. Application for
899 a petroleum equipment repairman's license shall be made annually
900 on forms prescribed and furnished by the commissioner. A fee of
901 Fifty Dollars (\$50.00) shall be paid by the applicant at the time
902 application for such license is made. All licenses issued
903 hereunder shall expire on the thirtieth day of June next after its
904 issuance. Any person so licensed shall, within three (3) days
905 after he repairs or adjusts a petroleum pump, metering or
906 measuring device or removes an official seal therefrom, make a
907 report thereof to the commissioner on a form provided for such
908 purpose by the department * * *.

909 (2) Upon receipt of a license, the petroleum equipment
910 repairman shall acquire a seal press, one (1) die of which shall
911 be inscribed with his license number. All official pump or meter
912 seals removed by the licensed petroleum equipment repairman shall

913 be replaced and such replaced seals shall clearly show the license
914 number of the petroleum equipment repairman replacing the seal(s).

915 (3) The commissioner shall have authority to prescribe and
916 adopt regulations establishing additional requirements and/or
917 qualifications for petroleum equipment repairmen.

918 * * *

919 SECTION 18. The following shall be codified as Section
920 75-55-43, Mississippi Code of 1972:

921 75-55-43. Any person who violates any provision of this
922 chapter or the regulations adopted hereunder shall be guilty of a
923 misdemeanor and shall be punished by the imposition of a fine not
924 to exceed Five Hundred Dollars (\$500.00) or by imprisonment in the
925 county jail for a term not to exceed six (6) months, or both.

926 SECTION 19. The following shall be codified as Section
927 75-55-45, Mississippi Code of 1972:

928 75-55-45. (1) If any person violates any of the provisions
929 of this chapter, administrative proceedings may be brought against
930 him. A written complaint shall be filed in the office of the
931 department. The commissioner shall cause to be delivered to the
932 accused in the manner described below a copy of the complaint and
933 a summons requiring the accused to file a written answer to the
934 complaint within thirty (30) days after service of the summons and
935 the complaint on him. The accused shall be notified by serving a
936 copy of the summons and complaint on him by any of the methods set
937 forth in Rule 4 of the Mississippi Rules of Civil Procedure or by
938 certified mail. Upon receipt of the written answer of the
939 accused, the matter shall be set for hearing before the
940 commissioner or his designee within a reasonable time. In lieu of

941 a hearing, the accused may request that the complaint be decided
942 based on the documents submitted to the commissioner. If the
943 accused fails to file an answer within such time, the commissioner
944 or his designee may enter an order by default against the accused.

945 The commissioner may issue subpoenas to require the attendance of
946 witnesses and the production of documents. Compliance with such
947 subpoenas may be enforced by any court of general jurisdiction in
948 this state. The testimony of witnesses shall be upon oath or
949 affirmation, and they shall be subject to cross-examination. The
950 proceedings shall be recorded. If the commissioner or his
951 designee determines that the complaint lacks merit, he may dismiss
952 same. If he finds that there is substantial evidence showing that
953 a violation of any of the statutes or regulations has occurred, he
954 shall have the authority to impose any or all of the following
955 penalties upon the accused: (a) to levy a civil penalty in an
956 amount not to exceed One Thousand Dollars (\$1,000.00) for each
957 violation; (b) to revoke or suspend any license or permit issued
958 to the accused under the terms of this chapter; (c) to issue a
959 stop sale or order with regard to any gasoline or petroleum
960 product; (d) to require the accused to relabel any gasoline or
961 other petroleum product that he is offering for sale and which is
962 not labeled in accordance with the provisions of this chapter; (e)
963 to seize any gasoline or petroleum product that is not in
964 compliance with this chapter and destroy, sell or otherwise
965 dispose of the gasoline or petroleum product and apply the
966 proceeds of any such sale to the costs herein and any fees or
967 civil penalties levied with the balance to be paid according to
968 law; (f) to order any pumps, trucks or equipment of a licensee

969 that are out of tolerance to be locked down until brought within
970 the allowed tolerances; or (g) to order the sale of any pumps,
971 trucks or equipment of a licensee to satisfy a fee or penalty
972 levied by the commissioner against such licensee. The decision of
973 the commissioner or his designee shall be in writing, and it shall
974 be delivered to the accused by certified mail. If any costs, fees
975 or penalties assessed hereunder are not paid as directed by the
976 commissioner, they may be collected through the court system. All
977 fees, costs and penalties collected by the commissioner shall be
978 expended by the department for operating expenses of the Petroleum
979 Products Inspection Division.

980 (2) Either the accused or the department may appeal the
981 decision of the commissioner or his designee to the circuit court
982 of the county of residence of the accused, or if the accused is a
983 nonresident of the State of Mississippi, to the Circuit Court of
984 the First Judicial District of Hinds County, Mississippi. The
985 appellant shall have the obligation of having the record
986 transcribed and filing same with the circuit court. The appeal
987 shall otherwise be governed by all applicable laws and rules
988 affecting appeals to circuit court. If no appeal is perfected
989 within the required time, the decision of the commissioner, or his
990 designee, will then become final.

991 (3) The decision of the circuit court may then be appealed
992 by either party to the Mississippi supreme court in accordance
993 with the existing law and rules affecting such appeals.

994 (4) Where any violation of this chapter, or the rules and
995 regulations promulgated hereunder, occurs, or is about to occur,
996 that presents a clear and present danger to the public health,

997 safety or welfare requiring immediate action, the commissioner or
998 any of the department's field inspectors, or any other persons
999 authorized by the commissioner, may issue an order to be effective
1000 immediately, prior to notice and a hearing, that imposes any or
1001 all of the following penalties against the accused: (a) a stop
1002 sale order with regard to any gasoline or petroleum product; (b)
1003 require the accused to relabel any gasoline or other petroleum
1004 product that he is offering for sale and which is not labeled in
1005 accordance with the provisions of this chapter; (c) seize any
1006 gasoline or other petroleum product that is not in compliance with
1007 this chapter and destroy, sell or otherwise dispose of the
1008 petroleum product and apply the proceeds of any such sale to the
1009 costs herein and any fees or civil penalties levied, with the
1010 balance to be paid according to law; or (d) to order any pumps,
1011 trucks or equipment of a licensee that are out of tolerance to be
1012 locked down until brought within the allowed tolerances, except
1013 that a licensee shall have a forty-eight-hour grace period to
1014 correct a deficiency of twenty-five (25) cubic inches or less on a
1015 five (5) gallon measurement before such order shall be issued.
1016 The order shall be served upon the accused in the same manner that
1017 the summons and complaint may be served upon him, except that, in
1018 the alternative, it may be served by giving a copy of the order to
1019 the attendant at his establishment. The accused shall then have
1020 thirty (30) days after service of the order upon him within which
1021 to request an informal administrative review before the Director
1022 of the Bureau of Regulatory Services in the department, or his
1023 designee, who shall act as reviewing officer. If the accused
1024 makes such a request within such time, the reviewing officer shall

1025 provide an informal administrative review to the accused within
1026 ten (10) days after such request is made. If the accused does not
1027 request an informal administrative review within such time frame,
1028 then he will be deemed to have waived his right to same. At the
1029 informal administrative review, subpoena power shall not be
1030 available, witnesses shall not be sworn nor be subject to
1031 cross-examination and there shall be no court reporter or record
1032 made of the proceedings. Each party may present its case in the
1033 form of documents, oral statements or any other method. The rules
1034 of evidence shall not apply. The reviewing officer's decision
1035 shall be in writing, and it shall be delivered to the parties by
1036 certified mail. If either party is aggrieved by the order of the
1037 reviewing officer, he may appeal to the commissioner for a full
1038 evidentiary hearing in accordance with the procedures described in
1039 subsection (1), except that there shall be no requirement for a
1040 written complaint or answer to be filed by the parties. Such
1041 appeal shall be perfected by filing a notice of appeal with the
1042 commissioner within thirty (30) days after the order of the
1043 reviewing officer is served on the appealing party. The hearing
1044 before the commissioner or his designee shall be held within a
1045 reasonable time after the appeal has been perfected. Failure to
1046 perfect an appeal within the allotted time will be deemed a waiver
1047 of such right.

1048 (5) In the enforcement of this chapter and the regulations
1049 adopted hereunder, the commissioner shall have available to him
1050 all legal and equitable remedies, including, but not limited to,
1051 injunction, and he may initiate and defend suits in his own
1052 behalf, and he shall have access to all state and federal courts

1053 and he shall not be required to make or file a bond in any such
1054 proceedings.

1055 SECTION 20. This act shall take effect and be in force from
1056 and after July 1, 2000.