

By: Stogner

To: Agriculture

SENATE BILL NO. 2820  
(As Passed the Senate)

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 RETAIL SALE OF GASOLINE OR OTHER PETROLEUM PRODUCTS; TO PROVIDE  
11 CERTAIN LABELING REQUIREMENTS ON PUMPS DISPENSING MOTOR FUEL; TO  
12 AMEND SECTION 75-55-7, MISSISSIPPI CODE OF 1972, TO PROVIDE  
13 EXEMPTIONS; TO AMEND SECTION 75-55-9, MISSISSIPPI CODE OF 1972, TO  
14 PROVIDE COLOR CODING REQUIREMENTS FOR STORAGE TANKS REPRESENTING  
15 THE VARIOUS GRADES OF PETROLEUM PRODUCTS; TO AMEND SECTIONS  
16 75-55-11, 75-55-13, 75-55-15 AND 75-55-19, MISSISSIPPI CODE OF  
17 1972, TO INCLUDE OXYGENATED GASOLINE BLENDS UNDER THE REGULATION  
18 OF THIS CHAPTER; TO AMEND SECTION 75-55-21, MISSISSIPPI CODE OF  
19 1972, TO PROVIDE LABELING REQUIREMENTS FOR ALTERNATIVE FUELS THAT  
20 CLAIM A HIGHER STANDARD; TO AMEND SECTION 75-55-22, MISSISSIPPI  
21 CODE OF 1972, TO REQUIRE A LICENSE FEE FOR CERTAIN PERSONS WHO  
22 BLEND OR MIX OXYGENATED GASOLINE BLENDS FOR SALE IN THIS STATE; TO  
23 AMEND SECTION 75-55-23, MISSISSIPPI CODE OF 1972, TO EXPAND THE  
24 INSPECTION AUTHORITY OF THE COMMISSIONER OF AGRICULTURE; TO AMEND  
25 SECTION 75-55-27, MISSISSIPPI CODE OF 1972, TO REQUIRE THAT  
26 CERTAIN RETAIL STATION PUMP METERS SHALL NOT DISPENSE MORE THAN  
27 ONE PRODUCT AND THAT PETROLEUM PRODUCTS SHALL BE KEPT ENTIRELY  
28 SEPARATE FROM EACH OTHER; TO AMEND SECTION 75-55-29, MISSISSIPPI  
29 CODE OF 1972, TO GIVE THE STATE CHEMIST AUTHORITY TO ESTABLISH  
30 RULES AND REGULATIONS IN CONNECTION WITH THE ANALYSIS OF SAMPLES  
31 AND THE OPERATION OF THE PETROLEUM PRODUCTS LABORATORY; TO AMEND  
32 SECTION 75-55-37, MISSISSIPPI CODE OF 1972, TO REQUIRE A LICENSED  
33 PETROLEUM EQUIPMENT REPAIRMAN TO BE PRESENT BEFORE A PUMP MAY BE  
34 UNLOCKED OR THE SEAL BROKEN FOR THE PURPOSE OF REPAIR OF THE PUMP;  
35 TO AMEND SECTION 75-55-38, MISSISSIPPI CODE OF 1972, TO DELETE THE  
36 PENALTIES FOR VIOLATIONS OF LICENSING PROVISIONS; TO CREATE A NEW  
37 CODE SECTION TO BE CODIFIED AS SECTION 75-55-43, MISSISSIPPI CODE  
38 OF 1972, TO PROVIDE PENALTIES FOR VIOLATIONS; TO CREATE A NEW CODE  
39 SECTION TO BE CODIFIED AS SECTION 75-55-45, MISSISSIPPI CODE OF  
40 1972, TO PROVIDE COMPLAINT AND HEARING PROCEDURES FOR VIOLATORS;  
41 AND FOR RELATED PURPOSES.

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

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

45 75-55-3. (1) The Commissioner of Agriculture and Commerce,

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

52 \* \* \*

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 any other information he deems appropriate for persons found  
59 guilty of violating 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) "API" means the American Petroleum Institute.

66 (b) "ASTM" means the American Society for Testing and  
67 Materials.

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

71 (d) "Commissioner" means the Commissioner of the  
72 Mississippi Department of Agriculture and Commerce, his agents and  
73 employees.

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

77 (f) "Denatured fuel ethanol" means ethanol (ethyl  
78 alcohol) meeting the provisions of ASTM D 4806, Standard

79 Specification for Denatured Fuel Ethanol to be Blended with  
80 Gasolines for Use as an Automotive Spark-Ignition Fuel.

81 (g) "Department" means the Mississippi Department of  
82 Agriculture and Commerce.

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

87 (i) "Diesel fuel pump" includes pumps, meters and all  
88 measuring devices used for measuring diesel fuel.

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

94 (k) "EPA" means the United States Environmental  
95 Protection Agency.

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

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

107 (n) "Gasoline pump" includes pumps, meters and all  
108 measuring devices used for measuring gasoline and all oxygenated  
109 blended fuels.

110 (o) "Illuminating oil" includes coal oil, kerosene or  
111 other petroleum products used for illuminating purposes.

112 (p) "Kerosene pump" includes pumps, meters and all  
113 measuring devices used for measuring kerosene.

114 (q) "Liquefied compressed gas pump" includes pumps,  
115 meters and all measuring devices used for measuring liquefied  
116 compressed gas.

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

122 (s) "Motor octane number" means the number describing  
123 the relative antiknock characteristic of a motor fuel determined  
124 by ASTM D 2700, Test Method for Knock Characteristics of Motor and  
125 Aviation Fuels by the Motor Method.

126 (t) "Nonoxygenated gasoline" means any gasoline which  
127 does not meet the definition of oxygenated gasoline.

128 (u) "Octane number or antiknock index" means the number  
129 obtained by adding the research octane number and the motor octane  
130 number and dividing the sum by two (2).

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

144 (w) "Oxygenate blending facility" means any facility at

145 which the oxygen content of gasoline is altered, excluding retail  
146 outlets, and wholesale purchaser-consumer facilities.

147 (x) "Oxygen content of gasoline" means the percentage  
148 of oxygen by weight contained in a gasoline, based upon its  
149 percentage oxygenate by volume, excluding denaturants and other  
150 nonoxygen-containing components with all measurements adjusted to  
151 sixty (60) degrees Fahrenheit.

152 (y) "Oxygenate" means any substance which, when added  
153 to gasoline, increases the amount of oxygen in that gasoline, and  
154 which has been approved by the EPA for use in gasoline. An  
155 oxygenate is an oxygen-containing, ashless organic compound which  
156 may be used as a fuel supplement or additive and includes alcohols  
157 and ethers. An oxygenated gasoline blend is a hydrocarbon  
158 gasoline containing one or more oxygenates.

159 (z) "Person" means any individual, firm, partnership,  
160 joint venture, association, corporation, distributor, wholesaler,  
161 terminal or any other business entity.

162 (aa) "Petroleum products" means products obtained from  
163 distilling and processing of crude oil, unfinished oils, recycled  
164 oils, natural gas liquids, refinery blend stocks and other  
165 miscellaneous hydrocarbon compounds, including, but not limited  
166 to, gasoline, oxygenated gasoline blends, kerosene and diesel  
167 fuel.

168 (bb) "State Chemist" means the Director of the  
169 Mississippi State Chemical Laboratory, or his agents and  
170 employees.

171 (cc) "Terminal" means a facility which is capable of  
172 receiving gasoline in bulk, by pipeline, marine vessel, tank truck  
173 or barge, or at which gasoline is altered either in quantity or  
174 quality, excluding the addition of deposit control additives.

175 (dd) "Total oxygenate content" means the aggregate  
176 total in volume percent of all oxygenates contained in any fuel  
177 defined in this law.

178 (ee) "Unleaded" means any gasoline or  
179 gasoline-oxygenate blend to which no lead or phosphorus compounds  
180 have been intentionally added and which contains not more than  
181 five one-hundredth (0.05) gram lead per U. S. gallon (thirteen  
182 one-thousandths (0.013) gram lead per liter) and not more than  
183 five one-thousandths (0.005) gram phosphorus per U. S. gallon  
184 (thirteen ten-thousandths (0.0013) gram phosphorus per liter).

185 (ff) "Wholesale purchaser-consumer" means any person  
186 who is an ultimate consumer of gasoline, fuel methanol, fuel  
187 ethanol, diesel fuel, biodiesel, fuel oil, kerosene, aviation  
188 turbine fuels, natural gas, compressed gas, or liquefied petroleum  
189 gas who purchases or obtains gasoline from a supplier for use in  
190 motor vehicles and receives delivery of that product into a  
191 storage tank.

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

194 75-55-5. (1) No person shall sell or offer for sale any  
195 gasoline or any of the other petroleum products described in this  
196 section unless the products meet the standards and specifications  
197 described below:

198 (a) Gasoline. Gasoline shall be free of undissolved  
199 water, suspended matter and of any harmful ingredient or  
200 component. Gasoline shall conform to the requirements of the  
201 current ASTM D 4814, Standard Specification for Automotive  
202 Spark-Ignition Engine fuel. The intent of this chapter is that  
203 requirements shall be kept current with subsequent amendments and  
204 editions of ASTM D 4814. Federal or state regulations shall  
205 preempt these specifications where applicable. The required test  
206 methods are listed below. In case of dispute, the current version  
207 of the listed methods shall be the referee methods.

208	<u>Corrosion</u>	<u>ASTM D 130</u>
209	<u>Distillation temperatures</u>	<u>ASTM D 86</u>
210	<u>Residue</u>	<u>ASTM D 86</u>

211	<u>Gum</u>	<u>ASTM D 381</u>
212	<u>Sulfur</u>	<u>ASTM D 2622 or D 4294</u>
213	<u>Vapor pressure</u>	<u>ASTM D 4953 or D 5191</u>
214	<u>Vapor liquid equilibrium</u>	<u>ASTM D 2533 or ASTM D 4814,</u>
215		<u>Appendix 2</u>
216	<u>Research octane number</u>	<u>ASTM D 2699 or D 2885</u>
217	<u>Motor octane number</u>	<u>ASTM D 2700 or D 2885</u>

218 Grades of unleaded gasoline and gasoline-oxygenate blends shall be  
219 classified as follows:

220 (i) Unleaded premium grade gasoline shall have an  
221 antiknock index of at least 91. The research octane number shall  
222 be at least 94.

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

226 (iii) Unleaded regular grade gasoline shall have  
227 an antiknock index of at least 87. The research octane number  
228 shall be at least 90 and the motor octane number shall be at least  
229 82.

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

234 Sale of leaded gasoline is prohibited except where allowed by  
235 the EPA.

236 (b) Oxygenated gasoline or oxygenated gasoline blends.

237 This fuel means a blend consisting primarily of gasoline and a  
238 substantial amount of one or more oxygenates. It must be a  
239 homogeneous blend of hydrocarbons and oxygenates and must meet the  
240 specifications of the current ASTM D 4814.

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

243 1. Gasohol

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

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

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

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

255 2. Federal or state regulations affecting  
256 vapor pressure shall preempt these standards during the applicable  
257 months.

258 3. For gasohol the minimum distillation  
259 temperature at fifty percent (50%) evaporated may be one hundred  
260 fifty-eight (158) degrees Fahrenheit in months when the D 4814  
261 recommended specification is one hundred seventy (170) degrees  
262 Fahrenheit. The method of determination shall be ASTM D 86.  
263 During the winter months when class D specifications are  
264 applicable, the minimum fifty percent (50%) evaporated temperature  
265 shall be one hundred fifty (150) degrees Fahrenheit or the  
266 temperature recommended by ASTM D 4814 for this class.

267 4. Gas - liquid chromatographic procedures  
268 shall be considered as official for the determination of oxygenate  
269 content as described in ASTM D 4814.

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

272 6. Gasoline-oxygenate blends not otherwise  
273 defined in this chapter may contain the maximum percentage and  
274 type of oxygenates as allowed by the "Substantially Similar" rule  
275 and the Clean Air Act.

276 7. Water tolerance shall be such that no



277 phase separation occurs when the product is subjected to a  
278 temperature equal to the lowest expected ambient temperature based  
279 on seasonal volatility classifications as specified in the current  
280 ASTM D 4814.

281 (c) **Diesel fuel.** Diesel fuel shall be hydrocarbon oils  
282 free from acids and grit, fibrous or other foreign material.  
283 Diesel fuel shall meet the requirements for the current ASTM D  
284 975, Standard Specification for Diesel Fuel Oils with the  
285 exception of Grade No. 1 and Grade No. 2 Tax-exempt diesel fuel  
286 oils, the sulfur content of which shall be a maximum of one  
287 percent (1%) until superceded by the implementation of the Federal  
288 Clean Air Act, or other federal law or regulation. The intent of  
289 this chapter, except for sulfur content in Grade No. 1 and Grade  
290 No. 2 Tax-exempt diesel fuel oils, is that requirements shall be  
291 kept current with subsequent amendments and editions of ASTM D  
292 975. Federal or state regulations shall preempt these  
293 specifications where applicable. The required test methods are  
294 listed below. In case of a dispute, the current version of the  
295 listed methods shall be the referee methods.

296	<u>Flash Point</u>	<u>D 93</u>
297	<u>Water and sediment</u>	<u>D 1796</u>
298	<u>Distillation temperature at 90%</u>	
299	<u>volume recovered</u>	<u>D 86</u>
300	<u>Kinematic viscosity</u>	<u>D 445</u>
301	<u>Ash</u>	<u>D 482</u>
302	<u>Sulfur</u>	<u>D 2622 or D 4294</u>
303	<u>(Specifications for Tax-exempt Grade 2-D diesel fuel sulfur</u>	
304	<u>content shall remain at a maximum of one percent (1%) until</u>	
305	<u>superseded by the implementation of the Federal Clean Air Act.)</u>	
306	<u>Copper strip corrosion</u>	<u>D 130</u>
307	<u>Cetane number</u>	<u>D 613</u>
308	<u>Cloud point</u>	<u>D 2500</u>
309	<u>Ramsbottom carbon residue</u>	<u>D 524</u>

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

312 (i) Cetane index D 976

313 (ii) Aromaticity D 1319

314 (d) **Kerosene.** Kerosene shall include lamp oil,  
315 illuminating oil and coal oil which shall conform to the detailed  
316 requirements set forth in the current ASTM D 3699, Standard  
317 Specification for Kerosene. The intent of this chapter is that  
318 requirements shall be kept current with subsequent amendments and  
319 editions of ASTM D 3699. Federal or state regulations shall  
320 preempt these specifications where applicable. The required test  
321 methods are listed below. In case of a dispute, the current  
322 version of the listed methods shall be the referee methods.

323 Flash point D 56

324 Distillation temperature D 86

325 Sulfur D 1266 or D 129

326 Mercaptan sulfur D 3227

327 Copper strip corrosion D 130

328 Freezing point D 2386

329 Burning quality D 187

330 Saybolt color D 156

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

334 (e) **Racing gasoline.** Racing gasoline means any  
335 gasoline which is sold for racing purposes. Racing gasolines may  
336 be sold from retail dispensing equipment under the following  
337 conditions:

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

341 (ii) The manufacturer shall provide a list of  
342 marketers selling these product(s) and the product(s) sold by each

343 retail outlet.

344 (iii) Marketers shall register their retail  
345 outlets by location and provide a list of the product(s) sold for  
346 each retail outlet.

347 (iv) The dispensing equipment shall contain a  
348 conspicuous sign stating that the fuel is racing gasoline. The  
349 dispensing equipment shall not contain any kind of representation  
350 indicating that the product is suitable for vehicles other than  
351 for racing.

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

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

358 (2) The commissioner and the state chemist may change the  
359 specifications set forth in this section to comply with the  
360 currently recommended ASTM or federally required specifications.

361 (3) The commissioner may prohibit the sale of any taxable  
362 petroleum product which is not in compliance with this article.

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

365 75-55-6. (1) A person, partnership, joint venture,  
366 individual, firm, association, distributor, wholesaler, terminal  
367 or corporation, before engaging in the wholesale sale of gasoline  
368 or other petroleum products in this state, shall obtain from the  
369 commissioner a wholesale petroleum license for each wholesale  
370 establishment owned or operated by the person. The application  
371 for the license shall be made on forms prescribed and furnished by  
372 the commissioner. The license shall expire on December 31 of each  
373 year. The license shall not be transferable and application must  
374 be made for a new license if there is any change in the location,  
375 owner or operator of the establishment. The licensee shall

376 display his license in a prominent and accessible place in the  
377 establishment where products are sold.

378 (2) A person who owns the pumps or tanks, or both, at a  
379 station or store at which gasoline or other petroleum products are  
380 sold to the consuming public, regardless of who may own the  
381 station or store, shall be considered to be a gasoline or  
382 petroleum retailer, and he shall obtain from the commissioner a  
383 retail petroleum license for each establishment where he owns the  
384 pumps or tanks, or both, before engaging in the sale of these  
385 products. The fee for license shall be Ten Dollars (\$10.00). The  
386 application for license shall be on forms prescribed and furnished  
387 by the commissioner. Each license shall expire on December 31 of  
388 each year. The license shall not be transferable and application  
389 must be made for a new license if there is any change in the  
390 location or ownership of the pumps or tanks, or both. The license  
391 shall be displayed as designated by the commissioner.

392 (3) Each applicant for a retail or wholesale petroleum  
393 license shall state in his application the name or brand name of  
394 the gasoline or other petroleum products he offers for sale or  
395 sell at his place of business, stating the (R+M)/2 octane rating  
396 or antiknock index of the products, as described in the Federal  
397 Trade Commission Octane Posting and Certification Rule. Each  
398 applicant shall provide all the information that may be requested  
399 by the commissioner in the application forms. A retail or  
400 wholesale petroleum licensee may sell only those products that  
401 have been registered with the commissioner.

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

405 (5) When a retail or wholesale petroleum licensee  
406 discontinues the sale of a product that he has been approved to  
407 sell, his authorization from the commissioner to sell the product  
408 shall automatically terminate. The licensee shall notify the

409 commissioner within thirty (30) days after he discontinues the  
410 sale of such product.

411 (6) Each person selling or offering to sell gasoline or  
412 other petroleum products at retail shall comply with the  
413 following:

414 (a) Each pump dispensing motor fuel at retail shall  
415 conspicuously display the name or brand name, or both, being sold  
416 therefrom exactly as the name or brand name has been approved for  
417 sale by the commissioner. Each pump shall conspicuously display  
418 the octane number of the product. The octane number designation  
419 shall be changed whenever the product is changed. Each diesel  
420 pump dispensing highway fuel at retail shall display the words  
421 "No. 1 Diesel" or "No. 2 Diesel." Each diesel pump dispensing off  
422 road diesel fuel at retail shall display the words "Tax-exempt  
423 Diesel Fuel." Each kerosene pump or fuel oil pump dispensing  
424 those products at retail shall display the words "No. 1-K  
425 Kerosene" or "No. 2-K Kerosene" or indicate the proper grade of  
426 fuel oil depending on the product dispensed.

427 (b) The labeling of all petroleum products on pumps  
428 shall be on both sides of the dispensing device, and must be  
429 conspicuously displayed on the upper fifty percent (50%) of the  
430 product dispenser front panel in a position that is clear and  
431 visible from the driver's position in type of at least one-half  
432 (1/2) inch in height and one-sixteenth (1/16) inch stroke (width of  
433 type).

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

436 75-55-7. (1) \* \* \* Gasoline \* \* \* shall not be subject to  
437 specifications required under \* \* \* Section 75-55-5, when it is  
438 purchased or received in this state for uses other than for sale  
439 or distribution to the consuming public or is not used on the  
440 highways or roadways. \* \* \*

441 (2) The commissioner \* \* \* and the State Chemist may, in

442 their discretion, \* \* \* establish specifications for aviation and  
443 other special gasolines when received in this state for any  
444 purpose other than \* \* \* propelling motor vehicles on the  
445 highways, or for sale or distribution to the consuming public.

446 (3) \* \* \* The specifications adopted for gasoline shall not  
447 apply to "gas machine gasoline" prepared or received in this state  
448 for use in industrial equipment, when the gasoline is not used or  
449 not capable of use in propelling motor vehicles on the highways.

450 (4) The commissioner and the State Chemist may, in their  
451 discretion, establish specifications for fuel oils and oil for  
452 other engines.

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

455 75-55-9. A person selling at retail gasoline, oxygenated  
456 gasoline blends, diesel fuel or kerosene, as defined in this  
457 chapter, shall at all times display signs as herein defined:

458 (a) All pumps and dispensing equipment for gasoline,  
459 oxygenated gasoline blends, diesel fuel or kerosene shall be  
460 marked conspicuously to show the total price per gallon of  
461 gasoline, oxygenated gasoline blends, diesel fuel or kerosene  
462 offered for sale, in figures of equal size and where fractional  
463 cents or figures are used therein, the combined height and width  
464 of the numerator and denominator shall be equal to the height and  
465 width of the other figures used. Provided, however, that any sign  
466 provided by the manufacturer of the retail pump or dispensing  
467 equipment which shows the total price per gallon and is part of  
468 the computing mechanism of such pumps and dispensing equipment  
469 shall be considered as being in compliance with this subsection.

470 (b) All signs placed on the premises of any service  
471 station and any highway, road, street or alley leading thereto  
472 advertising the price per gallon of gasoline, oxygenated gasoline  
473 blends, diesel fuel or kerosene offered for sale, shall show the  
474 registered brand name and total price in figures of equal size,

475 and where fractional figures are used therein, the width of the  
476 numerator and denominator of the fraction shall be equal to  
477 one-third (1/3) of the width of the other figures, but the  
478 combined height of the numerator and denominator shall be the same  
479 as that of the other figures. Where a decimal is used, then the  
480 fraction shall be at least one-half (1/2) the height of the other  
481 figures used in the sign, and the fraction shall be at least  
482 one-third (1/3) of the width of the other figures used in the  
483 sign. All figures and fractional figures shall be painted the  
484 same color as the other figures used in the sign. The total price  
485 per gallon on signs located on all premises of any service station  
486 and on highways, roads, streets or alleys leading to the service  
487 station shall be in agreement as to the total price per gallon  
488 shown on the retail pump dispensing the same brand of gasoline,  
489 oxygenated gasoline blends, diesel fuel or kerosene as that being  
490 so advertised. All signs advertising the price per gallon of  
491 gasoline, oxygenated gasoline blends, diesel fuel or kerosene  
492 offered for sale through self-service operated pumps at retail  
493 service stations shall clearly indicate that the posted price per  
494 gallon and brand is offered for sale through self-service pumps.

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

500 (d) All filler pipes for petroleum bulk storage tanks  
501 and retail station storage tanks shall be identified by color  
502 coding with the following colors representing the following grades  
503 of gasoline, or oxygenated gasoline blends, diesel fuel and  
504 kerosene. Eighty-seven (87) octane or unleaded regular gasoline  
505 or oxygenated gasoline blends shall be designated by the color  
506 white; eighty-nine (89) octane or unleaded midgrade gasoline or  
507 unleaded plus gasoline or oxygenated gasoline blends shall be

508 designated by the color blue; ninety and one-half (90.5) octane or  
509 unleaded superior or unleaded super midgrade or oxygenated  
510 gasoline blends shall be designated by the color yellow;  
511 ninety-one (91) octane through ninety-three (93) or unleaded  
512 premium gasoline or oxygenated gasoline blends shall be designated  
513 by the color red; diesel fuel shall be designated by the color  
514 green; dyed diesel fuel or tax exempt diesel fuel shall be  
515 designated by the color orange; kerosene shall be designated by  
516 the color black. \* \* \* The color coding shall be painted on the  
517 intake pipe cap or within six (6) inches thereof \* \* \*. However,  
518 an installation with a permanent embossment or engraving  
519 designating the grades of petroleum products within twelve (12)  
520 inches from each filler cap shall be acceptable. Nothing in this  
521 subsection shall apply to bulk storage tanks located at marine or  
522 pipeline terminals, nor bulk storage tanks used for the storage of  
523 liquefied compressed gas \* \* \*.

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

526 75-55-11. No person shall sell or offer to sell any  
527 gasoline, oxygenated gasoline blends or other petroleum product  
528 which fails to meet the standard specifications, or requirements  
529 set forth in this chapter, nor sell or offer to sell any gasoline,  
530 oxygenated gasoline blends or other petroleum products at retail  
531 without exhibiting the proper signs as required in this  
532 chapter. \* \* \* All gasoline, oxygenated gasoline blends or other  
533 petroleum products offered for sale shall always be as high octane  
534 number as advertised to be.

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

537 75-55-13. It is unlawful for a person to sell, offer or keep  
538 for sale, any lubricating oils, lubricants or mixtures of  
539 lubricants which are adulterated or falsely labeled in any  
540 particular. Reclaimed, recleaned, rerefined or previously used



541 oils shall be plainly labeled and sold as such. The labeling and  
542 advertising appearing on any container used to store a previously  
543 used lubricating oil shall be strictly in accord with the kind of  
544 product contained therein. On the face of each sealed container  
545 containing a previously used motor or lubricating oil, the wording  
546 or sign used to indicate that the product has been previously used  
547 must be in well-balanced letters.

548 Labels on containers of reclaimed, recleaned, rerefined or  
549 recycled oil which meet the Society of Automotive Engineers (SAE)  
550 and American Petroleum Institute (API) classifications for current  
551 (one (1) of the previous two (2) chronological API service  
552 classifications) model year automotive engines and which oil is  
553 offered for sale, shall be at least one-eighth (1/8) inch high on  
554 containers of one (1) gallon or less, and at least one-fourth  
555 (1/4) inch high on containers larger than one (1) gallon.

556 Reclaimed, recleaned, rerefined or previously used motor or  
557 lubricating oils, lubricants or mixtures of lubricants not meeting  
558 the classifications described in the preceding paragraph and  
559 offered for sale shall be labeled as follows: On one (1) quart  
560 containers the lettering shall not be less than three-eighths  
561 (3/8) inch high; on one-half (1/2) gallon containers the lettering  
562 shall be at least one-half (1/2) inch high; on one (1) gallon  
563 containers the lettering shall be at least three-fourths (3/4)  
564 inch high; and on five (5) gallon containers at least one (1) inch  
565 high; and on any storage can larger than five (5) gallons, a  
566 well-proportioned sign or lettering must appear with letters not  
567 less than two (2) inches high, indicating that the product has  
568 been previously used.

569 All tanks used for the storage of gasoline, oxygenated  
570 gasoline blends, other motor fuel, diesel fuel, kerosene or  
571 liquefied compressed gas, for wholesale or retail sales, shall be  
572 constructed and equipped in such manner as to allow the  
573 commissioner \* \* \* to safely sample or take an accurate physical

574 inventory of the contents of such tanks at all reasonable hours.

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

580 \* \* \*

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

583 75-55-15. No person shall store, keep, expose for sale,  
584 offer for sale, or sell from any tank or container or from any  
585 pump or other distributing device or equipment, any gasoline,  
586 oxygenated gasoline blends, diesel fuel, kerosene, illuminating  
587 oil, or lubricating oils or other similar products other than  
588 those indicated by the name, trade name, symbol, or sign of the  
589 manufacturer or distributor of the trademark or trade name of the  
590 product appearing upon the tank, container, pump, or other  
591 distributing equipment from which the same are sold, offered for  
592 sale or distributed. \* \* \* The product of any manufacturer may be  
593 sold from distributing equipment not bearing the name, trade name,  
594 symbol or sign of any manufacturer. \* \* \* No distributor or other  
595 person shall deliver any gasoline, oxygenated gasoline blends,  
596 diesel fuel, kerosene, illuminating oils, or other similar  
597 products \* \* \* for resale to the consuming public and place the  
598 products in storage tanks, containers, or other devices when the  
599 storage tanks, containers, or other devices are labeled contrary  
600 to the true nature of the products being delivered or when such  
601 storage tanks, containers, or other devices bear any sign, symbol,  
602 trademark, or label not reflecting the true sign, symbol,  
603 trademark or name of the product being delivered.

604 All distributors or other persons receiving, storing, selling  
605 or distributing gasoline, oxygenated gasoline blends or oil in the  
606 State of Mississippi shall have plainly marked on the tanks,

607 pumps, or other containers in which gasoline, oxygenated gasoline  
608 blends or oil is kept, words designating whether the product is  
609 gasoline, oxygenated gasoline blends or oil. No distributor or  
610 other person shall place any gasoline in a container marked oil or  
611 oxygenated gasoline blends, or any oil in a container marked  
612 gasoline or oxygenated gasoline blends, or oxygenated gasoline  
613 blends in any container marked gasoline or oil, nor shall there be  
614 any pipe or other connections between oil, gasoline and oxygenated  
615 gasoline blends containers. \* \* \* Nothing in this or any other  
616 law shall be construed to prohibit the use at common carrier  
617 pipeline terminals, of the same unloading lines to and between  
618 gasoline, oxygenated gasoline blends, and oil bulk storage  
619 stations, where adequate precautions have been taken to prevent  
620 contamination or adulteration of either oil, gasoline or  
621 oxygenated gasoline blends. No distributor or other person shall  
622 receive, store or distribute oil as gasoline or oxygenated  
623 gasoline blends nor gasoline as oil or oxygenated gasoline blends,  
624 nor oxygenated gasoline blends as oil or gasoline nor shall any  
625 distributor or other person make a false statement to the  
626 commissioner \* \* \* or any of his employees with reference to  
627 products received, stored, sold or delivered by such distributor  
628 or other person.

629 No distributor or other person shall sell or distribute or  
630 offer for sale or distribution gasoline and oil, or either, when  
631 such gasoline or oil, or either, is mixed, blended, or adulterated  
632 in this state in any manner or with any other product. \* \* \* This  
633 section shall not be construed to prevent any purchaser of  
634 gasoline and oil, or either, to adulterate such products after  
635 purchase to meet requirements of his individual uses and purposes,  
636 but in no event shall such purchaser sell or distribute such  
637 adulterated products, and it is not intended to levy a tax on  
638 crude oil produced in this state. \* \* \* Blending pumps from which  
639 gasoline and lubricating oil are dispensed at the same time into a

640 fuel tank or other container as marine fuel, may be installed by a  
641 distributor upon the prior issuance of a permit so to do by the  
642 commissioner \* \* \*, when the pumps \* \* \* have been approved by the  
643 Underwriter's Laboratories, Inc. \* \* \* Nothing in this paragraph  
644 shall be construed to prohibit the manufacture of oxygenated  
645 gasoline blends.

646 Blending of grades of gasoline, additives, and compounds  
647 shall be limited to refineries, terminals, and blending pumps, and  
648 no person other than those employed at the facilities shall be  
649 permitted to blend any of the above-named products. \* \* \*  
650 Gasoline may be blended with alcohol to form oxygenated gasoline  
651 blends at other locations in the State of Mississippi as may be  
652 designated and licensed by the commissioner.

653 \* \* \*

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

656 75-55-19. No person shall use any scales, measure or  
657 measuring device or mechanism or device attached to such scale,  
658 measure or measuring device in the handling or sale of gasoline or  
659 other petroleum products, unless the same is true and accurate;  
660 and the standards of weights and measures specifications and  
661 tolerances shall be those most recently adopted by the National  
662 Institute of Standards and Technology of the United States  
663 Department of Commerce, and published in NIST Handbook 44 and  
664 supplements thereto or in any publication revising or superceding  
665 Handbook 44, except that in no event shall gasoline, oxygenated  
666 gasoline blends, diesel fuel, or kerosene be dispensed for sale  
667 through visible or bowl pumps with outside indicators, and in no  
668 event shall any such bowl be drained by any device except through  
669 the regular dispensing hose.

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

672 75-55-21. (1) It is unlawful for any person to entice into

673 a service station, store, expose for sale, or sell gasoline or  
674 other petroleum products \* \* \* to deceive or to tend to deceive  
675 the purchaser as to the nature, quality or identity of the same by  
676 false representation or by substitution, mixing, blending, or  
677 adulteration, or by the use of disguised signs, camouflaged or  
678 falsely labeled containers, tanks, pumps, or other dispensing  
679 equipment, or by imitating the design, symbol, or trade name under  
680 which recognized brands of such products are generally marketed.

681 \* \* \* However, \* \* \* nothing in this chapter shall prevent a  
682 person, \* \* \* or \* \* \* agents or employees from storing, exposing  
683 for sale, or selling any such gasoline or other petroleum products  
684 under the tradename, sign, symbol, or distinguishing mark adopted  
685 and used by such person, \* \* \* in good faith, if such tradename,  
686 sign, symbol, or distinguishing mark is not deceitfully similar to  
687 that already in general use by any manufacturer or seller of such  
688 products.

689 (2) Persons claiming to offer for sale alternative fuels or  
690 gasoline or other petroleum products of a higher standard than any  
691 legal or customary standard shall label the container or  
692 dispensing equipment completely with reference to the special  
693 standard claimed and such label shall constitute a full guaranty  
694 that the product sold will meet the standards claimed in every  
695 particular.

696 \* \* \*

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

699 75-55-22. Every person located in Mississippi, except the  
700 holder of a refiner or a processor's license, before blending or  
701 mixing oxygenated gasoline blends for sale, delivery, exchange or  
702 use in Mississippi shall obtain from the commissioner a license  
703 authorizing him to engage in business as a producer of oxygenated  
704 gasoline blends. The fee for the license shall be Twenty-five  
705 Dollars (\$25.00). Forms for the application shall be furnished by

706 the commissioner. The license shall expire on December 31 of each  
707 year. Licenses shall not be transferable. Each producer of  
708 oxygenated gasoline blends shall have the necessary equipment to  
709 insure a complete and homogeneous mixture. The finished product  
710 shall meet all of the state's standards and specifications and  
711 shall not be transferred, sold, exchanged, delivered, used or  
712 disposed of by any other means until the product has been approved  
713 by the commissioner \* \* \*.

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

718 All unleaded gasoline, \* \* \* kept, offered, or exposed for  
719 sale, or sold, at retail by any person containing one percent (1%)  
720 or more by volume of ethanol, methanol or an ethanol/methanol  
721 mixture, shall be identified as "with" or "containing" (or similar  
722 wording) "ethanol," "methanol" or "ethanol/methanol" on the upper  
723 fifty percent (50%) of the dispenser front panels in a position  
724 clear and conspicuous from the driver's position, in a type at  
725 least one-half (1/2) inch in height, and one-sixteenth (1/16) inch  
726 stroke (width of type). All letters shall be black with a  
727 contrasting background.

728 All distributors, processors, refiners, and any other persons  
729 receiving, storing, selling, distributing or transporting gasoline  
730 that contains one percent (1%) by volume or more of methanol,  
731 ethanol or other alcohol shall identify the type or chemical name  
732 and percentage of such alcohol on any invoice, bill of lading,  
733 shipping paper or on any other type of documentation which is used  
734 in normal and customary practice in the petroleum industry.

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

737 75-55-23. The commissioner \* \* \* shall have full access,  
738 ingress and egress, at all reasonable hours, to any place or

739 building refinery, terminal, pipeline, barge, vessel, railcar,  
740 truck, or other vehicle of transportation, tank, storage facility  
741 or location wherein internal combustion engine fuels, lubricating  
742 oils or other like products are stored, transported, sold, offered  
743 or exposed for sale. The commissioner \* \* \* may open for  
744 inspection any case, package or other container, tank, pump, tank  
745 car, storage tank, vehicle, stationary engine or tractor, and  
746 enter upon any barge, vessel or other vehicle of transportation  
747 and, with instruments conforming to the standards of weights and  
748 measures most recently adopted by the National Institute of  
749 Standards and Technology of the United States Department of  
750 Commerce, check with any measuring device of the volume or weight  
751 of the contents of any container. Furthermore, the  
752 commissioner \* \* \* may take samples, not exceeding one (1) gallon,  
753 for analysis. All persons shall cooperate fully with the  
754 commissioner in his inspection of such products.

755 \* \* \*

756 Any room, house, building, boat, vehicle, structure or place  
757 where any petroleum product is received, stored, manufactured,  
758 refined, distilled, blended, compounded, sold or distributed in  
759 violation of this chapter, and any such petroleum product and all  
760 property kept and used in maintaining the same, is hereby declared  
761 to be a common nuisance. If such nuisance be found to exist, a  
762 judge or chancellor \* \* \* may issue an injunction, enjoining and  
763 restraining the continuance of the nuisance \* \* \*.

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

766 75-55-27. (1) With the exception of retail blending pumps  
767 that are covered by a NIST Certificate of Conformance, no retail  
768 station pump meter shall dispense more than one (1) product and  
769 station pipelines for gasoline, oxygenated gasoline blends, diesel  
770 fuel, kerosene, fuel oils or other products shall be entirely  
771 separate from each other.

772 (2) No requirements or provisions of this chapter shall  
773 prevent or abridge the use of gasoline, oxygenated gasoline  
774 blends, diesel fuel, kerosene, liquefied compressed gases or other  
775 petroleum products for heating or illuminating purposes through  
776 the use of special devices approved by the commissioner when not  
777 used on a highway.

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

783 (4) It is unlawful for any person to obstruct or hinder in  
784 any way the commissioner or his agents in the performance of his  
785 duties.

786 (5) Where self-service pumps and attendant-operated pumps  
787 are both operated at the same retail service station, the retail  
788 petroleum licensee shall attach or paint on each island or each  
789 pump or equipment the words "SELF-SERVICE" on the island or pump  
790 or equipment where the customer must dispense product or the words  
791 "FULL SERVICE" on the island or pump or equipment where the  
792 licensee dispenses the product in letters of not less than one (1)  
793 inch in height and not less than seven (7) inches across, on a  
794 contrasting background.

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

797 75-55-29. The State Chemist \* \* \* or his assistants \* \* \*  
798 shall analyze all samples of internal combustion engine fuels,  
799 lubricating oils and other like products provided by any person  
800 desiring an analysis of the product or provided by the \* \* \*  
801 department \* \* \* after an inspection. Any person desiring an  
802 analysis of a sample of internal combustion engine fuel,  
803 lubricating oil or similar products shall pay to the State Chemist  
804 the actual cost of the analysis. All funds collected by the State



805 Chemist under \* \* \* this chapter shall be paid into a special  
806 account to the credit of the Industrial and Agricultural Services  
807 Division of the Mississippi State Chemical Laboratory. The cost  
808 of analysis of those samples taken by the \* \* \* department \* \* \*  
809 shall be paid for out of the General Fund, upon appropriation by  
810 the Legislature. The certification of an analysis properly  
811 certified by affidavit of the State Chemist or his assistants  
812 shall be competent evidence in any court of this state. The State  
813 Chemist shall have the authority to establish rules and  
814 regulations in connection with the analysis of samples and the  
815 operation of the Petroleum Products Laboratory.

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

818 75-55-37. (1) The commissioner \* \* \* shall have the right  
819 to inspect any pump, truck, or other equipment that is used for  
820 the transportation, loading, unloading, storage or dispensing of  
821 gasoline or other petroleum products offered for sale, and if  
822 upon \* \* \* inspection any \* \* \* pump, truck, or other equipment is  
823 found to be inaccurate to the extent that a test thereof shows a  
824 deficiency of more than twenty-five (25) cubic inches on a five  
825 (5) gallon measurement, or if the right to inspect any such pump,  
826 truck, or other equipment is refused or denied, the  
827 commissioner \* \* \* shall have the right to immediately close and  
828 lock the pump and other equipment or to seal same with the  
829 commissioner's seal. If a pump, truck, or other equipment is  
830 found to be inaccurate but the deficiency is twenty-five (25)  
831 cubic inches or less on a five (5) gallon measurement, then the  
832 commissioner \* \* \* shall give the owner or operator thereof  
833 forty-eight (48) hours within which to correct the  
834 inaccuracy. \* \* \* If the person fails or refuses to correct the  
835 inaccuracy within forty-eight (48) hours then the  
836 commissioner \* \* \* shall have the right to lock and seal the pump  
837 or other equipment immediately.

838           It shall be prima facie presumed upon the refusal of the  
839 owner to allow the right to inspect that the pump, truck, or other  
840 equipment sought to be inspected is inaccurate to the extent of  
841 more than twenty-five (25) cubic inches on a five (5) gallon  
842 measurement or is operating in violation of this chapter. When a  
843 pump or other equipment is locked or sealed, it may not be  
844 unlocked or the seal \* \* \* broken except in the presence of a  
845 licensed petroleum equipment repairman called for the purpose of  
846 repairing the inaccuracy in the machinery of the pump or other  
847 equipment, and the inaccuracy shall be immediately \* \* \* repaired,  
848 and the pump or other equipment properly regulated. The  
849 commissioner may, in his discretion, require an affidavit from the  
850 licensed petroleum equipment repairman repairing the pump or other  
851 equipment, or any other proof which he may deem advisable to show  
852 that the pump was unlocked or the seal \* \* \* broken in the  
853 presence of the licensed petroleum equipment repairman, and that  
854 the inaccuracies \* \* \* were \* \* \* completely repaired or  
855 regulated.

856           When a state or factory seal is broken on the measuring  
857 adjustment device on a retail pump, it shall be the duty of the  
858 station operator to notify the commissioner by United States mail,  
859 within twenty-four (24) hours, after the breaking of the seal.  
860 After the commissioner has received written notice \* \* \* and he or  
861 his agent has resealed the measuring adjustment device on the pump  
862 or pumps at this station, it is unlawful for any person to break a  
863 state or factory seal on the measuring adjustment device on any  
864 pump at the station during the ensuing ninety (90) days without  
865 the prior approval of the commissioner \* \* \*.

866           The State of Mississippi shall have a lien on all pumps,  
867 trucks, and other equipment used by any distributor, retailer or  
868 other person, in the operation of his gasoline or petroleum  
869 business for any fee or penalty due the State of Mississippi  
870 because of a violation of this chapter. The lien shall be

871 paramount to any and all private liens and the state shall be  
872 entitled to sell the pumps, trucks and equipment to satisfy the  
873 fee or penalty, and any excess proceeds from the sale shall be  
874 paid according to law. \* \* \*

875 \* \* \*

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

878 75-55-38. (1) Any person who repairs, adjusts or removes an  
879 official seal from a petroleum pump or metering device shall,  
880 before engaging in such activity, obtain a license from the  
881 commissioner upon showing that he is qualified to repair, adjust  
882 and test petroleum pumps and/or metering devices. Application for  
883 a petroleum equipment repairman's license shall be made annually  
884 on forms prescribed and furnished by the commissioner. A fee of  
885 Fifty Dollars (\$50.00) shall be paid by the applicant at the time  
886 application \* \* \* is made. The license shall expire on the  
887 thirtieth day of June next after its issuance. Any person so  
888 licensed shall, within three (3) days after he repairs or adjusts  
889 a petroleum pump, metering or measuring device or removes an  
890 official seal \* \* \*, make a report \* \* \* to the commissioner on a  
891 form provided \* \* \* by the department \* \* \*.

892 (2) Upon receipt of a license, the petroleum equipment  
893 repairman shall acquire a seal press, one (1) die of which shall  
894 be inscribed with his license number. All official pump or meter  
895 seals removed by the licensed petroleum equipment repairman shall  
896 be replaced and such replaced seals shall clearly show the license  
897 number of the petroleum equipment repairman replacing the seal(s).

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

901 \* \* \*

902 SECTION 18. The following shall be codified as Section  
903 75-55-43, Mississippi Code of 1972:

904       75-55-43. Any person who violates any provision of this  
905 chapter or the regulations adopted hereunder is guilty of a  
906 misdemeanor and shall be punished by the imposition of a fine not  
907 to exceed Five Hundred Dollars (\$500.00) or by imprisonment in the  
908 county jail for a term not to exceed six (6) months, or both.

909       SECTION 19. The following shall be codified as Section  
910 75-55-45, Mississippi Code of 1972:

911       75-55-45. (1) If a person violates this chapter,  
912 administrative proceedings may be brought against him. A written  
913 complaint shall be filed in the office of the department. The  
914 commissioner shall notify the accused by serving a copy of the  
915 summons and complaint on him by any of the methods set forth in  
916 Rule 4 of the Mississippi Rules of Civil Procedure or by certified  
917 mail. The accused shall file a written answer to the complaint  
918 within thirty (30) days after service of the summons and the  
919 complaint on him. Upon receipt of the written answer of the  
920 accused, the matter shall be set for hearing before the  
921 commissioner or his designee within a reasonable time. In lieu of  
922 a hearing, the accused may request that the complaint be decided  
923 based on the documents submitted to the commissioner. If the  
924 accused fails to file an answer within thirty (30) days, the  
925 commissioner or his designee may enter an order by default against  
926 the accused. The commissioner may issue subpoenas to require the  
927 attendance of witnesses and the production of documents.  
928 Compliance with the subpoenas may be enforced by any court of  
929 general jurisdiction in this state. The testimony of witnesses  
930 shall be upon oath or affirmation, and they shall be subject to  
931 cross-examination. The proceedings shall be recorded. If the  
932 commissioner or his designee determines that the complaint lacks  
933 merit, he may dismiss same. If he finds that there is substantial  
934 evidence showing that a violation of any of the statutes or  
935 regulations has occurred, he may impose any or all of the  
936 following penalties upon the accused: (a) to levy a civil penalty

937 in an amount not to exceed One Thousand Dollars (\$1,000.00) for  
938 each violation; (b) to revoke or suspend any license or permit  
939 issued to the accused under the terms of this chapter; (c) to  
940 issue a stop sale or order with regard to any gasoline or  
941 petroleum product; (d) to require the accused to relabel any  
942 gasoline or other petroleum product that he is offering for sale  
943 and which is not labeled in accordance with this chapter; (e) to  
944 seize any gasoline or petroleum product that is not in compliance  
945 with this chapter and destroy, sell or otherwise dispose of the  
946 gasoline or petroleum product and apply the proceeds of any such  
947 sale to the costs and any fees or civil penalties levied with the  
948 balance to be paid according to law; (f) to order any pumps,  
949 trucks or equipment of a licensee that are out of tolerance to be  
950 locked down until brought within the allowed tolerances; or (g) to  
951 order the sale of any pumps, trucks or equipment of a licensee to  
952 satisfy a fee or penalty levied by the commissioner against the  
953 licensee. The decision of the commissioner or his designee shall  
954 be in writing, and it shall be delivered to the accused by  
955 certified mail. If any costs, fees or penalties are not paid as  
956 directed by the commissioner, they may be collected through the  
957 court system. All fees, costs and penalties collected by the  
958 commissioner shall be expended by the department for operating  
959 expenses of the Petroleum Products Inspection Division.

960 (2) Either the accused or the department may appeal the  
961 decision of the commissioner or his designee to the circuit court  
962 of the county of residence of the accused, or if the accused is a  
963 nonresident of the State of Mississippi, to the Circuit Court of  
964 the First Judicial District of Hinds County, Mississippi. The  
965 appellant shall have the record transcribed and file it with the  
966 circuit court. The appeal shall otherwise be governed by all  
967 applicable laws and rules affecting appeals to circuit court. If  
968 no appeal is perfected within the required time, the decision of  
969 the commissioner, or his designee, will then become final.

970 (3) The decision of the circuit court may then be appealed  
971 by either party to the Mississippi Supreme Court in accordance  
972 with the existing law and rules affecting such appeals.

973 (4) When any violation of this chapter, or the rules and  
974 regulations promulgated hereunder, occurs, or is about to occur,  
975 that presents a clear and present danger to the public health,  
976 safety or welfare requiring immediate action, the commissioner or  
977 any of the department's field inspectors, or any other persons  
978 authorized by the commissioner, may issue an order to be effective  
979 immediately, prior to notice and a hearing, that imposes any or  
980 all of the following penalties against the accused: (a) a stop  
981 sale order with regard to any gasoline or petroleum product; (b)  
982 require the accused to relabel any gasoline or other petroleum  
983 product that he is offering for sale and which is not labeled in  
984 accordance with this chapter; (c) seize any gasoline or other  
985 petroleum product that is not in compliance with this chapter and  
986 destroy, sell or otherwise dispose of the petroleum product and  
987 apply the proceeds of any such sale to the costs and any fees or  
988 civil penalties levied, with the balance to be paid according to  
989 law; or (d) to order any pumps, trucks or equipment of a licensee  
990 that are out of tolerance to be locked down until brought within  
991 the allowed tolerances, except that a licensee shall have a  
992 forty-eight-hour grace period to correct a deficiency of  
993 twenty-five (25) cubic inches or less on a five (5) gallon  
994 measurement before the order shall be issued. The order shall be  
995 served upon the accused in the same manner that the summons and  
996 complaint may be served upon him, except that, in the alternative,  
997 it may be served by giving a copy of the order to the attendant at  
998 his establishment. The accused shall have thirty (30) days after  
999 service of the order upon him to request an informal  
1000 administrative review before the Director of the Bureau of  
1001 Regulatory Services in the department, or his designee, who shall  
1002 act as reviewing officer. If the accused makes a timely request,

1003 the reviewing officer shall provide an informal administrative  
1004 review to the accused within ten (10) days after the request is  
1005 made. If the accused does not request an informal administrative  
1006 review within thirty (30) days, then he will be deemed to have  
1007 waived his right to a review. At the informal administrative  
1008 review, subpoena power shall not be available, witnesses shall not  
1009 be sworn nor be subject to cross-examination and there shall be no  
1010 court reporter or record made of the proceedings. Each party may  
1011 present its case in the form of documents, oral statements or any  
1012 other method. The rules of evidence shall not apply. The  
1013 reviewing officer's decision shall be in writing, and it shall be  
1014 delivered to the parties by certified mail. If either party is  
1015 aggrieved by the order of the reviewing officer, he may appeal to  
1016 the commissioner for a full evidentiary hearing in accordance with  
1017 the procedures described in subsection (1), except that there  
1018 shall be no requirement for a written complaint or answer to be  
1019 filed by the parties. Such appeal shall be perfected by filing a  
1020 notice of appeal with the commissioner within thirty (30) days  
1021 after the order of the reviewing officer is served on the  
1022 appealing party. The hearing before the commissioner or his  
1023 designee shall be held within a reasonable time after the appeal  
1024 has been perfected. Failure to perfect an appeal within the  
1025 thirty (30) days will be deemed a waiver of this right.

1026 (5) In the enforcement of this chapter and the regulations  
1027 adopted hereunder, the commissioner shall have available to him  
1028 all legal and equitable remedies, including, but not limited to,  
1029 injunction, and he may initiate and defend suits in his own  
1030 behalf, and he shall have access to all state and federal courts  
1031 and he shall not be required to make or file a bond in any such  
1032 proceedings.

1033 SECTION 20. This act shall take effect and be in force from  
1034 and after July 1, 2000.