

By: Representative Clark

To: Agriculture;
Transportation

HOUSE BILL NO. 691

1 AN ACT TO REQUIRE ALL GASOLINE SOLD IN THE STATE OF
2 MISSISSIPPI TO CONTAIN 10% DENATURED ALCOHOL BY 2012; TO EXEMPT
3 CERTAIN FUELS FROM THE ETHANOL-BLEND REQUIREMENT; TO AMEND SECTION
4 75-55-5, MISSISSIPPI CODE OF 1972, TO DEFINE ADDITIONAL TERMS; AND
5 FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 75-55-5, Mississippi Code of 1972, is
8 amended as follows:

9 75-55-5. The words, terms and phrases as used in this
10 chapter shall have the following meanings, unless the context
11 requires otherwise:

12 (a) The term "commissioner" means the Commissioner of
13 the Mississippi Department of Agriculture and Commerce, or his
14 agents and employees.

15 (b) The term "State Chemist" means the Director of the
16 Mississippi State Chemical Laboratory, or his agents and
17 employees.

18 (c) The term "person" shall include any individual,
19 firm, copartnership, joint venture, association, corporation,
20 estate, trust or any other group or combination acting as a unit,
21 and the plural as well as the singular number, unless the
22 intention to give a more limited meaning is disclosed by the
23 context.

24 (d) The term "illuminating oil" shall include coal oil,
25 kerosene or other petroleum products used for illuminating
26 purposes.

27 (e) The term "lubricating oil" means all petroleum
28 based oils or synthetic lubricants intended for use in the

29 crankcase of an internal combustion engine, either spark ignition
30 or diesel type. The purpose of the lubricating oil is to reduce
31 friction between two (2) solid surfaces moving relative to one
32 another.

33 (f) The term "gasoline pump" shall include pumps,
34 meters and all measuring devices used for measuring gasoline and
35 all oxygenated blended fuels; the term "diesel fuel pump" shall
36 include pumps, meters and all measuring devices used for measuring
37 diesel fuel; the term "kerosene pump" shall include pumps, meters
38 and all measuring devices used for measuring kerosene; the term
39 "liquefied compressed gas pump" shall include pumps, meters and
40 all measuring devices used for measuring liquefied compressed gas.

41 (g) The term "gasoline" shall include (1) all products
42 commonly or commercially known or sold as gasoline (excluding
43 casinghead and absorption or natural gasoline) regardless of their
44 classification or uses; and (2) a volatile mixture of liquid
45 hydrocarbons, generally containing small amounts of additives,
46 suitable for use as a fuel in spark ignition, internal combustion
47 engines.

48 (h) The term "commercial gasoline" shall mean a liquid
49 suitable for use as a fuel in spark ignition combustion engines,
50 and shall be free of undissolved water, suspended matter and of
51 any harmful ingredient or component and which, in addition, meets
52 the following test requirements as set out in ASTM D4814, and it
53 shall be the intent of this chapter that the state specifications
54 may be kept current with ASTM D4814 as illustrated below:

55 (i) Corrosion ASTM D130. A clean copper strip
56 shall not show more than extremely slight discoloration equivalent
57 to ASTM Strip No. 1, when submerged in the gasoline for three (3)
58 hours at one hundred twenty-two (122) degrees Fahrenheit, as
59 determined by ASTM D130.

60 (ii) Distillation range. For each month the
61 distillation range shall be that specified by the vapor pressure

62 class requirement for that month. Distillation temperature limits
63 shall be consistent with the corresponding vapor pressure class
64 during the months affected by federal or state regulation which
65 restrict vapor pressure. If the vapor pressure limit is between
66 two (2) classes, the distillation temperature limits of the least
67 restrictive class shall be acceptable. The method of test shall
68 be ASTM D86.

69 (iii) Residue. The residue, after evaporation,
70 shall not exceed two percent (2%), as determined by ASTM D86.

71 (iv) Gum test. The gum shall not exceed five (5)
72 milligrams per one hundred (100) milliliters, after the extraction
73 of the residue with a-heptane, as determined by ASTM D381.

74 (v) Sulphur. The sulphur content shall not exceed
75 ten one-hundredths percent (0.10%) for unleaded gasoline or
76 fifteen one-hundredths percent (0.15%) for leaded gasoline, as
77 determined by ASTM D2622 or D4045.

78 (vi) Vapor pressure. The vapor pressure during
79 the months of July and August shall not exceed ten (10) pounds per
80 square inch at one hundred (100) degrees Fahrenheit, and during
81 the months of November, December, January, February and March
82 shall not exceed thirteen and one-half (13-1/2) pounds per square
83 inch at one hundred (100) degrees Fahrenheit.

84 The vapor pressure during the remaining months of the year
85 shall not exceed eleven and five-tenths (11.5) pounds per square
86 inch at one hundred (100) degrees Fahrenheit. The method of
87 determination shall be ASTM D4953. Federal or state regulation
88 restricting vapor pressure to lower levels shall preempt these
89 standards during the applicable months.

90 (vii) Vapor liquid equilibrium. A maximum value
91 of twenty (20) for the vapor liquid equilibrium test during the
92 months July and August shall be obtained at a temperature of one
93 hundred thirty-three (133) degrees Fahrenheit; for the months of
94 November, December, January, February and March it shall be

95 obtained at a temperature of one hundred sixteen (116) degrees
96 Fahrenheit; for the other months of the year it shall be obtained
97 at one hundred twenty-four (124) degrees Fahrenheit. The method
98 of determination shall be ASTM D2533 or ASTM D4814, appendix X2.

99 (viii) Lead specifications. The unleaded gasoline
100 shall contain less than five hundredths (0.05) gram of lead per
101 gallon, and the leaded gasoline shall contain a minimum of five
102 hundredths (0.05) gram of lead and less than four and two-tenths
103 (4.2) grams of lead per gallon. The method of analysis should be
104 ASTM D3237, (Atomic Absorption Spectrometry), ASTM D2599 (X-ray
105 Spectrometry) or ASTM D2547 (Volumetric Chromate).

106 (ix) Classification.

107 1. "Leaded premium grade gasoline" shall have
108 an (R + M)/2 octane antiknock index of at least ninety-three (93).
109 The research octane number shall be at least ninety-six (96).

110 2. "Unleaded premium grade gasoline" shall
111 have an (R + M)/2 octane antiknock index of at least ninety-one
112 (91). The research octane number shall be at least ninety-four
113 (94).

114 3. "Mid-grade unleaded gasoline" shall have
115 an (R + M)/2 octane antiknock index of at least eighty-nine (89).
116 The research octane number shall be at least ninety-two (92).

117 4. "Leaded regular grade gasoline" shall have
118 an (R + M)/2 octane antiknock index of at least eighty-nine (89).
119 The research octane number shall be at least ninety (90).

120 5. "Unleaded regular grade gasoline" shall
121 have an (R + M)/2 octane antiknock index of at least eighty-seven
122 (87). The research octane number shall be at least ninety (90),
123 and the motor octane number shall be at least eighty-two (82).

124 6. "Third grade gasoline" shall have an (R +
125 M)/2 octane antiknock of not more than eighty-seven (87).

126 The methods of octane determination shall be ASTM D2699 for
127 the research octane number (R) and ASTM D2700 for the motor octane

128 number (M), or ASTM D2885 for both the research octane number and
129 the motor octane number. The $(R + M)/2$ octane antiknock index
130 shall be the average of the research and motor octane numbers. All
131 retail pumps or delivery devices shall be labeled with the
132 appropriate $(R + M)/2$ octane antiknock index in accordance with
133 the Federal Trade Commission Octane Posting and Certification
134 Regulation 306. No commercial gasoline shall be colored mahogany.

135 (i) The term "oxygenated fuel" means a liquid fuel
136 which is a homogeneous blend of hydrocarbons and oxygenates. The
137 term "oxygenate" means an oxygen containing, ashless organic
138 compound which may be used as a fuel supplement or additive and
139 includes alcohols and ethers. "Gasoline-oxygenate blend" means a
140 blend consisting primarily of gasoline and a substantial amount of
141 one or more oxygenates. This definition includes, but is not
142 limited to, the following designations:

143 (i) "Gasohol" meaning any motor fuel containing a
144 nominal ten (10) volume percent anhydrous denatured alcohol and
145 ninety (90) volume percent unleaded gasoline, regardless of other
146 name, label or designation.

147 (ii) "Leaded gasohol" meaning any motor fuel
148 containing a nominal ten (10) volume percent anhydrous, denatured
149 ethanol and ninety (90) volume percent leaded gasoline, regardless
150 of other name, label or designation.

151 (iii) Any gasoline - oxygenate blend which meets
152 the United States Environmental Protection Agency's "substantially
153 similar" rule, Section 211(f)(1) of the Clean Air Act, 42 USCS
154 7545(f)(1).

155 (iv) Any gasoline - oxygenate blend for which
156 there is an existing Clean Air Act waiver issued by the United
157 States Environmental Protection Agency.

158 (j) "Alcohol blended fuel" means gasohol or leaded
159 gasohol.

160 (k) "Anhydrous, denatured ethyl alcohol (ethanol)"
161 means normal two hundred (200) proof ethanol to which has been
162 added a maximum of five (5) volumes of approved denaturant(s) to
163 one hundred (100) volumes of ethanol and containing not more than
164 one and twenty-five hundredths percent (1.25%) water by weight as
165 determined by ASTM E203.

166 (l) "Approved denaturant(s)" means materials used for
167 denaturing ethyl alcohol for use as a motor fuel which have been
168 approved by the United States Department of the Treasury, Bureau
169 of Alcohol, Tobacco and Firearms, and both the State Chemist and
170 the Commissioner of Agriculture and Commerce. Gasoline -
171 oxygenate blends shall meet the state requirements for gasoline
172 with the following modifications:

173 (i) An increase in vapor pressure not exceeding
174 one (1) pound per square inch may be allowed for gasohol and
175 leaded gasohol January through December of each year. The method
176 of determination shall be ASTM D4953.

177 (ii) Federal regulation affecting vapor pressure
178 shall preempt these standards during the applicable months.

179 (iii) The minimum distillation temperature at
180 fifty percent (50%) evaporated shall be one hundred fifty-eight
181 (158) degrees Fahrenheit as determined by ASTM D86.

182 (iv) Gas - liquid chromatographic procedures shall
183 be considered as official for the determination of oxygenate
184 content as described in ASTM D4814.

185 1. Gasohol and leaded gasohol shall contain
186 ten plus/minus five-tenths (10+/- .5) volume percent anhydrous
187 denatured ethanol.

188 2. Gasoline - oxygenate blends not otherwise
189 defined in this chapter may contain the maximum percentage and
190 type of oxygenates as allowed by the "substantially similar" rule
191 under the Clean Air Act.

192 (v) Water tolerance shall be such that no phase
193 separation occurs when the product is subjected to a temperature
194 equal to the lowest expected ambient temperature based on seasonal
195 volatility classifications as specified in the current ASTM D4814.

196 (m) The term "oil" as used in this chapter shall
197 include diesel fuel, kerosene, fuel oil, distillate, gas oil,
198 tractor fuel or any other product other than gasoline, as defined
199 in this chapter, which is usable as fuel in an internal combustion
200 engine, and any product which, on distillation in accordance with
201 the method of test of the American Society for Testing and
202 Materials shows not more than ten percent (10%) recovered when the
203 thermometer shows two hundred sixty-one (261) degrees Fahrenheit;
204 and not more than ninety-five percent (95%) recovered when the
205 thermometer shows four hundred sixty-five (465) degrees Fahrenheit
206 or more; provided that nothing in this paragraph shall be
207 construed to include oils received or sold as lubricants when such
208 oils cannot be used as a fuel in internal combustion engines.

209 (n) "Diesel fuel" is any petroleum product intended for
210 use or offered for sale as a fuel for engines in which the fuel is
211 injected into the combustion chamber and ignited by pressure
212 without the presence of an electric spark.

213 Specifications: The fuel oils herein specified shall be
214 hydrocarbon oils free from acids, grit and fibrous or other
215 foreign material. Three (3) grades of such oils are specified and
216 these shall conform to the detailed requirements in the current
217 American Society for Testing and Materials Specifications for
218 Diesel Fuel Oils (ASTM D975), except for the sulphur content of
219 Grade 2-D. All tests shall be in accordance with the applicable
220 American Society for Testing and Materials method as set forth in
221 the current ASTM Designation D975. Diesel fuel requirements are
222 listed below:

223	Grade 1-D	Grade 2-D	Grade 4-D
224	Flash point, degrees		

225	F. D93	Min. 100	Min. 125	Min. 130	Water &
226	sediment, %				
227	by volume, D1796	Max. 0.05	Max. 0.05	Max. 0.5	
228	Carbon residue on 10%				
229	residium, % D524	Max. 0.15	Max. 0.35	_____	
230	Ash, % by weight, D482	Max. 0.01	Max. 0.01	Max. 0.1	
231	Distillation, 90% point,				
232	degrees F., D86	_____	Min. 540	_____	
233		Max. 550	Max. 640	_____	
234	Viscosity @ 100 degrees F.				
235	kinematic-centistokes				
236	D445	Min. 1.3	Min. 2.0	Min. 5.5	
237	or	Max. 2.4	Max. 4.1	Max. 24.0	
238	Viscosity @ 100 degrees				
239	F., Saybolt Universal				
240	Sec.	_____	Min. 32.6	Min. 45	
241		Max. 34.4	Max. 40.1	Max. 125	
242	Sulphur, % by weight, D129	Max. 0.5	Max. 1.0	Max. 2.0	
243	Copper strip corrosion,				
244	D130	Max. No. 3	Max. No. 3	_____	
245	Cetane number, D613 or D976	Min. 40	Min. 40	Min. 30	

246 (o) The word "kerosene" shall include lamp oil,
247 illuminating oil and coal oil which shall conform to the detailed
248 requirements set forth in the current American Society for Testing
249 and Materials Specification for Kerosene (ASTM D3699). All tests
250 shall be in accordance with the applicable American Society for
251 Testing and Material Methods as set forth in ASTM D3699. The
252 detailed requirements are listed below:

253 (i) The oil shall be free of water and suspended
254 matter.

255 (ii) The color shall not be darker than number
256 plus sixteen (16) on the Saybolt scale, as determined by ASTM
257 D156.

258 (iii) The flash point shall, by ASTM D56, not be
259 lower than one hundred (100) degrees Fahrenheit when determined in
260 Tagliabue closed type tester, as determined by ASTM D56.

261 (iv) The sulphur content shall not exceed four
262 one-hundredths percent (0.04%) for No. 1-K kerosene and thirty
263 one-hundredths percent (0.30%) for No. 2-K. The method of
264 determination shall be ASTM D1266. No. 1-K kerosene is a special
265 low-sulphur grade kerosene suitable for use in nonflue-connected
266 kerosene burner appliances and in wick-fed illuminating lamps. No.
267 2-K Kerosene is suitable for use in flue-connected burner
268 appliances and in wick-fed illuminating lamps.

269 (v) The distillation ten percent (10%) point shall
270 not be higher than four hundred one (401) degrees Fahrenheit, as
271 determined by ASTM D86.

272 (vi) The distillation end point shall not be
273 higher than five hundred seventy-two (572) degrees Fahrenheit, as
274 determined by ASTM D86.

275 (vii) The oil shall not show a cloud point at five
276 (5) degrees Fahrenheit, as determined by ASTM D2500.

277 (viii) The oil shall burn freely and steadily for
278 sixteen (16) hours, as determined by ASTM D187.

279 (ix) The gravity shall not be less than degrees
280 API 41, as determined by ASTM D1298.

281 (x) The corrosion test results shall be No. 1
282 Maximum in a three-hour at two hundred twelve (212) degrees
283 Fahrenheit test, as determined by ASTM D130.

284 (p) Racing gasoline means any gasoline which is sold
285 for racing purposes. Racing gasoline may be sold from retail
286 dispensing equipment under the following conditions:

287 (i) The product brand name and octane number shall
288 be registered with the Commissioner of Agriculture and Commerce
289 and the State Chemist.

290 (ii) The manufacturer shall forward a list of
291 marketers selling these product(s) and the product(s) being sold
292 by each marketer.

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

296 (iv) The dispensing equipment shall contain a
297 conspicuous sign stating that the fuel is racing gasoline. The
298 dispensing equipment shall not contain any kind of representation
299 indicating that the product is suitable for vehicles other than
300 for racing.

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

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

307 (vii) The Commissioner of Agriculture and Commerce
308 (the "commissioner") and the State Chemist are hereby given
309 authority to change the specifications set forth in this section
310 to comply with the currently recommended ASTM or federally
311 required specifications.

312 (q) The term "agricultural use" means use of gasoline
313 by a person who earns income while engaging in the business of
314 farming or ranching and who files farm income reports for tax
315 purposes as required by the United States Internal Revenue
316 Service.

317 (r) The term "aviation dealer" means a person in this
318 state engaged in the business of selling aviation fuel, either
319 from a wholesale or retail outlet, on which the license tax has
320 been paid to a licensed distributor as provided in this section.

321 (s) The term "aviation fuel" means gasoline or any
322 other liquid fuel by whatever name the liquid fuel may be known or

323 sold, compounded for use in and sold for use in aircraft,
324 including, but not limited to, any and all gasoline or liquid fuel
325 meeting or exceeding the minimum specifications prescribed by the
326 United States for use by its military forces in aircraft.

327 (t) The term "bulk delivery" means placing gasoline in
328 storage or containers. The term does not mean gasoline delivered
329 into the supply tank of a motor vehicle.

330 (u) The term "distributed" means the time that gasoline
331 is withdrawn from the tanks, refinery or terminal storage for sale
332 or use in this state or for the transportation to destinations in
333 this state other than by pipeline to another refinery or pipeline
334 terminal in this state for:

335 (i) Gasoline that is refined, produced,
336 manufactured or compounded in this state and placed in tanks;

337 (ii) Gasoline transferred from a refinery or
338 pipeline terminal in this state and placed in tanks; or

339 (iii) Gasoline imported into this state and placed
340 in storage at refineries or pipeline terminals.

341 When withdrawn from the tanks, refinery or terminal, the
342 gasoline may be distributed only by a person who is the holder of
343 a valid distributor's license.

344 For gasoline imported into this state, other than the
345 gasoline placed in storage at refineries or pipeline terminals,
346 the gasoline is considered to be distributed after it has arrived
347 in and is brought to rest in this state.

348 (v) The term "distributor" means:

349 (i) A person who engages in the business in this
350 state of producing, refining, manufacturing or compounding
351 gasoline for sale, use or distribution;

352 (ii) A person who imports gasoline for sale, use
353 or distribution;

354 (iii) A person who engages in the wholesale
355 distribution of gasoline in this state and chooses to become
356 licensed to assume the Mississippi state gasoline tax liability;

357 (iv) An exporter as defined in subsection (x);

358 (v) A dealer licensed as of January 1, 1969,
359 except a dealer at an established airport; or

360 (vi) A person in Mississippi who blends alcohol
361 with gasoline.

362 (w) The term "export" means to transport out of
363 Mississippi, by any means other than in the fuel supply tank of a
364 motor vehicle, gasoline received from a refinery or pipeline
365 terminal within Mississippi.

366 (x) The term "exporter" means any person who
367 transports, other than in the fuel supply tank of a motor vehicle,
368 gasoline received from a refinery or pipeline terminal in
369 Mississippi to a destination outside Mississippi for sale, use or
370 consumption beyond the boundaries of this state.

371 (y) The term "import" means to receive into a person's
372 possession or custody first after its arrival and coming to rest
373 at destination within the state of gasoline shipped or transported
374 into this state from a point of origin outside of this state other
375 than in the fuel supply tank of a motor vehicle.

376 (z) The term "importer" means a person who transports
377 or arranges for the transportation of gasoline into Mississippi
378 for sale, use or distribution in this state.

379 (aa) The term "improperly imported fuel" means gasoline
380 or aviation fuel as defined in paragraphs (g) and (s) that:

381 (i) Is consigned to a Mississippi destination and
382 imported into the state without the distributor first having
383 obtained a permit to engage in business in the State of
384 Mississippi as required in Section 75-55-22; or

385 (ii) Is delivered, possessed, sold or transferred
386 in the state in any manner not authorized under Title 75, Chapter
387 55.

388 (bb) The term "motor vehicle" means all vehicles
389 operated or propelled upon the public highways or streets of this
390 state in whole or in part by the combustion of gasoline.

391 (cc) The term "use" means the operation of motor
392 vehicles upon the public roads or highways of the state or of any
393 political subdivision of the state.

394 (dd) The term "department" means the Mississippi
395 Department of Agriculture and Commerce.

396 **SECTION 2.** (1) Except as provided in Section 2 and
397 subsection (5) of this section, within twelve (12) months after
398 the department has certified by 2011, that the State of
399 Mississippi's production of denatured ethanol exceeds two hundred
400 fifty million (250,000,000) gallons, and has maintained that level
401 of production on an annualized basis for at least three (3)
402 months, the department shall adopt standards and specifications
403 pursuant to Section 75-55-5 that ensure that all gasoline sold to
404 consumers for use in motor vehicles to be operated on the public
405 highways, roads and streets of this state must be blended with ten
406 percent (10%), by volume, of agriculturally derived, denatured
407 ethanol and may not contain more than trace amounts of the
408 additive methyl tertiary butyl ether.

409 (2) Except as provided in Section 2 and subsection (5) of
410 this section, within twelve (12) months after the department has
411 certified by 2011, that the State of Mississippi's production of
412 denatured ethanol exceeds two hundred fifty million (250,000,000)
413 gallons, and has maintained that level of production on an
414 annualized basis for at least three (3) months, a fuel retailer
415 who sells gasoline to consumers to be used in their vehicles on
416 the public highways, roads and streets of this state may not
417 accept gasoline for sale to consumers or sell gasoline to

418 consumers that is not ethanol-blended as provided in subsection
419 (1) or that contains the additive methyl tertiary butyl ether.

420 (3) Agriculturally denatured ethanol referred to in
421 subsection (1) may be denatured only as specified in Title 27,
422 Parts 20 and 21, of the Code of Federal Regulations.

423 (4) The department shall compile a quarterly report
424 certifying the amount of denatured ethanol that is produced in
425 Mississippi.

426 (5) Once the production of two hundred fifty million
427 (250,000,000) gallons of denatured ethanol has been certified and
428 the provisions of subsections (1) and (2) apply, if the production
429 of denatured ethanol drops below one hundred twenty-five million
430 (125,000,000) gallons on an annualized basis, the provisions of
431 this section do not apply.

432 **SECTION 3.** The following are exempt from use of
433 ethanol-blended gasoline:

434 (a) Gasoline that is not ethanol-blended as required in
435 Section 1 may be sold or dispensed at a public or private
436 racecourse if the gasoline is intended to be used exclusively as a
437 fuel for off-highway motor sports racing events.

438 (b) Gasoline retailers and wholesale bulk distributors
439 shall hold, store, import, transfer and offer for sale or use
440 nonethanol-blended unleaded premium grade gasoline with an
441 antiknock index number of ninety-one (91) or greater.

442 (c) Aviation fuel is not subject to an ethanol blending
443 requirement.

444 **SECTION 4.** This act shall take effect and be in force from
445 and after July 1, 2007.