

By: Representatives Pigott, Dixon

To: Agriculture; Energy

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1130

1 AN ACT TO AMEND SECTIONS 75-55-5 AND 75-55-37, MISSISSIPPI
2 CODE OF 1972, TO EXTEND THE REPEALER ON THE PROVISIONS OF LAW
3 WHICH PROVIDE DEFINITIONS AND PENALTIES RELATED TO THE PETROLEUM
4 PRODUCTS INSPECTION LAWS; AND FOR RELATED PURPOSES.

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

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

8 75-55-5. * * * The words, terms and phrases as used in this
9 chapter shall have the following meanings, unless the context
10 requires otherwise:

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

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

17 (c) The term "ASTM" means an international voluntary
18 consensus standards organization formed for the development of
19 standards on characteristics and performance of materials,



20 products, systems, and services, and the promotion of related
21 knowledge.

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

28 (e) The term "illuminating oil" shall include coal oil,
29 kerosene or other petroleum products used for illuminating
30 purposes.

31 (f) The term "lubricating oil" means all
32 petroleum-based oils or synthetic lubricants intended for use in
33 the crankcase of an internal combustion engine, either spark
34 ignition or diesel type. The purpose of the lubricating oil is to
35 reduce friction between two (2) solid surfaces moving relative to
36 one another.

37 (g) The term "gasoline pump" shall include pumps,
38 meters and all measuring devices used for measuring gasoline and
39 all oxygenated blended fuels; the term "diesel fuel pump" shall
40 include pumps, meters and all measuring devices used for measuring
41 diesel fuel; the term "kerosene pump" shall include pumps, meters
42 and all measuring devices used for measuring kerosene; the term
43 "liquefied compressed gas pump" shall include pumps, meters and
44 all measuring devices used for measuring liquefied compressed gas.



45 (h) The term "gasoline" shall include (i) all products
46 commonly or commercially known or sold as gasoline (excluding
47 casing head and absorption or natural gasoline) regardless of
48 their classification or uses; and (ii) a volatile mixture of
49 liquid hydrocarbons, generally containing small amounts of
50 additives, suitable for use as a fuel in spark ignition, internal
51 combustion engines.

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

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

64 (ii) Distillation range. For each month the
65 distillation range shall be that specified by the vapor pressure
66 class requirement for that month. Distillation temperature limits
67 shall be consistent with the corresponding vapor pressure class
68 during the months affected by federal or state regulation which
69 restrict vapor pressure. If the vapor pressure limit is between



two (2) classes, the distillation temperature limits of the least restrictive class shall be acceptable. The method of test shall be ASTM D86.

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

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

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

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

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



94 (vii) Vapor liquid equilibrium. A maximum value
95 of twenty (20) for the vapor liquid equilibrium test during the
96 months July and August shall be obtained at a temperature of one
97 hundred thirty-three degrees (133°) * * * Fahrenheit; for the
98 months of November, December, January, February and March it shall
99 be obtained at a temperature of one hundred sixteen degrees
100 (116°) * * * Fahrenheit; for the other months of the year it shall
101 be obtained at one hundred twenty-four degrees (124°) * * *
102 Fahrenheit. The method of determination shall be ASTM D2533 or
103 ASTM D4814, appendix X2.

104 (viii) Lead specifications. The unleaded gasoline
105 shall contain less than five hundredths (0.05) gram of lead per
106 gallon, and the leaded gasoline shall contain a minimum of five
107 hundredths (0.05) gram of lead and less than four and two-tenths
108 (4.2) grams of lead per gallon. The method of analysis should be
109 ASTM D3237, (Atomic Absorption Spectrometry), ASTM D2599 (X-ray
110 Spectrometry) or ASTM D2547 (Volumetric Chromate).

111 (ix) Classification.

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

115 2. "Unleaded premium grade gasoline" shall
116 have an (R + M)/2 octane antiknock index of at least ninety-one
117 (91). The research octane number shall be at least ninety-four
118 (94).



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

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

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

129 6. "Third-grade gasoline" shall have an $(R +$
130 $M)/2$ octane antiknock of not more than eighty-seven (87).

131 The methods of octane determination shall be ASTM D2699 for
132 the research octane number (R) and ASTM D2700 for the motor octane
133 number (M), or ASTM D2885 for both the research octane number and
134 the motor octane number. The $(R + M)/2$ octane antiknock index
135 shall be the average of the research and motor octane numbers.
136 All retail pumps or delivery devices shall be labeled with the
137 appropriate $(R + M)/2$ octane antiknock index in accordance with
138 the Federal Trade Commission Octane Posting and Certification
139 Regulation 306. No commercial gasoline shall be colored mahogany.

140 (j) The term "oxygenated fuel" means a liquid fuel
141 which is a homogeneous blend of hydrocarbons and oxygenates. The
142 term "oxygenate" means an oxygen containing ashless organic
143 compound which may be used as a fuel supplement or additive and



includes alcohols and ethers. "Gasoline-oxygenate blend" means a blend consisting primarily of gasoline and a substantial amount of one or more oxygenates. This definition includes, but is not limited to, the following designations:

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

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

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

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

(k) "Alcohol blended fuel" means gasohol or leaded gasohol.

(l) "Anhydrous, denatured ethyl alcohol (ethanol)" means normal two hundred (200) proof ethanol to which has been added a maximum of five (5) volumes of approved denaturant(s) to one hundred (100) volumes of ethanol and containing not more than



one and twenty-five hundredths percent (1.25%) water by weight as determined by ASTM E203.

(m) "Approved denaturant(s)" means materials used for denaturing ethyl alcohol for use as a motor fuel which have been approved by the United States Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, and both the State Chemist and the Commissioner of Agriculture and Commerce. Gasoline-oxygenate blends shall meet the specifications set forth in the most recent edition of the Annual Book of ASTM standards and supplements thereto, and revisions thereof, except where amended or modified by the Commissioner and State Chemist.

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



194 (o) "Diesel fuel" is any petroleum product intended for
195 use or offered for sale as a fuel for engines in which the fuel is
196 injected into the combustion chamber and ignited by pressure
197 without the presence of an electric spark.

198 Specifications: The fuel oils herein specified shall be
199 hydrocarbon oils free from acids, grit and fibrous or other
200 foreign material. Three (3) grades of such oils are specified and
201 these shall conform to the detailed requirements in the current
202 American Society for Testing and Materials Specifications for
203 Diesel Fuel Oils (ASTM D975), except for the sulphur content of
204 Grade 2-D. All tests shall be in accordance with the applicable
205 American Society for Testing and Materials method as set forth in
206 the current ASTM Designation D975. Diesel fuel requirements are
207 listed below:

	Grade 1-D	Grade 2-D	Grade 4-D
208 Flash point, degrees F. D93	Min. 100	Min. 125	Min. 130
209 Water & sediment,			
210 % by volume, D1796	Max. 0.05	Max. 0.05	Max. 0.5
211 Carbon residue on 10%			
212 residium, % D524	Max. 0.15	Max. 0.35	_____
213 Ash, % by weight, D482	Max. 0.01	Max. 0.01	Max. 0.1
214 Distillation, 90% point,			
215 degrees F., D86	_____	Min. 540	_____
216	Max. 550	Max. 640	_____
217			
218 Viscosity @ 100 degrees F.			



219	kinematic-centistokes			
220	D445	Min. 1.3	Min. 2.0	Min. 5.5
221	or	Max. 2.4	Max. 4.1	Max. 24.0
222	Viscosity @ 100 degrees F.			
223	Saybolt Universal Sec.	_____	Min. 32.6	Min. 45
224		Max. 34.4	Max. 40.1	Max. 125
225	Sulphur, % by weight, D129	Max. 0.5	Max. 1.0	Max. 2.0
226	Copper strip corrosion, D130	Max. No. 3	Max. No. 3	_____
227	Cetane number, D613 or D976	Min. 40	Min. 40	Min. 30

228 (p) The word "kerosene" shall include lamp oil,
229 illuminating oil and coal oil which shall conform to the detailed
230 requirements set forth in the current American Society for Testing
231 and Materials Specification for Kerosene (ASTM D3699). All tests
232 shall be in accordance with the applicable American Society for
233 Testing and Material Methods as set forth in ASTM D3699. The
234 detailed requirements are listed below:

235 (i) The oil shall be free of water and suspended
236 matter.

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

240 (iii) The flash point shall, by ASTM D56, not be
241 lower than one hundred degrees (100°) * * * Fahrenheit when
242 determined in Tagliabue closed type tester, as determined by ASTM
243 D56.



244 (iv) The sulphur content shall not exceed four
245 one-hundredths percent (0.04%) for No. 1-K kerosene and thirty
246 one-hundredths percent (0.30%) for No. 2-K kerosene. The method
247 of determination shall be ASTM D1266. No. 1-K kerosene is a
248 special low-sulphur grade kerosene suitable for use in
249 nonflue-connected kerosene burner appliances and in wick-fed
250 illuminating lamps. No. 2-K kerosene is suitable for use in
251 flue-connected burner appliances and in wick-fed illuminating
252 lamps.

253 (v) The distillation ten percent (10%) point shall
254 not be higher than four hundred one degrees (401°) * * *
255 Fahrenheit, as determined by ASTM D86.

256 (vi) The distillation end point shall not be
257 higher than five hundred seventy-two degrees (572°) * * *
258 Fahrenheit, as determined by ASTM D86.

259 (vii) The oil shall not show a cloud point at five
260 degrees (5°) * * * Fahrenheit, as determined by ASTM D2500.

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

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

265 (x) The corrosion test results shall be No. 1
266 Maximum in a three-hour at two hundred twelve degrees (212°) * * *
267 Fahrenheit test, as determined by ASTM D130.



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

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

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

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

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

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

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

(vii) The Commissioner of Agriculture and Commerce (the "commissioner") and the State Chemist are hereby given



authority to change the specifications set forth in this section to comply with the currently recommended ASTM or federally required specifications.

(2) This section shall stand repealed on July 1, * * * 2019.

SECTION 2. Section 75-55-37, Mississippi Code of 1972, is amended as follows:

75-55-37. (1) The commissioner or his duly appointed representatives shall have the right to request an inspection of any pump, truck, or other equipment, and if upon such inspection any such pump, truck, or other equipment is found to be inaccurate to the extent that a test thereof shows a deficiency of more than twenty-five (25) cubic inches on a five (5) gallon measurement, or if the right to inspect any such pump, truck, or other equipment is refused or denied the commissioner, or his duly authorized representatives, he or they shall have the right to immediately close and lock said pump and other equipment or to seal same with the commissioner's seal. If such pump, truck, or other equipment is found to be inaccurate but the deficiency is twenty-five (25) cubic inches or less on a five (5) gallon measurement, then the commissioner or his representative shall give the owner or operator thereof forty-eight (48) hours within which to correct such inaccuracy and if such person fails or refuses to correct same within said period then the commissioner or his representative shall have the right to lock and seal such pump or other equipment in the same manner as provided above.



318 It shall be prima facie presumed upon any refusal to allow
319 the right to inspect that the pump, truck, or other equipment
320 sought to be inspected is inaccurate to the extent set forth
321 above, or is operating in violation of this chapter. When any
322 such pump or other equipment is locked or sealed, it may not be
323 unlocked or the seal thereon broken except in the presence of a
324 mechanic or other person called for the purpose of repairing the
325 inaccuracy in the machinery of such pump or other equipment, and
326 such inaccuracy shall be immediately thereafter repaired, and the
327 pump or other equipment properly regulated. The commissioner may,
328 in his discretion, require an affidavit from the mechanic
329 repairing such pump or other equipment, or any other proof which
330 he may deem advisable to the effect that said pump was unlocked or
331 the seal thereon broken in the presence of such mechanic, and that
332 the inaccuracies therein were thereupon completely repaired or
333 regulated.

334 When a state or factory seal is broken on the measuring
335 adjustment device on a retail pump, it shall be the duty of the
336 station operator to notify the commissioner by United States mail,
337 within twenty-four (24) hours, after the breaking of said seal.
338 After the commissioner has received written notice as herein
339 provided and he or his agent has resealed the measuring adjustment
340 device on the pump or pumps at this station, it shall be unlawful
341 for the owner or operator of the station or any of his employees
342 to break a state or factory seal on the measuring adjustment



device on any pump at the station during the ensuing ninety (90) days without the prior approval of the commissioner or his agent.

The State of Mississippi shall have a lien on all pumps, trucks, and other equipment used by any distributor, or other person, in the operation of his business for any tax or penalty due the State of Mississippi because of any violation of this chapter. Such lien shall be paramount to any and all private liens and all the provisions set out in Chapter 7 of Title 85 of the Mississippi Code of 1972, shall be applicable herein for the purpose of securing the enforcement of said lien, and particularly the right to secure the issuance of a writ of summons and seizure and proceedings had and done after the issuance of said writ shall be applicable. Provided, however, that the commissioner shall not be required to give any bond in any such case.

Any person or officer, agent or employee thereof who shall violate any provision of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding One Hundred Dollars (\$100.00) for the first offense and not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Dollars (\$200.00) for each subsequent offense or imprisonment in the county jail for a period not to exceed ninety (90) days or both.

(2) If a person who, by himself, by his agent, or as the servant or agent of another person commits a violation of this



chapter, the commissioner or his designee may impose any, all or a combination of the following penalties:

(a) A stop sale order for any engine fuel, nonengine fuel, automotive lubricant or any other petroleum product not in compliance with this chapter. A remand of the stop sale order may be issued if the engine fuel, nonengine fuel, automotive lubricant or petroleum product is brought into full compliance with this chapter. The stop sale order may be appealed to the commissioner or his designee within twenty (20) days from the receipt of the order.

(b) A warning letter for violations of this chapter.

(c) A civil penalty of not more than Three Thousand Dollars (\$3,000.00) per violation. A person may request an administrative hearing within thirty (30) days of receipt of the notice of the penalty. The commissioner or his designee shall conduct a hearing after giving reasonable notice to the person. The decision may be appealed to the Circuit Court of the First Judicial District of Hinds County.

(3) If the person has exhausted his administrative appeals, he shall pay the civil penalty within thirty (30) days after the effective date of the final decision. If the person fails to pay the penalty, the commissioner may bring a civil action in any court of competent jurisdiction to recover the penalty.

(4) The commissioner is authorized to suspend, revoke and/or permanently deny a registration under the Petroleum Products



392 Inspection Law of Mississippi to any person, firm, corporation or
393 other organization determined to be guilty of two (2) or more
394 violations per location, per year, of the Petroleum Products
395 Inspection Law of Mississippi and the rules and regulations in
396 force pursuant thereto.

397 (5) In lieu of, or in addition to, the penalties provided
398 above, the commissioner and the State Chemist shall have the power
399 to institute and maintain in the name of the state any and all
400 proceedings necessary or appropriate to enforce the provisions of
401 the Petroleum Products Inspection Law of Mississippi and the rules
402 and regulations in force pursuant thereto, in the appropriate
403 circuit, chancery, county or justice court in which venue may lie.
404 The commissioner and the State Chemist may obtain mandatory or
405 prohibitory injunctive relief, whether temporary or permanent, and
406 it shall not be necessary for the state to post a bond or prove
407 that no adequate remedy is available at law.

408 (6) All penalties assessed by the commissioner under this
409 section shall be deposited in the State General Fund.

410 (7) This section shall stand repealed on July 1, * * * 2019.

411 **SECTION 3.** This act shall take effect and be in force from
412 and after July 1, 2016.

