

By: Representative Pigott

To: Agriculture

HOUSE BILL NO. 484

1 AN ACT TO AMEND SECTION 75-55-3, MISSISSIPPI CODE OF 1972, TO
 2 PROVIDE THE COMMISSIONER OF AGRICULTURE AND COMMERCE IS VESTED
 3 WITH EXCLUSIVE POWER AND AUTHORITY OF ADMINISTERING AND ENFORCING
 4 THE PETROLEUM PRODUCTS INSPECTION LAW OF MISSISSIPPI; TO FURTHER
 5 PROVIDE THAT THE INSPECTION OF PETROLEUM PRODUCTS SHALL REMAIN
 6 UNDER THE PURVIEW AND CONTROL OF THE COMMISSIONER AND AGENTS OF
 7 THE MISSISSIPPI DEPARTMENT OF AGRICULTURE AND COMMERCE AT ALL
 8 TIMES; TO PROHIBIT THE PERFORMANCE OF ANY DUTIES AND
 9 RESPONSIBILITIES-RELATED PETROLEUM PRODUCT INSPECTIONS FROM BEING
 10 CONTRACTED TO ANY THIRD PARTY ENTITY; TO AMEND SECTIONS 75-55-5
 11 AND 75-55-37, MISSISSIPPI CODE OF 1972, TO DELETE THE REPEALER ON
 12 THOSE SECTIONS OF LAW WHICH PROVIDE DEFINITIONS AND PENALTIES
 13 UNDER THE PETROLEUM PRODUCTS INSPECTION LAW OF MISSISSIPPI; AND
 14 FOR RELATED PURPOSES.

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

16 **SECTION 1.** Section 75-55-3, Mississippi Code of 1972, is
 17 amended as follows:

18 75-55-3. (1) The Commissioner of Agriculture and Commerce,
 19 hereinafter referred to as the "commissioner," is vested with
 20 exclusive power and authority and is charged with the duty of
 21 administering and enforcing the provisions of this chapter which
 22 pertain to signs; the labeling of pumps, tanks and other packages
 23 and containers; to trade names; and to scales, pumps and measuring
 24 equipment, and he shall have the authority to establish rules and



25 regulations not inconsistent herewith in connection with its
26 enforcement.

27 (2) The State Chemist is vested with power and authority and
28 is charged with the duty of administering the provisions of this
29 chapter which authorize the analysis of samples and the operation
30 of the petroleum products laboratory, and he shall have the
31 authority to establish rules and regulations in connection with
32 its enforcement.

33 (3) (a) The commissioner and the State Chemist shall have
34 joint authority for setting specifications of petroleum products
35 and shall have the authority to establish rules and regulations in
36 connection with the enforcement of this chapter.

37 (b) The authority provided to the commissioner and
38 state chemist under paragraph (a) of this subsection for the
39 inspection of petroleum products shall remain under the purview
40 and control of the commissioner, state chemist, agents of the
41 Mississippi Department of Agriculture and Commerce and personnel
42 under the supervision of the state chemist at all times, except as
43 otherwise provided in law, and shall not be contracted to any
44 third-party entity to perform any duties and responsibilities
45 related to such inspections.

46 **SECTION 2.** Section 75-55-5, Mississippi Code of 1972, is
47 amended as follows:



48 75-55-5. * * * The words, terms and phrases as used in this
49 chapter shall have the following meanings, unless the context
50 requires otherwise:

51 (a) The term "commissioner" means the Commissioner of
52 the Mississippi Department of Agriculture and Commerce, or his
53 agents and employees.

54 (b) The term "State Chemist" means the Director of the
55 Mississippi State Chemical Laboratory, or his agents and
56 employees.

57 (c) The term "ASTM" means an international voluntary
58 consensus standards organization formed for the development of
59 standards on characteristics and performance of materials,
60 products, systems, and services, and the promotion of related
61 knowledge.

62 (d) The term "person" shall include any individual,
63 firm, copartnership, joint venture, association, corporation,
64 estate, trust or any other group or combination acting as a unit,
65 and the plural as well as the singular number, unless the
66 intention to give a more limited meaning is disclosed by the
67 context.

68 (e) The term "illuminating oil" shall include coal oil,
69 kerosene or other petroleum products used for illuminating
70 purposes.

71 (f) The term "lubricating oil" means all
72 petroleum-based oils or synthetic lubricants intended for use in



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

77 (g) The term "gasoline pump" shall include pumps,
78 meters and all measuring devices used for measuring gasoline and
79 all oxygenated blended fuels; the term "diesel fuel pump" shall
80 include pumps, meters and all measuring devices used for measuring
81 diesel fuel; the term "kerosene pump" shall include pumps, meters
82 and all measuring devices used for measuring kerosene; the term
83 "liquefied compressed gas pump" shall include pumps, meters and
84 all measuring devices used for measuring liquefied compressed gas.

85 (h) The term "gasoline" shall include (i) all products
86 commonly or commercially known or sold as gasoline (excluding
87 casing head and absorption or natural gasoline) regardless of
88 their classification or uses; and (ii) a volatile mixture of
89 liquid hydrocarbons, generally containing small amounts of
90 additives, suitable for use as a fuel in spark ignition, internal
91 combustion engines.

92 (i) The term "commercial gasoline" shall mean a liquid
93 suitable for use as a fuel in spark ignition combustion engines,
94 and shall be free of undissolved water, suspended matter and of
95 any harmful ingredient or component and which, in addition, meets
96 the following test requirements as set out in ASTM D4814, and it



97 shall be the intent of this chapter that the state specifications
98 may be kept current with ASTM D4814 as illustrated below:

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

104 (ii) Distillation range. For each month the
105 distillation range shall be that specified by the vapor pressure
106 class requirement for that month. Distillation temperature limits
107 shall be consistent with the corresponding vapor pressure class
108 during the months affected by federal or state regulation which
109 restrict vapor pressure. If the vapor pressure limit is between
110 two (2) classes, the distillation temperature limits of the least
111 restrictive class shall be acceptable. The method of test shall
112 be ASTM D86.

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

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

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



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

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

134 (vii) Vapor liquid equilibrium. A maximum value
135 of twenty (20) for the vapor liquid equilibrium test during the
136 months July and August shall be obtained at a temperature of one
137 hundred thirty-three degrees (133°) Fahrenheit; for the months of
138 November, December, January, February and March it shall be
139 obtained at a temperature of one hundred sixteen degrees (116°)
140 Fahrenheit; for the other months of the year it shall be obtained
141 at one hundred twenty-four degrees (124°) Fahrenheit. The method
142 of determination shall be ASTM D2533 or ASTM D4814, appendix X2.

143 (viii) Lead specifications. The unleaded gasoline
144 shall contain less than five hundredths (0.05) gram of lead per
145 gallon, and the leaded gasoline shall contain a minimum of five
146 hundredths (0.05) gram of lead and less than four and two-tenths



147 (4.2) grams of lead per gallon. The method of analysis should be
148 ASTM D3237, (Atomic Absorption Spectrometry), ASTM D2599 (X-ray
149 Spectrometry) or ASTM D2547 (Volumetric Chromate).

150 (ix) Classification.

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

154 2. "Unleaded premium grade gasoline" shall
155 have an $(R + M)/2$ octane antiknock index of at least ninety-one
156 (91). The research octane number shall be at least ninety-four
157 (94).

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

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

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

168 6. "Third-grade gasoline" shall have an $(R +$
169 $M)/2$ octane antiknock of not more than eighty-seven (87).

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



172 number (M), or ASTM D2885 for both the research octane number and
173 the motor octane number. The $(R + M)/2$ octane antiknock index
174 shall be the average of the research and motor octane numbers.
175 All retail pumps or delivery devices shall be labeled with the
176 appropriate $(R + M)/2$ octane antiknock index in accordance with
177 the Federal Trade Commission Octane Posting and Certification
178 Regulation 306. No commercial gasoline shall be colored mahogany.

179 (j) The term "oxygenated fuel" means a liquid fuel
180 which is a homogeneous blend of hydrocarbons and oxygenates. The
181 term "oxygenate" means an oxygen containing ashless organic
182 compound which may be used as a fuel supplement or additive and
183 includes alcohols and ethers. "Gasoline-oxygenate blend" means a
184 blend consisting primarily of gasoline and a substantial amount of
185 one or more oxygenates. This definition includes, but is not
186 limited to, the following designations:

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

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

195 (iii) Any gasoline-oxygenate blend which meets the
196 United States Environmental Protection Agency's "substantially



197 similar" rule, Section 211(f) (1) of the Clean Air Act, 42 USCS
198 7545(f) (1) .

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

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

204 (l) "Anhydrous, denatured ethyl alcohol (ethanol)"
205 means normal two hundred (200) proof ethanol to which has been
206 added a maximum of five (5) volumes of approved denaturant(s) to
207 one hundred (100) volumes of ethanol and containing not more than
208 one and twenty-five hundredths percent (1.25%) water by weight as
209 determined by ASTM E203.

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

219 (n) The term "oil" as used in this chapter shall
220 include diesel fuel, kerosene, fuel oil, distillate, gas oil,
221 tractor fuel or any other product other than gasoline, as defined



222 in this chapter, which is usable as fuel in an internal combustion
223 engine, and any product which, on distillation in accordance with
224 the method of test of the American Society for Testing and
225 Materials shows not more than ten percent (10%) recovered when the
226 thermometer shows two hundred sixty-one degrees (261°) Fahrenheit;
227 and not more than ninety-five percent (95%) recovered when the
228 thermometer shows four hundred sixty-five degrees (465°)
229 Fahrenheit or more; provided that nothing in this paragraph shall
230 be construed to include oils received or sold as lubricants when
231 such oils cannot be used as a fuel in internal combustion engines.

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

236 Specifications: The fuel oils herein specified shall be
237 hydrocarbon oils free from acids, grit and fibrous or other
238 foreign material. Three (3) grades of such oils are specified and
239 these shall conform to the detailed requirements in the current
240 American Society for Testing and Materials Specifications for
241 Diesel Fuel Oils (ASTM D975), except for the sulphur content of
242 Grade 2-D. All tests shall be in accordance with the applicable
243 American Society for Testing and Materials method as set forth in
244 the current ASTM Designation D975. Diesel fuel requirements are
245 listed below:



	Grade 1-D	Grade 2-D	Grade 4-D
246			
247	Flash point, degrees F. D93	Min. 100	Min. 125
248	Water & sediment,		
249	% by volume, D1796	Max. 0.05	Max. 0.05
250	Carbon residue on 10%		
251	residium, % D524	Max. 0.15	Max. 0.35
252	Ash, % by weight, D482	Max. 0.01	Max. 0.01
253	Distillation, 90% point,		
254	degrees F., D86	_____	Min. 540
255		Max. 550	Max. 640
256	Viscosity @ 100 degrees F.		
257	kinematic-centistokes		
258	D445	Min. 1.3	Min. 2.0
259	or	Max. 2.4	Max. 4.1
260	Viscosity @ 100 degrees F.		
261	Saybolt Universal Sec.	_____	Min. 32.6
262		Max. 34.4	Max. 40.1
263	Sulphur, % by weight, D129	Max. 0.5	Max. 1.0
264	Copper strip corrosion, D130	Max. No. 3	Max. No. 3
265	Cetane number, D613 or D976	Min. 40	Min. 40

266 (p) The word "kerosene" shall include lamp oil,
267 illuminating oil and coal oil which shall conform to the detailed
268 requirements set forth in the current American Society for Testing
269 and Materials Specification for Kerosene (ASTM D3699). All tests
270 shall be in accordance with the applicable American Society for



271 Testing and Material Methods as set forth in ASTM D3699. The
272 detailed requirements are listed below:

273 (i) The oil shall be free of water and suspended
274 matter.

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

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

281 (iv) The sulphur content shall not exceed four
282 one-hundredths percent (0.04%) for No. 1-K kerosene and thirty
283 one-hundredths percent (0.30%) for No. 2-K kerosene. The method
284 of determination shall be ASTM D1266. No. 1-K kerosene is a
285 special low-sulphur grade kerosene suitable for use in
286 nonflue-connected kerosene burner appliances and in wick-fed
287 illuminating lamps. No. 2-K kerosene is suitable for use in
288 flue-connected burner appliances and in wick-fed illuminating
289 lamps.

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

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



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

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

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

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

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

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

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

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

317 (iv) The dispensing equipment shall contain a
318 conspicuous sign stating that the fuel is racing gasoline. The
319 dispensing equipment shall not contain any kind of representation



320 indicating that the product is suitable for vehicles other than
321 for racing.

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

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

328 (vii) The Commissioner of Agriculture and Commerce
329 (the "commissioner") and the State Chemist are hereby given
330 authority to change the specifications set forth in this section
331 to comply with the currently recommended ASTM or federally
332 required specifications.

333 * * *

334 **SECTION 3.** Section 75-55-37, Mississippi Code of 1972, is
335 amended as follows:

336 75-55-37. (1) The commissioner or his duly appointed
337 representatives shall have the right to request an inspection of
338 any pump, truck, or other equipment, and if upon such inspection
339 any such pump, truck, or other equipment is found to be inaccurate
340 to the extent that a test thereof shows a deficiency of more than
341 twenty-five (25) cubic inches on a five (5) gallon measurement, or
342 if the right to inspect any such pump, truck, or other equipment
343 is refused or denied the commissioner, or his duly authorized
344 representatives, he or they shall have the right to immediately



345 close and lock said pump and other equipment or to seal same with
346 the commissioner's seal. If such pump, truck, or other equipment
347 is found to be inaccurate but the deficiency is twenty-five (25)
348 cubic inches or less on a five (5) gallon measurement, then the
349 commissioner or his representative shall give the owner or
350 operator thereof forty-eight (48) hours within which to correct
351 such inaccuracy and if such person fails or refuses to correct
352 same within said period then the commissioner or his
353 representative shall have the right to lock and seal such pump or
354 other equipment in the same manner as provided above.

355 It shall be prima facie presumed upon any refusal to allow
356 the right to inspect that the pump, truck, or other equipment
357 sought to be inspected is inaccurate to the extent set forth
358 above, or is operating in violation of this chapter. When any
359 such pump or other equipment is locked or sealed, it may not be
360 unlocked or the seal thereon broken except in the presence of a
361 mechanic or other person called for the purpose of repairing the
362 inaccuracy in the machinery of such pump or other equipment, and
363 such inaccuracy shall be immediately thereafter repaired, and the
364 pump or other equipment properly regulated. The commissioner may,
365 in his discretion, require an affidavit from the mechanic
366 repairing such pump or other equipment, or any other proof which
367 he may deem advisable to the effect that said pump was unlocked or
368 the seal thereon broken in the presence of such mechanic, and that



369 the inaccuracies therein were thereupon completely repaired or
370 regulated.

371 When a state or factory seal is broken on the measuring
372 adjustment device on a retail pump, it shall be the duty of the
373 station operator to notify the commissioner by United States mail,
374 within twenty-four (24) hours, after the breaking of said seal.
375 After the commissioner has received written notice as herein
376 provided and he or his agent has resealed the measuring adjustment
377 device on the pump or pumps at this station, it shall be unlawful
378 for the owner or operator of the station or any of his employees
379 to break a state or factory seal on the measuring adjustment
380 device on any pump at the station during the ensuing ninety (90)
381 days without the prior approval of the commissioner or his agent.

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



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

402 (2) If a person who, by himself, by his agent, or as the
403 servant or agent of another person commits a violation of this
404 chapter, the commissioner or his designee may impose any, all or a
405 combination of the following penalties:

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

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

415 (c) A civil penalty of not more than Three Thousand
416 Dollars (\$3,000.00) per violation. A person may request an
417 administrative hearing within thirty (30) days of receipt of the
418 notice of the penalty. The commissioner or his designee shall



419 conduct a hearing after giving reasonable notice to the person.
420 The decision may be appealed to the Circuit Court of the First
421 Judicial District of Hinds County.

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

427 (4) The commissioner is authorized to suspend, revoke and/or
428 permanently deny a registration under the Petroleum Products
429 Inspection Law of Mississippi to any person, firm, corporation or
430 other organization determined to be guilty of two (2) or more
431 violations per location, per year, of the Petroleum Products
432 Inspection Law of Mississippi and the rules and regulations in
433 force pursuant thereto.

434 (5) In lieu of, or in addition to, the penalties provided
435 above, the commissioner and the State Chemist shall have the power
436 to institute and maintain in the name of the state any and all
437 proceedings necessary or appropriate to enforce the provisions of
438 the Petroleum Products Inspection Law of Mississippi and the rules
439 and regulations in force pursuant thereto, in the appropriate
440 circuit, chancery, county or justice court in which venue may lie.
441 The commissioner and the State Chemist may obtain mandatory or
442 prohibitory injunctive relief, whether temporary or permanent, and



443 it shall not be necessary for the state to post a bond or prove
444 that no adequate remedy is available at law.

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

447 * * *

448 **SECTION 4.** This act shall take effect and be in force from
449 and after July 1, 2023.

