

By: Senator(s) Younger

To: Agriculture

SENATE BILL NO. 2156

1 AN ACT TO AMEND SECTION 75-55-3, MISSISSIPPI CODE OF 1972, TO
 2 PROVIDE THAT THE COMMISSIONER OF AGRICULTURE AND COMMERCE IS
 3 VESTED WITH EXCLUSIVE POWER AND AUTHORITY OF ADMINISTERING AND
 4 ENFORCING THE PETROLEUM PRODUCTS INSPECTION LAW OF MISSISSIPPI; TO
 5 FURTHER PROVIDE THAT THE INSPECTION OF PETROLEUM PRODUCTS SHALL
 6 REMAIN UNDER THE PURVIEW AND CONTROL OF THE COMMISSIONER AND
 7 AGENTS OF THE MISSISSIPPI DEPARTMENT OF AGRICULTURE AND COMMERCE
 8 AT ALL 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) (a) The Commissioner of Agriculture and
 19 Commerce, hereinafter referred to as the "commissioner," is vested
 20 with 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; inspection of petroleum products; the labeling
 23 of pumps, tanks and other packages and containers; to trade names;
 24 and to scales, pumps and measuring equipment, and he shall have



25 the authority to establish rules and regulations not inconsistent
26 herewith in connection with its enforcement.

27 (b) The authority provided to the commissioner under
28 paragraph (a) of this subsection for the inspection of petroleum
29 products shall remain under the purview and control of the
30 commissioner and agents of the Mississippi Department of
31 Agriculture and Commerce at all times, except as otherwise
32 provided by law, and shall not be contracted to any third-party
33 entity to perform any duties and responsibilities related to such
34 inspections.

35 (2) The State Chemist is vested with power and authority and
36 is charged with the duty of administering the provisions of this
37 chapter which authorize the analysis of samples and the operation
38 of the petroleum products laboratory, and he shall have the
39 authority to establish rules and regulations in connection with
40 its enforcement.

41 (3) The commissioner and the State Chemist shall have joint
42 authority for setting specifications of petroleum products and
43 shall have the authority to establish rules and regulations in
44 connection with the enforcement of this chapter.

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

47 75-55-5. * * * The words, terms and phrases as used in this
48 chapter shall have the following meanings, unless the context
49 requires otherwise:



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

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

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

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

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

70 (f) The term "lubricating oil" means all
71 petroleum-based oils or synthetic lubricants intended for use in
72 the crankcase of an internal combustion engine, either spark
73 ignition or diesel type. The purpose of the lubricating oil is to



74 reduce friction between two (2) solid surfaces moving relative to
75 one another.

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

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

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



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

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

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

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

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

121 (vi) Vapor pressure. The vapor pressure during
122 the months of July and August shall not exceed ten (10) pounds per



123 square inch at one hundred degrees (100°) Fahrenheit, and during
124 the months of November, December, January, February and March
125 shall not exceed thirteen and one-half (13-1/2) pounds per square
126 inch at one hundred degrees (100°) Fahrenheit.

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

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

142 (viii) Lead specifications. The unleaded gasoline
143 shall contain less than five hundredths (0.05) gram of lead per
144 gallon, and the leaded gasoline shall contain a minimum of five
145 hundredths (0.05) gram of lead and less than four and two-tenths
146 (4.2) grams of lead per gallon. The method of analysis should be



147 ASTM D3237, (Atomic Absorption Spectrometry), ASTM D2599 (X-ray
148 Spectrometry) or ASTM D2547 (Volumetric Chromate).

149 (ix) Classification.

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

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

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

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

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

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

169 The methods of octane determination shall be ASTM D2699 for
170 the research octane number (R) and ASTM D2700 for the motor octane
171 number (M), or ASTM D2885 for both the research octane number and



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

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

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

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

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



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

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

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

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

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

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



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

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

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



	Grade 1-D	Grade 2-D	Grade 4-D
245			
246	Flash point, degrees F. D93	Min. 100	Min. 125
247	Water & sediment,		
248	% by volume, D1796	Max. 0.05	Max. 0.05
249	Carbon residue on 10%		
250	residium, % D524	Max. 0.15	Max. 0.35
251	Ash, % by weight, D482	Max. 0.01	Max. 0.01
252	Distillation, 90% point,		
253	degrees F., D86	_____	Min. 540
254		Max. 550	Max. 640
255	Viscosity @ 100 degrees F.		
256	kinematic-centistokes		
257	D445	Min. 1.3	Min. 2.0
258	or	Max. 2.4	Max. 4.1
259	Viscosity @ 100 degrees F.		
260	Saybolt Universal Sec.	_____	Min. 32.6
261		Max. 34.4	Max. 40.1
262	Sulphur, % by weight, D129	Max. 0.5	Max. 1.0
263	Copper strip corrosion, D130	Max. No. 3	Max. No. 3
264	Cetane number, D613 or D976	Min. 40	Min. 40

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



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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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



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

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

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

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

332 * * *

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

335 75-55-37. (1) The commissioner or his duly appointed
336 representatives shall have the right to request an inspection of
337 any pump, truck, or other equipment, and if upon such inspection
338 any such pump, truck, or other equipment is found to be inaccurate
339 to the extent that a test thereof shows a deficiency of more than
340 twenty-five (25) cubic inches on a five (5) gallon measurement, or
341 if the right to inspect any such pump, truck, or other equipment
342 is refused or denied the commissioner, or his duly authorized
343 representatives, he or they shall have the right to immediately



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

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



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

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

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



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

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

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

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

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



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

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

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

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



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

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

446 * * *

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

