

By: Stogner

To: Agriculture

## SENATE BILL NO. 2820

1 AN ACT TO AMEND SECTION 75-55-3, MISSISSIPPI CODE OF 1972, TO  
2 CLARIFY THE DUTIES OF THE COMMISSIONER OF AGRICULTURE AND THE  
3 STATE CHEMIST REGARDING ENFORCEMENT OF THE PETROLEUM PRODUCTS  
4 INSPECTION LAW; TO CREATE A NEW CODE SECTION TO BE CODIFIED AS  
5 SECTION 75-55-4, MISSISSIPPI CODE OF 1972, TO PROVIDE DEFINITIONS;  
6 TO AMEND SECTION 75-55-5, MISSISSIPPI CODE OF 1972, TO PROVIDE THE  
7 STANDARDS AND SPECIFICATIONS REQUIRED FOR SALE OF GASOLINE OR  
8 OTHER PETROLEUM PRODUCTS; TO AMEND SECTION 75-55-6, MISSISSIPPI  
9 CODE OF 1972, TO PROVIDE LICENSE FEES FOR PERSONS ENGAGING IN THE  
10 WHOLESALE OR RETAIL SALE OF GASOLINE OR OTHER PETROLEUM PRODUCTS;  
11 TO PROVIDE CERTAIN LABELING REQUIREMENTS ON PUMPS DISPENSING MOTOR  
12 FUEL; TO AMEND SECTION 75-55-7, MISSISSIPPI CODE OF 1972, TO  
13 PROVIDE EXEMPTIONS; TO AMEND SECTION 75-55-9, MISSISSIPPI CODE OF  
14 1972, TO PROVIDE COLOR CODING REQUIREMENTS FOR STORAGE TANKS  
15 REPRESENTING THE VARIOUS GRADES OF PETROLEUM PRODUCTS; TO AMEND  
16 SECTIONS 75-55-11, 75-55-13, 75-55-15 AND 75-55-19, MISSISSIPPI  
17 CODE OF 1972, TO INCLUDE OXYGENATED GASOLINE BLENDS UNDER THE  
18 REGULATION OF THIS CHAPTER; TO AMEND SECTION 75-55-21, MISSISSIPPI  
19 CODE OF 1972, TO PROVIDE LABELING REQUIREMENTS FOR ALTERNATIVE  
20 FUELS THAT CLAIM A HIGHER STANDARD; TO AMEND SECTION 75-55-22,  
21 MISSISSIPPI CODE OF 1972, TO REQUIRE A LICENSE FEE FOR CERTAIN  
22 PERSONS WHO BLEND OR MIX OXYGENATED GASOLINE BLENDS FOR SALE IN  
23 THIS STATE; TO AMEND SECTION 75-55-23, MISSISSIPPI CODE OF 1972,  
24 TO EXPAND THE INSPECTION AUTHORITY OF THE COMMISSIONER OF  
25 AGRICULTURE; TO AMEND SECTION 75-55-27, MISSISSIPPI CODE OF 1972,  
26 TO REQUIRE THAT CERTAIN RETAIL STATION PUMP METERS SHALL NOT  
27 DISPENSE MORE THAN ONE PRODUCT AND THAT PETROLEUM PRODUCTS SHALL  
28 BE KEPT ENTIRELY SEPARATE FROM EACH OTHER; TO AMEND SECTION  
29 75-55-29, MISSISSIPPI CODE OF 1972, TO GIVE THE STATE CHEMIST  
30 AUTHORITY TO ESTABLISH RULES AND REGULATIONS IN CONNECTION WITH  
31 THE ANALYSIS OF SAMPLES AND THE OPERATION OF THE PETROLEUM  
32 PRODUCTS LABORATORY; TO AMEND SECTION 75-55-37, MISSISSIPPI CODE  
33 OF 1972, TO REQUIRE A LICENSED PETROLEUM EQUIPMENT REPAIRMAN TO BE  
34 PRESENT BEFORE A PUMP MAY BE UNLOCKED OR THE SEAL BROKEN FOR THE  
35 PURPOSE OF REPAIR OF THE PUMP; TO AMEND SECTION 75-55-38,  
36 MISSISSIPPI CODE OF 1972, TO DELETE THE PENALTIES FOR VIOLATIONS  
37 OF LICENSING PROVISIONS; TO CREATE A NEW CODE SECTION TO BE  
38 CODIFIED AS SECTION 75-55-43, MISSISSIPPI CODE OF 1972, TO PROVIDE  
39 PENALTIES FOR VIOLATIONS; TO CREATE A NEW CODE SECTION TO BE  
40 CODIFIED AS SECTION 75-55-45, MISSISSIPPI CODE OF 1972, TO PROVIDE  
41 COMPLAINT AND HEARING PROCEDURES FOR VIOLATORS; AND FOR RELATED  
42 PURPOSES.

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

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

46 75-55-3. (1) The Commissioner of Agriculture and Commerce,

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

\* \* \*

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

(3) The commissioner may publish the names and addresses and any other information he deems appropriate for persons found guilty of violating this chapter.

SECTION 2. The following section shall be codified as Section 75-55-4, Mississippi Code of 1972:

75-55-4. The words, terms and phrases as used in this chapter shall have the following meanings, unless the context requires otherwise:

(a) "API" means the American Petroleum Institute.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(v) "Oil" as used in this chapter includes diesel fuel, kerosene, fuel oil, distillate, gas oil, 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 (261) degrees Fahrenheit; and not more than ninety-five percent (95%) recovered when the thermometer shows four hundred sixty-five (465) degrees 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

277 7. Water tolerance shall be such that no



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

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

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

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

(i) Cetane index                      D 976

(ii) Aromaticity                      D 1319

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

Flash point                                      D 56

Distillation temperature                      D 86

Sulfur    D 1266 or D 129

Mercaptan sulfur                                      D 3227

Copper strip corrosion                      D 130

Freezing point                                      D 2386

Burning quality                                      D 187

Saybolt color                                      D 156

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

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

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

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

retail outlet.

(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.

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

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

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

75-55-6. (1) A person, partnership, joint venture, individual, firm, association, distributor, wholesaler, terminal or corporation, before engaging in the wholesale sale of gasoline or other petroleum products in this state, shall obtain from the commissioner a wholesale petroleum license for each wholesale establishment owned or operated by the person. The fee for the license shall be Twenty-five Dollars (\$25.00). The application for the license shall be made on forms prescribed and furnished by the commissioner. The license shall expire on December 31 of each year. The license shall not be transferable and application must be made for a new license if there is any change in the location,

owner or operator of the establishment. The licensee shall display his license in a prominent and accessible place in the establishment where products are sold.

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

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

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

(5) When a retail or wholesale petroleum licensee discontinues the sale of a product that he has been approved to sell, his authorization from the commissioner to sell the product

shall automatically terminate. The licensee shall notify the commissioner within thirty (30) days after he discontinues the sale of such product.

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

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

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

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

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

(2) The commissioner \* \* \* and the State Chemist may, in their discretion, \* \* \* establish specifications for aviation and other special gasolines when received in this state for any purpose other than \* \* \* propelling motor vehicles on the highways, or for sale or distribution to the consuming public.

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

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

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

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

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

(b) All signs placed on the premises of any service station and any highway, road, street or alley leading thereto advertising the price per gallon of gasoline, oxygenated gasoline blends, diesel fuel or kerosene offered for sale, shall show the

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

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

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

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

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

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

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

539 75-55-13. It is unlawful for a person to sell, offer or keep  
540 for sale, any lubricating oils, lubricants or mixtures of  
541 lubricants which are adulterated or falsely labeled in any



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

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

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

All tanks used for the storage of gasoline, oxygenated gasoline blends, other motor fuel, diesel fuel, kerosene or liquefied compressed gas, for wholesale or retail sales, shall be constructed and equipped in such manner as to allow the

575 commissioner \* \* \* to safely sample or take an accurate physical  
576 inventory of the contents of such tanks at all reasonable hours.

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

582 \* \* \*

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

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

606 All distributors or other persons receiving, storing, selling  
607 or distributing gasoline, oxygenated gasoline blends or oil in the

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

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

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

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

655 \* \* \*

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

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

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

674           75-55-21. (1) It is unlawful for any person to entice into  
675 a service station, store, expose for sale, or sell gasoline or  
676 other petroleum products \* \* \* to deceive or to tend to deceive  
677 the purchaser as to the nature, quality or identity of the same by  
678 false representation or by substitution, mixing, blending, or  
679 adulteration, or by the use of disguised signs, camouflaged or  
680 falsely labeled containers, tanks, pumps, or other dispensing  
681 equipment, or by imitating the design, symbol, or trade name under  
682 which recognized brands of such products are generally marketed.

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

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

698           \* \* \*

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

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

707 Dollars (\$25.00). Forms for the application shall be furnished by  
708 the commissioner. The license shall expire on December 31 of each  
709 year. Licenses shall not be transferable. Each producer of  
710 oxygenated gasoline blends shall have the necessary equipment to  
711 insure a complete and homogeneous mixture. The finished product  
712 shall meet all of the state's standards and specifications and  
713 shall not be transferred, sold, exchanged, delivered, used or  
714 disposed of by any other means until the product has been approved  
715 by the commissioner \* \* \*.

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

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

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

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

739 75-55-23. The commissioner \* \* \* shall have full access,

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

757 \* \* \*

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

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

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

773 separate from each other.

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

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

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

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

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

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



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

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

75-55-37. (1) The commissioner \* \* \* shall have the right to inspect any pump, truck, or other equipment that is used for the transportation, loading, unloading, storage or dispensing of gasoline or other petroleum products offered for sale, and if upon \* \* \* inspection any \* \* \* 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 \* \* \* shall have the right to immediately close and lock the pump and other equipment or to seal same with the commissioner's seal. If a 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 \* \* \* shall give the owner or operator thereof forty-eight (48) hours within which to correct the inaccuracy. \* \* \* If the person fails or refuses to correct the inaccuracy within forty-eight (48) hours then the commissioner \* \* \* shall have the right to lock and seal the pump

839 or other equipment immediately.

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

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

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

872 because of a violation of this chapter. The lien shall be  
873 paramount to any and all private liens and the state shall be  
874 entitled to sell the pumps, trucks and equipment to satisfy the  
875 fee or penalty, and any excess proceeds from the sale shall be  
876 paid according to law. \* \* \*

877 \* \* \*

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

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

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

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

903 \* \* \*

904 SECTION 18. The following shall be codified as Section

75-55-43, Mississippi Code of 1972:

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

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

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

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

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

the commissioner, or his designee, will then become final.

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

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

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

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

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