

CHAPTER 112

(HB 451)

AN ACT relating to motor fuel standards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 363.900 is amended to read as follows:

As used in KRS 363.900 to 363.908, unless the context clearly requires otherwise:

- (1) **"ASTM International"** means the international standards developing organization that provides a forum for the development and publication of international voluntary consensus standards for materials, products, systems, and services~~["ASTM standard" means the latest standards and specifications as set forth by the American Society for Testing and Materials in accordance with the most recent version of ASTM specifications for automotive gasoline, or ASTM specifications for diesel fuel oils];~~
- (2) "Commissioner" means the Commissioner of Agriculture or a departmental employee designated by the Commissioner to act on his *or her* behalf for the purposes of KRS 363.900 to 363.908;
- (3) "Department" means the Kentucky Department of Agriculture;
- (4) "Diesel ~~fuel~~" means **a refined hydrocarbon suitable for use as a fuel in a compression-ignition internal combustion engine that may contain fuel additives and up to five percent (5%) by volume of biodiesel or biomass-based diesel**~~refined oil commonly used in internal combustion engines and defined as diesel fuel under the ASTM standard classification of diesel fuel oils];~~
- (5) "Division" means the Division of Regulation and Inspection in the Kentucky Department of Agriculture;
- (6) "Gasoline" means gasoline as defined in KRS 138.210;
- (7) **"Gasoline-oxygenate blend" means a fuel consisting primarily of gasoline blended with more than one percent (1%) by volume oxygenate or more than three-tenths of one percent (0.3%) by volume methanol. The term "gasoline-oxygenate blend" shall include gasoline-ethanol blends containing between one percent (1%) and fifteen percent (15%) ethanol by volume;**
- (8) "Motor fuel" means any product used for the generation of power in an internal combustion or turbine engine **including but not limited to**~~and includes~~ gasoline, **gasoline-oxygenate blends**, diesel fuel, **and diesel fuel blended with biodiesel or biomass-based diesel**~~or gasoline-alcohol blend fuels];~~ and
- ~~(9)~~~~(8)~~ "Retail facility" means a **service station, garage, truck stop, or other outlet selling motor fuel from a retail dispensing device. The term "retail facility" shall not include an outlet using such motor fuel dispensers exclusively for company and fleet use and price contract sales**~~[facility that sells motor fuels to the general public].~~

➔Section 2. KRS 363.902 is amended to read as follows:

- (1) The Commissioner or his *or her* authorized agent shall implement and administer an inspection and testing program for motor fuels **intended for sale from a retail facility** to ensure compliance with KRS 363.900 to 363.908.
- (2) For the purposes of administering and giving effect to the provisions of KRS 363.900 to 363.908, the standards set forth in the annual book of ASTM **International** standards, supplements, and revisions shall be applied.
- (3) In administering KRS 363.900 to 363.908, the department shall conform to any provisions of federal law or regulations which impose requirements in conflict with the ASTM **International** standard.
- (4) The department may promulgate administrative regulations to implement and enforce KRS 363.900 to 363.908.

➔Section 3. KRS 363.904 is amended to read as follows:

- (1) No **motor fuel**~~[article or commodity]~~ shall be sold or offered for sale **at a retail facility**~~[and use]~~ in Kentucky~~[as motor fuel]~~ unless it conforms to the following:
 - (a) The motor fuel shall be labeled and posted in accordance with applicable federal and state laws; and

- (b) The motor fuel shall conform to the latest ASTM *International* specifications for that particular type, class, and grade of motor fuel, except when one (1) or more of the following circumstances exists:
1. When a federal law or a federal administrative regulation imposes requirements in conflict with the ASTM *International* standard, as provided by KRS 363.902(3); or
 2. When the Governor determines that circumstances present, or are likely to present, a disruption in motor fuel supply, the Governor or the Commissioner or the secretary of the Energy and Environment Cabinet, as designated by the Governor, may issue a temporary waiver of ASTM *International* specifications for motor fuel. The temporary waiver shall be effective for a defined period of time and shall be the shortest practicable time period necessary to permit the correction of the disruption in motor fuel supplies.
- (2) ***For gasoline-oxygenate blends containing between one percent (1%) and fifteen percent (15%) by volume ethanol, the vapor pressure limit for each class shall be increased by one (1) pound per square inch. [For gasoline containing up to fifteen percent (15%) ethanol, in which case the vapor pressure limit for each class shall be increased by one (1) pound per square inch, and the ASTM V/L (vapor to liquid ratio) specification shall be waived.]*** Additionally, the department shall adopt a minimum temperature for fifty percent (50%) distillation of gasoline-oxygenate blends containing up to fifteen percent (15%) ethanol through the promulgation of an administrative regulation in accordance with KRS Chapter 13A.
- (3) The motor fuel compliance with ASTM *International* shall be determined in accordance with the test methods prescribed in the latest ASTM *International* publications. ***When no such standard exists, the department shall designate a test or specification based upon widely accepted scientific principles.***
- (4) All shipments of motor fuel shall state on either the ***product transfer documentation*** ~~[bill of lading]~~ or invoice the destination of the shipment and that the shipment meets the standards and specifications required in ***the administrative regulations promulgated pursuant to*** this section. The division may obtain a sample of any shipment of motor fuel for testing. Motor fuel blending components shall be exempt from this section until they are offered for sale as motor fuel by ***a retail facility*** ~~[the refiner or manufacturer].~~

➔Section 4. KRS 363.9055 is amended to read as follows:

- (1) As used in this section, "biodiesel fuel" means a biodegradable, combustible liquid fuel derived from renewable fats and vegetable oils that meets ASTM *International* specification ***D6751*** ~~[PS 121-99]~~ and is suitable for blending with petroleum-based diesel fuel for use in diesel engines.
- (2) The General Assembly strongly encourages that, beginning on January 1, 2006, all diesel fuel sold or offered for sale in the Commonwealth and reformulated to achieve federally mandated sulfur reduction requirements use biodiesel in a blend not less than two percent (2%) by volume to meet those requirements.

➔Section 5. KRS 363.906 is amended to read as follows:

- (1) ***A person shall not operate a retail facility without first obtaining a retail motor fuel license from the department.***
- (2) ***For the calendar year beginning on January 1, 2023, the department shall collect an annual licensure fee in the amount of seventy-five dollars (\$75) per retail facility from the license holder for the purpose of funding the administration of the retail motor fuel quality program.***
- (3) ***For calendar years beginning on or after January 1, 2024, the department shall collect an annual licensure fee in the amount of one hundred dollars (\$100) per retail facility from the license holder for the purpose of funding the administration of the retail motor fuel quality program.***
- (4) ***Funds collected from licensure fees shall be deposited into an interest-bearing account in the State Treasury. Money unexpended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year for future use.***
- (5) ***A retail motor fuel license shall be valid from the date of issuance until January 31 of the following calendar year.***

~~[The department shall levy and collect annual fees in the amount of fifty dollars (\$50) per facility from the owner or operator of a retail facility for the purpose of funding the administration of the motor fuels quality program. The fees shall be deposited into an interest bearing account in the State Treasury. Money unexpended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year for future use. The annual fees shall be paid to the department by January 31.]~~

Signed by Governor April 8, 2022.