



Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 1171 (as introduced 12-3-24)
Sponsor: Senator Sue Shink
Committee: Natural Resources and Agriculture

Date Completed: 12-10-24

INTRODUCTION

The bill would modify fuel standards to comply with standards developed by ASTM International, which is a standards organization that develops and publishes voluntary consensus standards for many materials, including gasoline and different types of fuel. The Act requires the Director of the Michigan Department of Agriculture and Rural Development (MDARD) to establish standards for vapor pressure as specified by ASTM International and to adopt the latest standards for gasoline as established by ASTM International. All previous listings and registrations approved by MDARD would be rescinded 30 days after the bill's effective date, and motor fuels that did not meet ASTM International standards would have to be registered with MDARD. The bill also would adopt as references specific Federal regulations concerning fuels and fuel additives. Dispensing facilities at a vehicle manufacturer's proving grounds, testing facilities, assembly facilities, production lines, and other facilities would be exempt from fuel standards requirements.

Additionally, the bill would prescribe new requirements for notices displayed on a motor fuel dispenser, generally to ensure that the contents of a motor fuel were identifiable to consumers. The bill also would modify systems used to identify motor fuels during development, delivery, and storage. Finally, it would require the Director of MDARD to submit an annual report to the Legislature concerning motor fuel quality issues and repeal Section 5a of the Motor Fuels Quality Act, which creates the Renewable Fuels Fund.

FISCAL IMPACT

The bill would have no fiscal impact on the State, local governments, or MDARD.

MCL 290.642 et al.

Legislative Analyst: Eleni Lionas
Fiscal Analyst: Bruce R. Baker

CONTENT

The bill would amend the Motor Fuels Quality Act to do the following:

- Apply certain ASTM International standards to gasoline, ethanol flex fuel, fuels containing ethanol, diesel fuel, biodiesel, and biodiesel blends sold in the State.
- Delete the State's subregular gasoline grade.
- Provide that special grades of motor fuel could be offered for sale if they were listed with and approved by MDARD.
- Require all motor fuels that did not meet the ASTM international standards to be registered with the Director.
- Require a gasoline retail dealer to post on each dispenser a notice that contained 1) a statement that the gasoline met Michigan standards, 2) identified which grade the gasoline fit into, 3) a statement of the gasoline's contents, and 4) a statement listing a consumer complaint hotline number.
- Require a non-gasoline fuel retail dealer to post on each dispenser a notice that contained 1) a statement that the gasoline met Michigan standards, 2) the commodity name and content standards, and 3) a statement listing a consumer complaint hotline number.
- Prescribe font type, size, and location requirements for notices.
- Prescribe identification standards for types of motor fuel upon delivery, at retail, in storage, and during loading and unloading.
- Require a retail dealer to obtain a motor fuel outlet license to sell ethanol flex fuel and compressed natural gas.
- Exempt from licensure requirements a retail outlet marketing gasoline for use only in aircraft.
- Prescribe late fees for licenses renewed after the annual December 1 deadline.
- Prescribe new requirements for license applications.
- Require the Director of MDARD to submit an annual report to the Legislature concerning motor fuel quality issues.
- Require certain information revealed during investigations of violations under the Act to be confidential and exempt from the Freedom of Information Act (FOIA).
- Exempt certain facilities and reformulated gasoline from the Act.
- Modify fuel storage tank requirements.
- Repeal Section 5a of the Act, which creates the Renewable Fuels Fund.

Quality Standards

Among other things, the Act requires MDARD to establish standards to ensure the purity and quality of gasoline and diesel fuel sold or offered for sale in the State. The Director must establish standards for the amount and type of additives allowed to be included in gasoline and diesel fuel. The bill would delete these provisions.

Instead, the bill would apply the following ASTM International standards to gasoline, ethanol flex fuel, fuels containing ethanol, diesel fuel, biodiesel, and biodiesel blends, as applicable, that were sold or offered for retail sale in the State, until a more recent standard was adopted:

- D4806-21a, "Standard Specification for Denatured Fuel Ethanol for Blending with Gasoline for Use as Automotive Spark-Ignition Engine Fuel" (2021).
- D4814-24A, "Standard Specification for Automotive Spark-Ignition Engine Fuel" (2024).
- D5798-21, "Standard Specification for Ethanol Fuel Blends for Flexible-Fuel Automotive Spark-Ignition Engines" (2021).

- D6751-24, "Standard Specification for Biodiesel Fuel Blend-stock (B100) for Middle Distillate Fuels" (2024).
- D975-24a, "Standard Specification for Diesel Fuel" (2024).
- D7467-23, "Standard Specification for Diesel Fuel Oil, Biodiesel Blend (B6 to B20)" (2023).

Generally, ASTM International is a standards organization that develops and publishes voluntary consensus technical international standards for many materials, including gasoline and different types of fuel. The Act requires the Director of MDARD to establish standards for vapor pressure as specified by ASTM International (formerly known as the American Society for Testing and Materials) and to adopt the latest standards for gasoline as established by ASTM International, which correspond to the standards identified in the bill.

Furthermore, the bill would provide that, if gasoline were blended with ethanol, the ethanol would have to meet the requirements of ASTM international standard D4806-21a. The blend would have to meet the requirements of ASTM international standard D5798-21, except that the maximum vapor pressure could exceed the limits in ASTM international standard D5798-21 by up to any of the following:

- 1.0 pound per square inch for blends containing 9% to 15% ethanol by volume from June 1 through September 15.
- 1.0 pound per square inch for blends containing 1% or more ethanol by volume for volatility classes A, B, C, and D from September 16 through May 31.
- 0.5 pound per square inch for blends containing 1% or more ethanol by volume for volatility class E from September 16 through May 31

The maximum vapor pressure could not exceed the limits in section 10d by more than 1.0 pounds per square inch (psi) for blends containing 9% to 15% ethanol by volume from June 1 through September 15.

Fuel Grades

The Act requires the Director to establish standards for the *grading* of gasoline. Currently, there are nine grades, including a subregular grading with a minimum of 85 AKI. ("AKI" or "Antiknock index" means an index number arrived at by adding the motor octane number and the research octane number, then dividing by 2). The bill would delete this grade, leaving eight remaining.

The bill would provide that special grades of motor fuel could be offered for sale if they were listed with and approved by the MDARD. To apply for listing, the refiner or blender would have to provide MDARD with the motor fuel brand name, the grade specifications, and a copy of the complete test results for all applicable standards specified in the Act and others as required by MDARD.

All motor fuels that did not meet the ASTM international standards would have to be registered with the Director on forms prescribed by the Director at least 30 days before the registrant engaged in sales. The registration form would have to include all the following information for the registrant:

- The registrant's business name and all business addresses.
- The registrant's mailing address if different from the business address.
- The type of legal entity that owned the distributor or retail dealer, including an individual, partnership, association, trust, corporation, or any other legal entity or combination of legal entities.
- An authorized signature, title, and date for each registration.

- The product brand name and product description.
- A product specification form approved by MDARD.
- If the motor fuel were marketed under a waiver granted by the U.S. Environmental Protection Agency (EPA), the registration would have to include the regulatory citation number or other acceptable proof of a valid waiver.
- If requested by MDARD, a complete list of names of businesses to which the product was being delivered or from which the product was being offered for sale.

Registration would be subject to annual renewal and would expire one year from the date of issuance. All previous listings and registrations with the MDARD would be rescinded 30 days after the bill's effective date. Reregistration would be required at least 30 days before any changes were made to the information described above. The Director could decline to register any product that actually or by implication would deceive or tend to deceive a purchaser as to the product's identity.

The Act requires the Director to establish the vapor pressure as 9.0 psi for retail outlets during the period beginning June 1 through September 15 of each year, except for dispensing facilities in counties where the Director establishes the vapor pressure as 7.0 psi. Currently, the Director also may establish the vapor pressure as 7.8 psi. The bill would delete the latter provision.

Notice Requirements

Currently, a retail dealer cannot transfer, sell, dispense, or offer gasoline for sale in the State unless the pump dispensing the gasoline displays a notice that indicates the grade of gasoline and the additives in the gasoline that are dispensed from the pump.

If the gasoline contains at least 1% alcohol by volume, the notice must state: "Contains (indicate the type of alcohol such as methanol, and if methanol the label shall state "alcohol: methanol", followed, in the same size type, by the concentration to the nearest whole percent)". Additionally, the Act requires the Director to design a uniform means of providing the required notice and prescribes requirements for the notice. The bill would delete these and associated provisions.

Instead, the bill would provide that gasoline containing between 10% and 15% of ethanol by volume would have to be labeled with the EPA's required label.

Additionally, the bill would prohibit a retail dealer from transferring, selling, dispensing, or offering gasoline for sale in the State unless every dispenser was posted with a notice that contained the following information, in order:

1. The statement: "MEETS MICH. QUALITY & PURITY STANDARDS FOR".
2. The name of one of the eight uniform gasoline grades established by the Act or the name of a special grade listed with and approved by MDARD.
3. A statement that the gasoline contained methanol, cosolvent, or any additives in the amount of 1% or more by volume; if the gasoline did not contain additives in the amount of 1% or more by volume or contained an alcohol or ether that had a molecular weight greater than ethanol and was not mixed with methanol or ethanol, the dispenser would not be required to be posted with a list of additives.
4. The statement: "CONSUMER COMPLAINT TOLL-FREE HOT LINE: CALL 1-800-MDA-FUEL".

If an additive were methanol, the notice would have to state: "CONTAINS ALCOHOL: METHANOL _____%", the blank to be filled in with the concentration to the nearest whole

percent. If an additive were another alcohol other than methanol and was used as a cosolvent, the notice would have to state: "CONTAINS _____", the blank to be filled in with the type of alcohol, such as tertiary butyl alcohol, and the concentration to the nearest whole percent. If an additive were ethanol, a notice indicating the presence or concentration would *not* be required if the gasoline contained less than 10% ethanol by volume.

Additionally, the bill would prohibit a retail dealer from transferring, selling, dispensing, or offering diesel, biodiesel, biodiesel blend, biomass-based diesel, biomass-based diesel blend, or ethanol flex fuel for sale in the State unless every dispenser was posted with a notice that contained, firstly, the following statement: "MEETS MICH. QUALITY & PURITY STANDARDS FOR". Following the statement, the notice would have to include the commodity name and content statement as follows:

- For diesel blended to contain 5% to 20% by volume biodiesel, the statement "BIODIESEL BLEND: CONTAINS BIODIESEL IN QUANTITIES BETWEEN 5 PERCENT AND 20 PERCENT".
- For diesel blended to contain more than 20% by volume biodiesel, the statement: "B____, BIODIESEL BLEND: CONTAINS MORE THAN 20% BIODIESEL", the blank to be filled in with the volume percentage of biodiesel in the diesel fuel blend.
- For 100% biodiesel, the statement: "B 100 BIODIESEL: CONTAINS 100 PERCENT BIODIESEL".
- For diesel blended to contain 5% to 20% by volume biomass-based diesel or combination of biomass-based diesel and biodiesel, the statement: "BIOMASS-BASED DIESEL BLEND: CONTAINS BIOMASS-BASED DIESEL OR BIODIESEL IN QUANTITIES BETWEEN 5 PERCENT AND 20 PERCENT".
- For diesel blended to contain more than 20% by volume biomass-based diesel or combination of biomass-based diesel and biodiesel, the statement: "____% BIOMASS-BASED DIESEL BLEND; CONTAINS MORE THAN 20% BIOMASS-BASED DIESEL OR BIODIESEL", the blank to be filled in with the volume percentage of biomass-based diesel in the diesel fuel blend.
- For 100% biomass-based diesel, the statement: "100% BIOMASS-BASED DIESEL: CONTAINS 100 PERCENT BIOMASS-BASED DIESEL".
- For diesel not blended with biodiesel or biomass-based diesel or blended to contain less than 5% biodiesel, biomass-based diesel, or a combination of biodiesel and biomass-based diesel by volume would have to be labeled as followed: a) "ULTRA-LOW SULFUR HIGHWAY DIESEL FUEL" for a diesel fuel containing not more than 15 ppm sulfur, b) "LOW SULFUR HIGHWAY DIESEL FUEL" for a diesel fuel containing not more than 500 ppm sulfur, or c) "NON-HIGHWAY DIESEL FUEL" for a diesel fuel containing more than 500 ppm sulfur.
- Ethanol flex fuel with an ethanol concentration of between 51% and 83% by volume would have to be labeled "ETHANOL FLEX FUEL, MINIMUM 51% ETHANOL".
- Ethanol flex fuel with an ethanol concentration of 50% by volume or less would have to be labeled "EXX FLEX FUEL, MINIMUM YY % ETHANOL" where XX was the ethanol concentration in volume percent and YY was XX minus five; the actual ethanol concentration of the fuel would have to be XX volume percent plus or minus five volume percent.
- For any ethanol flex fuel, a label would have to be posted that stated: "FOR USE IN FLEXIBLE FUEL VEHICLES (FFV) ONLY". This information would have to be clearly and conspicuously posted on the upper 50% of the dispenser front panel in a type at least 12.7 millimeters in height by 1.5 millimeters in stroke width; the label would have to state, "CHECK OWNER'S MANUAL", and could not be less than 6 millimeters in height by 0.8 millimeters in stroke width.

The bill would require the statement "CONSUMER COMPLAINT TOLL-FREE HOT LINE: CALL 1-800-MDA-FUEL" to follow the commodity name and content statement.

If more than one grade of motor fuel were offered from a single dispenser, one notice on every side of the dispenser that had a price computation or quantity display panel containing the statements "MEETS MICH. QUALITY & PURITY STANDARDS" and "CONSUMER COMPLAINT TOLL-FREE HOT LINE: CALL 1-800-MDA-FUEL" would be acceptable. If one notice were used, the name of the fuel grade and statement of content, for gasoline, or the commodity name and content statement, for non-gasoline fuel products, would have to be separately posted for each motor fuel or gasoline grade offered from the dispenser. It also would have to be located immediately adjacent to either the associated brand name, the associated pump nozzle, or the unit price for that motor fuel in a manner that clearly connected the required notice with the associated brand name, nozzle, or unit price.

Furthermore, the notices would have to be located on every side of the dispenser that had a price computation or quantity display panel and would have to be placed between 34 and 78 inches above the driveway elevation. The notice would have to be conspicuous and legible to a customer when viewed from the driver's position of a motor vehicle positioned in front of the dispenser.

Specific use variations or exemptions could be made for motor fuel designed for unique equipment or services if it could be demonstrated to the MDARD that the distribution and sale of that motor fuel would be restricted to that unique equipment or service. A notice would have to be posted on each dispenser that dispensed motor fuel designed for unique equipment or services. The notice would have to state the common or customary name of the motor fuel and include the statement: "THIS MOTOR FUEL IS NOT FOR GENERAL AUTOMOTIVE SERVICE; FOR USE IN _____", the blank to be filled in with a description of the unique equipment, vehicles, or services with which the motor fuel was compatible. The notice would have to be located on the dispenser as described previously.

The bill would require Helvetica medium typeface to be used for all letters and numerals. The letters for the statements "MEETS MICH. QUALITY & PURITY STANDARDS FOR" or, if applicable, "MEETS MICH. QUALITY & PURITY STANDARDS", and "CALL 1-800-MDA-FUEL" would have to be in at least 24-point type size. The letters for the words "CONSUMER COMPLAINT TOLL-FREE HOT LINE" would have to be at least 10-point type size. All other letters and numerals required to appear in the notices would have to be printed in at least 48-point type size. Only upper-case letters or title case letters of identical color could be used for statements and notices; however, variations in color would be allowed if the variation conformed with 16 CFR part 306 and 40 CFR part 80.

(16 CFR 306 concerns Federal regulations for fuel ratings, certification, and posting. 40 CFR Part 80 concerns Federal regulations for fuels and fuel additives).

Fuel Identification

Under the bill, the retailer would have to be provided, at the time of delivery of a motor fuel, on an invoice, bill of lading, shipping paper, or other documentation, a declaration of the motor fuel being delivered. If the motor fuel were gasoline, the AKI of the product being delivered also would have to be declared. The percent of biodiesel or bio-based diesel also would have to be declared if present. Any documentation evidencing a delivery of a motor fuel would have to meet the Act's requirements.

Fill boxes and fill covers for motor fuel storage tanks at retail would have to be clearly identified as to the content by at least one of the following:

- Attaching a tag with the motor fuel name to the fill pipe adapter.
- Screwing a tag with the motor fuel name onto the fill box rim.

- Fitting a plastic or fiberglass insert with the motor fuel name inside the rim of the fill box.
- Color coding by painting the cover of the fill box and the surrounding rim or pavement.

If color coding, the gasoline storage tank containing the highest-octane product would have to be coded red, the gasoline storage tank with the lowest-octane would have to be coded white, and gasoline with an octane between the highest and lowest would have to be coded blue. A chart or code designating the color designations for other motor fuel storage tanks and vapor-recovery connections and manholes would have to be posted on the premises in clear view and accessible to a delivery tank driver and made available to MDARD on request.

Storage tanks located at a distribution terminal would have to be clearly identified as to the content by either of the following:

- Attaching a label to the tank that stated the commodity being stored.
- Attaching a color or symbol to the tank that designated the commodity being stored.

If using a color or symbol system, a chart or code designating the color or symbol designations would have to be posted on the premises and made available to MDARD on request.

A motor fuel delivery vessel would have to use for each loading and unloading of motor fuel a system of identification that clearly identified the motor fuel contained within each compartment by at least one of the following:

- A marking system of tags or placards attached to each compartment or the valves used for each compartment.
- A chart or diagram that positively identified each compartment and its contents.

The bill would adopt 16 CFR part 306 and 40 CFR Part 80 as references.

Licensure

Currently, before a distributor or retail dealer engages in transferring, selling, dispensing, or offering for sale gasoline, diesel fuel, biodiesel, biodiesel blend, or hydrogen fuel in the State, the distributor or retail dealer must obtain a license from the MDARD for each retail outlet operated by that person. A distributor or refiner *could not* transfer, sell, dispense, or offer gasoline, diesel fuel, biodiesel, biodiesel blend, or hydrogen fuel for sale in the State to a retail dealer unless the retail dealer has a valid retail gasoline outlet license. The bill would extend these provisions to include ethanol flex fuel and compressed natural gas. The bill also would exempt from this requirement and prohibition a retail outlet engaged in the marketing of gasoline for use only in an aircraft. Additionally, it would rename the gasoline outlet license as the motor fuel outlet license.

A license expires annually on November 30 unless renewed before December 1 of each year or unless suspended, denied, or revoked by the MDARD. The bill would prescribe the following late fees for a license renewed after December 1:

- From December 1 through December 10, \$100.
- From December 11 through December 20, \$250.
- After December 20, \$500.

Under the Act, a license cannot be issued or renewed until any administrative fines are paid. The bill would further require late fees and any fees imposed under the Weights and Measures Act, which regulates and provides for weights and measures and the packaging and advertising of certain commodities, to be paid before a license could be issued or renewed.

Additionally, the bill would provide that an administrative fine would be doubled for motor fuels that contained water, sediment, or gasoline that was below the minimum AKI rating for that grade of gasoline.

Currently, an application for a license must be made to MDARD upon a form created by MDARD. The bill would require a completed original application to be filed with MDARD by a distributor or retail dealer for each retail outlet operated by that person at least 30 days before the date on which the applicant engaged in retail sales. If sufficient time were not available to apply 30 days prior to engaging in retail sales and the applicant was a new owner of a retail outlet, MDARD would have to waive the 30-day filing requirement and issue a license on receipt, in person or by mail, of the completed application, applicable fees, and written notice that the applicant was a new owner.

The application would have to include all the following information:

- The applicant's business name and address.
- The applicant's mailing address if different than business address.
- The type of legal entity that owned the distributor or retail dealer, including an individual, partnership, association, trust, corporation, or any other legal entity or combination of legal entities.
- The name, address, telephone number, and date of birth of the owner of the distributorship or retail dealership.
- For a partnership, the names, titles, addresses, and dates of birth of all partners who were owners of the distributorship or retail dealership.
- For a corporation in the State, the name, title, address, and date of birth of the president.
- For an out-of-state corporation, the name, title, address, and date of birth of the president and the name, title, and address of the corporation's resident agent in the State.
- An authorized signature, title, and date for each applicant.
- The number of grades of gasoline offered for sale at the retail outlet.
- The number of grades of gasoline containing 15% ethanol by volume offered for sale at the retail outlet.
- The number of grades of diesel fuel offered for sale at the retail outlet.
- Whether E-85 or ethanol flex fuels were offered for sale at the retail outlet.

The bill would provide that a license renewal application would have to be made on or before November 30 of the year the license expired. The application would have to include all the information required for an original license application.

Reporting Requirements

The bill would require the Director to submit a report by December 1 of each year to the standing committees and appropriations subcommittees of the Senate and House of Representatives concerned with motor fuel quality issues. The Director would have to include all the following information in the report concerning the preceding fiscal year:

- The number of initial and renewal applications MDARD received and completed within the 120-day time period described below.
- The number of applications denied.
- The number of applications that were not granted or denied within the 120-day period described below.

Under the Act, MDARD must issue an initial or renewal license not later than 120 days after the applicant files a completed application. If MDARD receives an incomplete, MDARD must notify the applicant in writing or make the notification electronically available within 40 days

after receipt of the incomplete application, describing the deficiency and requesting the additional information. The 120-day period is paused upon notification by the MDARD of a deficiency until the date all the information requested during the 40-day period is received by the MDARD.

Investigation

The Act requires the Director to establish a gasoline, diesel fuel, biodiesel, and biodiesel blend inspection, investigation, and testing program to among other things, determine whether gasoline, diesel fuel, biodiesel, and biodiesel blend transferred, sold, dispensed, or offered for sale in the State meets the Act's requirements and to investigate allegations of fraud.

The bill would provide that the identity of an individual submitting information regarding an alleged violation or threatened violation of the Act by a retailer would be confidential and not subject to the disclosure requirements of FOIA, except that the identity of the individual could be disclosed if the disclosure were made under any of the following circumstances:

- With the written consent of the individual.
- Pursuant to a court proceeding.
- To the director or an agent or employee of MDARD.
- To an agent or employee of a State or the Federal government authorized by law to see the identity of the individual.

Information that was considered confidential information could not be disclosed by an employee of MDARD in a manner that divulged the business operations of a licensee required to make a report. Business information furnished or collected would be confidential business information and not subject to FOIA.

The bill would allow the Director to take photographs of an area or copy records as part of an evaluation or inspection. If a retailer were to identify by written document or mark that a certain area or record contained visible trade secrets, the Director would have to identify any photographs of that area or copies of that record as being confidential and diligently protect the confidentiality.

Gasoline Testing Procedures

Under the bill, gasoline testing procedure for vapor pressure would have to comply with 40 CFR 80.46(c). Gasoline testing procedure for ethanol would have to comply with 40 CFR 80.46(g)(1) or (2).

Exemptions

Under the bill, the Act would not apply to any of the following:

- Dispensing facilities at a vehicle manufacturer's proving grounds or other testing facilities, or at the facilities of a manufacturer's agent, that were used exclusively for the testing of vehicles, components, or materials.
- Vehicle manufacturer's assembly facilities or the fueling of production line vehicles before sale for in-plant relocation or distribution.
- Reformulated gasoline.

Gasoline that exceeded the vapor pressure limits would not violate the Act if the gasoline were separately stored, sealed, clearly labeled, and not used until it complied with the Act. The label would have to state that the gasoline was prohibited by the laws of the State of

Michigan from being sold, dispensed, supplied, offered for sale, offered for supply, transported, or exchanged in trade in Michigan until compliance was achieved under the Act.

Fuel Storage Tanks

Currently, the Act requires a storage tank at a retail outlet to be periodically tested by the retail dealer to ensure that the tank does not have water or water-alcohol at the bottom of that tank in an amount greater than two inches. If there is more than two inches of water or water-alcohol at the bottom of the storage tank, gasoline, diesel fuel, biodiesel, or biodiesel blend may not be sold to a consumer from that tank until the water or water-alcohol level is reduced to a level of less than two inches. The bill would reduce this level from two inches to half an inch.

The bill also would provide that motor fuel dispensers dispensing any alcohol fuel blend would have to be fitted with fuel-water removing filters of 10 microns or less designed to detect phase separation.

Repeal

The bill would repeal Section 5a of the Act, which creates the Renewable Fuels Fund within the State Treasury.

SAS\S2324\s1171sa

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.