

By: Chisum

H.B. No. 4448

A BILL TO BE ENTITLED

AN ACT

relating to fuel quality testing.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 1, Texas Agriculture Code, is amended by adding Chapter 13A to read as follows:

Chapter 13A. UNIFORM ENGINE FUELS, PETROLEUM PRODUCTS, AND AUTOMOTIVE LUBRICANTS INSPECTION.

SUBCHAPTER A. GENERAL PROVISIONS.

Sec. 13A.001. DEFINITIONS. (a) In this chapter:

(1) "Engine fuel" means any liquid or gaseous matter used for the generation of power in an internal combustion engine.

(2) "Commissioner" means the commissioner of the Texas Department of Agriculture and designated agents.

(3) "Department" means the Texas Department of Agriculture and its designated agents.

(4) "Person" means an individual, corporation, company, society, association, partnership, or governmental entity.

(5) "ASTM International" means an international voluntary consensus standards organization formed for the development of standards on characteristics and performance of materials, products, systems, and services, and the promotion of related knowledge.

(6) "Petroleum Products" means products obtained from distilling and processing of petroleum (crude oil), unfinished

1 oils, recycled oils, natural gas liquids, refinery blend stocks,
2 biofuels, and other miscellaneous hydrocarbon compounds.

3 (7) "Automotive Lubricants" means any material interposed
4 between two surfaces that reduces the friction or wear between
5 them.

6 (8) "Engine Fuel Designed for Special Use" means engine
7 fuels designated by the Director requiring registration. These
8 fuels normally have no ASTM or other national consensus standards
9 applying to their quality or usability; common special fuels are
10 racing fuels and those intended for agricultural and other off-road
11 applications.

12 (9) "Sold" means kept, offered, or exposed for sale.

13 SUBCHAPTER B. ADMINISTRATIVE PROVISIONS.

14 Sec. 13A.011. ADMINISTRATION, ADOPTION OF STANDARDS, AND RULES.

15 The provisions of this Act shall be administered by the department.

16 For the purpose of administering and giving effect to the

17 provisions of this Act, the specification and test method standards

18 set forth in the most recent edition of the Annual Book of ASTM

19 standards and supplements thereto, and revisions thereof, are

20 adopted except as amended or modified as required by the department

21 to comply with federal and state laws. When no ASTM standard exists,

22 other generally recognized national consensus standards may be

23 used. The department is empowered to write rules and regulations on

24 the advertising, posting of prices, labeling, standards for, and

25 identity of fuels, petroleum products, and automotive lubricants

26 and is authorized to establish a testing laboratory. The

27 department may identify a toll free number for consumers to report

1 suspected violations of this Act.

2 Sec. 13A.012. GENERAL DUTIES AND POWERS. The department has the
3 responsibility for testing fuel mixtures and octane rating, given
4 in Vernon's Civil Statutes Title 132, Occupational and Business
5 Regulation, Chapter 4, Gasoline and Petroleum Products, Article
6 8614, Section 2. By power of this act the department shall have the
7 authority to:

8 (1) Enforce and administer all the provisions of this Act by
9 inspections, analyses, and other appropriate actions.

10 (2) Have access during normal business hours to all places where
11 engine fuels, petroleum products, and automotive lubricants are
12 kept, transferred, offered, exposed for sale, or sold for the
13 purpose of examination, inspection, taking of samples, and
14 investigation. If such access is refused by the owner, agent or
15 other persons leasing the same, the department may obtain an
16 administrative search warrant from a court of competent
17 jurisdiction.

18 (3) Collect, or cause to be collected, samples of engine fuels,
19 petroleum products, and automotive lubricants marketed in this
20 state, and cause such samples to be tested or analyzed for
21 compliance with the provisions of this Act.

22 (4) Define engine fuels for special use and issue a stop-sale
23 order if found not to be in compliance and lift the stop-sale order
24 if the engine fuel for special use is brought into full compliance
25 with this Act.

26 (5) Issue a stop-sale order for any other engine fuel, petroleum
27 product, and automotive lubricant found not to be in compliance and

1 lift the stop-sale order if the engine fuel, petroleum product, or
2 automotive lubricant is brought into full compliance with this Act.

3 (6) Refuse, revoke, or suspend the registration of an engine fuel
4 designed for special use.

5 (7) Establish standards for biofuel quality .

6 (8) Delegate to appropriate personnel any of these
7 responsibilities for the proper administration of this Act.

8 Sec. 13A.013. INSPECTION FEE. There shall be a fee of \$100 per
9 appropriate unit of measure on all products covered under the scope
10 of this Act marketed for the purposes of administering and
11 effectively enforcing the provisions of this Act.

12 Sec. 13A.014. PROHIBITED ACTS. It shall be unlawful to:

13 (1) Represent engine fuels, petroleum products, or
14 automotive lubricants in any manner that may deceive or tend to
15 deceive the purchaser as to the nature, brand, price, quantity,
16 and/or quality of such products.

17 (2) Fail to register an engine fuel designed for special
18 use.

19 (3) Submit incorrect, misleading, or false information
20 regarding the registration of an engine fuel designed for special
21 use.

22 (4) Hinder or obstruct the department in the performance of
23 the department's duties.

24 (5) Represent an engine fuel, petroleum product, or
25 automotive lubricant that is contrary to the provisions of this
26 Act.

27 (6) Represent automotive lubricants with an S.A.E. (Society

1 of Automotive Engineers) viscosity grade or API (American Petroleum
2 Institute) service classification other than those specified by the
3 intended purchaser.

4 SUBCHAPTER C. ENGINE FUELS DESIGNED FOR SPECIAL USE.

5 Sec. 13A.021. REGISTRATION OF ENGINE FUELS DESIGNED FOR SPECIAL
6 USE. All engine fuels designed for special use must be registered
7 with the department. Such registration shall include:

8 (1) Name, brand, or trademark under which the fuel
9 will be sold.

10 (2) Name and address of person registering the engine
11 fuel.

12 (3) The special use for which the engine fuel is
13 designed.

14 (4) A certification, declaration, or affidavit
15 stating the fuel specifications.

16 SUBCHAPTER D. ADMINISTRATIVE PENALTIES.

17 Sec. 13A.031. ASSESSMENT OF ADMINISTRATIVE PENALTIES. The
18 department may assess an administrative penalty of not more than
19 one thousand dollars (\$1,000), in accordance with Sections 12.020
20 and 12.0202 of the Texas Agriculture Code, against any person who
21 violates a provision of this Act or any rule promulgated
22 thereunder.

23 Sec. 13A.033. COLLECTION OF PENALTIES. If the respondent has
24 exhausted administrative appeals and the administrative penalty
25 has been upheld, the respondent shall pay the civil penalty within
26 180 days after the effective date of the final decision. If the
27 respondent fails to pay the penalty, a civil action may be brought

1 by the Attorney General in any court of competent jurisdiction to
2 recover the penalty. Any administrative penalty collected under
3 this Act shall be transmitted to the general revenue fund.

4 SECTION 2. This Act takes effect immediately if it receives a vote
5 of two-thirds of all the members elected to each house, as provided
6 by Section 39, Article III, Texas Constitution. If this Act does not
7 receive the vote necessary for immediate effect, this Act takes
8 effect September 1, 2009.