

SECOND REGULAR SESSION

# SENATE BILL NO. 1016

91ST GENERAL ASSEMBLY

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INTRODUCED BY SENATORS FOSTER, CAUTHORN, WESTFALL AND KLINDT.

Read 1st time January 24, 2002, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

3981S.011

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## AN ACT

To repeal sections 414.012, 414.032, 414.042, 414.052, 414.072, 414.073, 414.082, 414.112 and 414.122, RSMo, and to enact in lieu thereof ten new sections relating to blended fuels.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 414.012, 414.032, 414.042, 414.052, 414.072, 414.073, 414.082, 414.112 and 414.122, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 414.012, 414.025, 414.032, 414.042, 414.052, 414.072, 414.073, 414.082, 414.112 and 414.122, to read as follows:

414.012. As used in this chapter, the following words mean:

(1) "American Society for Testing and Materials (ASTM)", a scientific and technical organization formed for the development of standards on characteristics and performance of materials, products, systems, and services, and the promotion of related knowledge;

(2) "Aviation turbine fuel (jet fuel)", a refined oil intended for use as a source of energy for jet aircraft, the classification of which shall be defined by the American Society for Testing and Materials (ASTM);

(3) "Barrel", for the purposes of sections 414.012 to 414.152, fifty gallons shall constitute a barrel;

(4) "Closed container", a container so sealed by means of a lid or other device that neither liquid nor vapor will escape from it at ordinary temperatures;

(5) "Combustible liquid", those liquids as defined by the most current issue of Booklet 30 of the National Fire Protection Association entitled Flammable and Combustible Liquid Code;

(6) "Container", any vessel of sixty United States gallons or less capacity used for

**EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

transporting or storing flammable or combustible liquids;

(7) "Department", the Missouri state department of agriculture;

(8) "Diesel fuel", refined oils commonly used in internal combustion engines where ignited by pressure and not by electric spark, the classification of which shall be defined by the American Society for Testing and Materials (ASTM);

(9) "Director", the director of agriculture of the Missouri state department of agriculture or his delegated representative;

(10) "Flammable liquids", those liquids as defined by the most current issue of Booklet 30 of the National Fire Protection Association entitled Flammable and Combustible Liquid Code;

(11) "Gasoline", a volatile mixture of liquid hydrocarbons generally containing small amounts of additives suitable for use as a fuel in spark-ignition internal combustion engines;

(12) "Gasoline-alcohol blend", a blend consisting primarily of gasoline and a substantial amount of one or more alcohols;

**(13) "Gasoline-oxygenate blend", a blend consisting primarily of gasoline and a substantial amount of one or more oxygenates. For the purposes of this definition, "substantial amount" shall mean more than thirty-five ten thousandths oxygen by weight, except that if methanol is the only oxygenate, "substantial amount" shall mean more than fifteen ten thousandths oxygen by weight;**

(14) "Heating oil (fuel oil)", a refined oil intended for use as a furnace oil, range oil or fuel oil for heating or cooking purposes;

[(14)] **(15)** "Kerosene", a refined oil intended for heating or illuminating use, the classification of which shall be defined by the American Society for Testing and Materials (ASTM);

[(15)] **(16)** "Motor fuel", any liquid product used for the generation of power in an internal combustion engine;

[(16)] **(17) "Oxygenate", an oxygen-containing, ashless alcohol, ether or other organic compound that can be used as a fuel or fuel supplement;**

**(18) "Oxygen content of gasoline", the percentage of oxygen by weight contained in a gasoline;**

(19) "Person", both plural and singular, as the case demands, and includes individuals, partnerships, corporations, companies, firms, societies, and associations.

**414.025. 1. Except as provided in subsection 2 of this section:**

**(1) After August 28, 2004, fifty percent of all gasoline sold or offered for sale shall contain at least twenty-seven thousandths oxygen by weight;**

**(2) After August 28, 2006, seventy-five percent of all gasoline sold or offered for sale shall contain at least twenty-seven thousandths oxygen by weight; and**

**(3) After August 28, 2008, ninety-five percent of all gasoline sold or offered for**

**sale shall contain at least twenty-seven thousandths oxygen by weight.**

**2. Gasoline that does not meet the oxygen requirements of subsection 1 of this section may be dispensed, sold or offered for sale:**

**(1) At an airport, marina, mooring facility or resort if the gasoline is intended to be used exclusively in aircraft or watercraft;**

**(2) At a public or private race course if the gasoline is intended to be used exclusively as a fuel for off-highway motor sports racing events;**

**(3) At a retail gasoline station if the gasoline is intended to be used exclusively in historic motor vehicles registered pursuant to section 301.131, RSMo, off-road vehicles not registered for highway use pursuant to chapter 301, RSMo, motorcycles, motorized bicycles, or motortricycles as defined in section 301.010, RSMo, snowmobiles, boats or small engines, provided that:**

**(a) The gasoline is unleaded premium grade;**

**(b) If intended for use in a small engine, the gasoline is dispensed into a container with a capacity of six or fewer gallons;**

**(c) No more than one storage tank on the premises of the retail gasoline station is used for storage of the gasoline; and**

**(d) Any pump stand dispensing the gasoline is clearly labeled with a permanent notice stating: "NONOXYGENATED GASOLINE. FOR USE IN HISTORIC MOTOR VEHICLES, OFF-ROAD VEHICLES, MOTORCYCLES, SNOWMOBILES, BOATS OR SMALL ENGINES ONLY.";**

**(4) In any area of the state subject to the requirements of the federal reformulated gasoline program, 42 U.S.C. 7545, but only during the times of the year when gasoline that is oxygenated in accordance with subsection 1 of this section does not meet the requirements of the federal reformulated gasoline program.**

**3. Any gasoline sold pursuant to subsection 2 of this section shall not be included in the calculation of the required percentage of gasoline types sold as determined pursuant to subsection 1 of this section.**

**4. Nothing in this section is intended to result in any violation of the federal Clean Air Act, as amended, 42 U.S.C. 7401, et seq.**

414.032. 1. All kerosene, diesel fuel, heating oil, aviation turbine fuel, gasoline, gasoline-alcohol blends, **gasoline-oxygenate blends**, and other motor fuels shall meet the requirements in the annual book of ASTM standards and supplements thereto. The director may promulgate rules and regulations on the labeling, standards for, and identity of motor fuels and heating oils.

2. All sellers of motor fuel which has been blended with an alcohol additive shall notify the buyer of same.

3. All sellers of motor fuel which has been blended with at least one percent oxygenate by weight shall notify the buyer at the pump of the type of oxygenate. The provisions of this subsection may be satisfied with a sticker or label on the pump stating that the motor fuel may or may not contain the oxygenate. The department of agriculture shall provide the sticker or label, which shall be reasonable in size and content, at no cost to the sellers.

4. The director may inspect gasoline, gasoline-alcohol blends, **gasoline-oxygenate blends**, or other motor fuels to insure that these fuels conform to advertised grade and octane. In no event shall the penalty for a first violation of this section exceed a written reprimand.

414.042. 1. When offered for sale or when used in this state, kerosene, diesel fuel, heating oil, aviation turbine fuel, gasoline, gasoline-alcohol blends, **gasoline-oxygenate blends**, and other motor fuels shall be tested and meet the requirements as provided in this chapter. Every dealer, distributor, producer or compounder of such oil or fuel shall immediately upon request make available to the director a sample of gasoline, gasoline-alcohol blends, **gasoline-oxygenate blends**, diesel fuel, heating oil, kerosene, aviation turbine fuel, and other motor fuels at his own expense. The director shall inspect and test all requested samples for compliance with the provisions of this chapter.

2. The director shall not be required to make a complete analysis of all samples tested pursuant to subsection 1 of this section.

3. If it is demonstrated that some impurity or imperfection exists in the sampled product to render it unfit for its intended purposes, the director may reject the product for such purposes by issuing a stop-sale order.

414.052. 1. All premises including bulk storage installations, terminals, dispensing or distributing facilities, equipment, appliances or devices utilized for the sale of products regulated by sections 414.012 to 414.152 shall be kept in such condition as to be safe from fire and explosion and not likely to cause injury to adjoining property or to the public.

2. The director shall have access during normal business hours to all places where motor fuels are marketed for the purposes of examination, inspection, taking of samples and investigation. If such access shall be refused by the owner or agent or other persons leasing the same, the director or his agent may obtain an administrative search warrant from a court of competent jurisdiction.

3. At least every six months, the director shall inspect and examine all premises in this state at or on which gasoline, gasoline-alcohol blends, **gasoline-oxygenate blends**, diesel fuel, heating oil, kerosene and aviation turbine fuel is kept and sold at retail, provided that sales at such premises shall aggregate on an average two hundred gallons or more per month, except marine installations, which shall be tested and inspected at least once per year.

4. Failure by any owner or operator of any fuel storage or dispensing system used for the sale of petroleum products to remedy any deficit or condition which is or may constitute a fire

or safety hazard to adjoining property or to the public may be reason for the director to issue a stop use order on that portion of the fuel storage or dispensing system which constitutes the fire or safety hazard. The order shall remain in effect until such time as the deficit or condition is corrected. An inspection shall be performed by the director or his authorized representative within one working day of notification that the deficit or condition has been corrected.

5. Any owner or operator of any fuel storage or dispensing system used for the sale of petroleum products aggrieved by a stop use order, may within seventy-two hours after issuance of such order, appeal to the director for an informal hearing to explain the facts. The hearing shall be held within two working days of the receipt of the appeal, with a determination of such findings by the director within twenty-four hours of the hearing. Any owner or operator aggrieved by a determination of the director may appeal to the circuit court of the county in which the owner or operator resides.

414.072. 1. At least every six months, the director shall test and inspect the measuring devices used by any person selling an average of two hundred or more gallons of gasoline, gasoline-alcohol blends, **gasoline-oxygenate blends**, diesel fuel, heating oil, kerosene, or aviation turbine fuel per month at either retail or wholesale in this state, except marine installations, which shall be tested and inspected at least once per year.

2. When the director finds that any measuring device does not correctly and accurately register and measure the monetary cost, if applicable, or the volume sold, he shall require the correction, removal, or discontinuance of the same.

414.073. 1. Each tank wagon used in the wholesale or retail marketing of gasoline, gasoline-alcohol blend, **gasoline-oxygenate blend**, kerosene, heating oil, diesel fuel, and aviation turbine fuel shall be equipped with meters or other measuring devices for the measurement of the product in terms of gallons or liters and shall not be equipped with a bypass around such meters.

2. The director shall at least once each year test the measuring devices on tank wagons used in the retail or wholesale delivery of motor fuel, aviation turbine fuel, heating oil, diesel fuel, gasoline, gasoline-alcohol blend, **gasoline-oxygenate blend**, or kerosene. When such devices are found to be inaccurate, he shall order the correction, removal or discontinuance of same.

3. Test procedures, specifications, tolerances, and technical requirements shall be governed by the National Bureau of Standards, Handbook 44, and supplements thereto.

4. The director shall condemn all meters which do not meet the requirements contained in National Bureau of Standards Handbook 44, vehicle tank meter section, or its successor publication.

5. No meter which has been condemned shall be used for commercial purposes. All condemned meters shall be conspicuously marked "inaccurate".

414.082. 1. The fee for the inspection of gasoline, gasoline-alcohol blends, **gasoline-oxygenate blends**, kerosene, diesel fuel, heating oil, aviation turbine fuel, and other motor fuels [under] **pursuant to** this chapter shall be fixed by the director of revenue at a rate per barrel which will approximately yield revenue equal to the expenses of administering this chapter; except that[, until December 31, 1993, the rate shall be one and one-half cents per barrel and beginning January 1, 1994,] the fee shall not be less than one and one-half cents per barrel nor exceed two and one-half cents per barrel.

2. Annually the director of the department of agriculture shall ascertain the total expenses for administering sections 414.012 to 414.152 during the preceding year, and shall forward a copy of such expenses to the director of revenue. The director of revenue shall fix the inspection fee for the ensuing calendar year at such rate per barrel, within the limits established by subsection 1 of this section, as will approximately yield revenue equal to the expenses of administering sections 414.012 to 414.152 during the preceding calendar year and shall collect the fees and deposit them in the state treasury to the credit of the "Petroleum Inspection Fund" which is hereby created. [Beginning July 1, 1988,] All expenses of administering sections 414.012 to 414.152 shall be paid from appropriations made out of the petroleum inspection fund.

3. The unexpended balance in the fund at the end of each fiscal year shall not be transferred to the general revenue fund of the state, and the provisions of section 33.080, RSMo, relating to the transfer of funds to the general revenue fund of the state by the state treasurer shall not apply to this fund.

4. The state treasurer shall invest all sums in the petroleum inspection fund not needed for current operating expenses in interest-bearing banking accounts or United States government obligations in the manner provided by law. All yield, increment, gain, interest or income derived from the investment of these sums shall accrue to the benefit of, and be deposited within the state treasury to the credit of, the petroleum inspection fund.

414.112. 1. No person shall store, sell, expose for sale, or offer for sale, gasoline, diesel fuel, heating oil, kerosene, aviation turbine fuel, gasoline-alcohol blends, **gasoline-oxygenate blends** or other motor fuels, so as to deceive or tend to deceive the purchaser as to the nature, quality, and identity of the product so sold or offered for sale, or under any name whatsoever except the true trade name thereof.

2. No person shall store, sell, expose for sale, or offer for sale, any reclaimed motor or lubricating oils; except that all drums, cans, or other containers, holding such reclaimed motor or lubricating oils before being offered for sale, shall have imprinted thereon, in contrasting color with the other surface of the container, in letters not less than one-half inch in height, wording specifying "reclaimed" motor or lubricating oil.

3. No person shall hinder or obstruct the director, or his delegated representative, in the reasonable performance of his duties.

414.122. Every person engaged in business in this state as a common carrier or marketer of fuels or petroleum products shall exhibit upon demand by the director of agriculture or the director of revenue, books, papers, and records showing any shipment in, into or out of this state of gasoline, **gasoline-alcohol blends, gasoline-oxygenate blends**, diesel fuel, heating oil, kerosene or aviation turbine fuel and also any books, papers, and records showing the origin or destination of such shipments, including the names and addresses of the consignors and consignees of such shipments.

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