

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

As Engrossed: S2/1/01 H2/20/01

A Bill

SENATE BILL 330

5 By: Senator Wooldridge
6 By: Representatives Wood, *Milum*
7

For An Act To Be Entitled

8 ENGINE FUELS, PETROLEUM PRODUCTS, AND AUTOMOTIVE
9 LUBRICANTS INSPECTION ACT OF 2001.
10

Subtitle

11 ENGINE FUELS, PETROLEUM PRODUCTS, AND
12 AUTOMOTIVE LUBRICANTS INSPECTION ACT OF
13 2001.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

18 SECTION 1. Purpose.

19 There should be uniform requirements for engine fuels, petroleum
20 products, and automotive lubricants among the several states. This act
21 provides for the establishment of quality specifications for these products.
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24 SECTION 2. Scope.

25 The act establishes a sampling, testing, and enforcement program,
26 requires registration of engine fuels, and empowers the state to promulgate
27 regulations as needed to carry out the provisions of this act. It also
28 provides for administrative, civil, and criminal penalties.
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30 SECTION 3. Definitions.

31 As used in this act:

32 (1) "ASTM" means the American Society for Testing and Materials, a
33 national voluntary consensus standards organization formed for the development
34 of standards on characteristics and performance of materials, products,
35 systems, and services, and the promotion of related knowledge;

36 (2) "Automotive Lubricants" means any material interposed between two

1 (2) surfaces that reduces the friction or wear between them;

2 (3) "Board" means the State Plant Board;

3 (4) "Director" means the Director of the State Plant Board and its
4 designated agents;

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

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

12 (7) "Person" means an individual, corporation, company, society,
13 association, partnership, or governmental entity;

14 (8) "Petroleum products" means products obtained from distilling and
15 processing of petroleum, crude oil, unfinished oils, recycled oils, natural
16 gas liquids, refinery blend stocks, and other miscellaneous hydrocarbon
17 compounds; and

18 (9) "Sold" means kept, offered, or exposed for sale, or sold.
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20 SECTION 4. Administration, adoption of standards, and rules.

21 The provisions of this act shall be administered by the director. For
22 the purpose of administering and giving effect to the provisions of this act,
23 the board may adopt the specification and test method standards set forth in
24 both the most recent edition of the NIST Handbook 130 and the most recent
25 edition of the Annual Book of ASTM Standards and supplements thereto, and
26 revisions thereof. When no ASTM standard exists, other generally recognized
27 national consensus standards may be used. The board is empowered to write
28 rules and regulations on the advertising, posting of prices, labeling,
29 standards for, and identity of fuels, petroleum products, and automotive
30 lubricants and is authorized to establish a testing laboratory.

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32 SECTION 5. State Petroleum Products Division - General duties and
33 powers.

34 (a) There is hereby created a State Petroleum Products Division located
35 for administrative purposes within the Arkansas Bureau of Standards of the
36 State Plant Board.

1 (b) The board shall have the authority to:

2 (1) Enforce and administer all the provisions of this act by
3 inspections, analyses, and other appropriate actions;

4 (2) Have access during normal business hours to all places where
5 engine fuels, petroleum products, and automotive lubricants are kept,
6 transferred, offered, exposed for sale, or sold for the purpose of
7 examination, inspection, taking of samples, and investigation. If such access
8 shall be refused by the owner or agent or other persons leasing the same, the
9 director may obtain an administrative search warrant from a court of competent
10 jurisdiction;

11 (3) Collect, or cause to be collected, samples of engine fuels,
12 petroleum products, and automotive lubricants marketed in this state, and
13 cause such samples to be tested or analyzed for compliance with the provisions
14 of this act;

15 (4) Define engine fuels for special use and refuse, revoke,
16 suspend, or issue a stop-order if found not to be in compliance and remand
17 stop-order if the engine fuel for special use is brought into full compliance
18 with this act;

19 (5) Issue a stop-sale order for any engine fuel, petroleum
20 product, and automotive lubricant found not to be in compliance and remand
21 stop-sale order if the engine fuel, petroleum product, or automotive lubricant
22 is brought into full compliance with this act;

23 (6) Refuse, revoke, or suspend the registration of an engine
24 fuel, petroleum product, or automotive lubricant; and

25 (7) Delegate to appropriate personnel any of these
26 responsibilities for the proper administration of this act.

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28 SECTION 6. Registration of engine fuels designed for special use.

29 All engine fuels designed for special use must be registered with the
30 board. Such registration shall include:

31 (1) Name, brand, or trademark under which the fuel will be sold;

32 (2) Name and address of person registering the engine fuel;

33 (3) The special use for which the engine fuel is designed; and

34 (4) Certification, declaration, or affidavit stating the specifications
35 which the fuel will meet upon testing.

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SECTION 7. Prohibited acts.

It shall be unlawful to:

- (1) Represent engine fuels, petroleum products, or automotive lubricants in any manner that may deceive or tend to deceive the purchaser as to the nature, brand, price, quantity or quality of such products;
- (2) Fail to register an engine fuel designed for special use;
- (3) Submit incorrect, misleading, or false information regarding the registration of an engine fuel designed for special use;
- (4) Hinder or obstruct the board in the performance of its duties;
- (5) Represent an engine fuel, petroleum product, or automotive lubricant that is contrary to the provisions of this act; and
- (6) Represent automotive lubricants with an S. A. E. (Society of Automotive Engineers) viscosity grade or API (American Petroleum Institute) service classification other than those specified by the intended purchaser.

SECTION 8. Civil penalties.

(a)(1) Assessment of penalties. Any person who by himself or herself, by his or her servant or agent, or as the servant or agent of another person, commits any of the acts enumerated in section 7 may be assessed by the board a civil penalty of:

(A) Not less than one hundred dollars (\$100) nor more than three hundred dollars (\$300) for a first violation;

(B) Not less than four hundred dollars (\$400) nor more than six hundred dollars (\$600) for a second violation within three (3) years after the date of the first violation; and

(C) Not less than seven hundred dollars (\$700) nor more than one thousand dollars (\$1,000) for a third violation within three (3) years after the date of the first violation.

(2) For a violation to be considered as a second or subsequent offense, it must be a repeat of a violation as enumerated in section 7.

(b) Administrative hearing. Any person subject to a civil penalty shall have a right to request an administrative hearing within ten (10) calendar days after receipt of the notice of the penalty. The board or a subcommittee of the board shall be authorized to conduct the hearing after giving appropriate notice to the respondent. The decision of the board shall be subject to appropriate judicial review under the Arkansas Administrative

1 Procedure Act.

2 (c) Collection of penalties. If the respondent has exhausted his or
3 her administrative appeals and the civil penalty has been upheld, he or she
4 shall pay the civil penalty within twenty (20) calendar days after the
5 effective date of the final decision. If the respondent fails to pay the
6 penalty, a civil action may be brought by the director in any court of com-
7 petent jurisdiction to recover the penalty. Any civil penalty collected under
8 this act shall be transmitted to the Plant Board Fund.

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10 SECTION 9. Criminal penalties.

11 (a) Misdemeanor. Any person who intentionally violates any provision
12 of this act or regulations promulgated thereto shall be guilty of a Class A
13 misdemeanor.

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15 SECTION 10. Restraining order and injunction.

16 The director is authorized to apply to any court of competent
17 jurisdiction for a restraining order, or a temporary or permanent injunction,
18 restraining any person from violating any provision of this act.

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20 SECTION 11. Title.

21 This act shall be known and may be cited as the "Engine Fuels, Petroleum
22 Products, and Automotive Lubricants Inspection Act of 2001".

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24 SECTION 12. The board may by regulation adopted pursuant to the
25 Arkansas Administrative Procedure Act adopt as a regulation of the bureau
26 specifications, tolerances, and regulations for engine fuels, petroleum
27 products and automotive lubricants set out in National Institute of Standards
28 and Technology Handbook 130, or in any similar publication issued by the
29 National Institute of Standards and Technology. In drafting the regulations,
30 the bureau shall consider whether the specifications, tolerances, and
31 regulations published by the National Institute of Standards and Technology
32 are consistent with the needs of Arkansas businesses and consumers and may
33 modify, amend or delete suggested language found in the NIST handbooks.

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35 SECTION 13. Regulations to be unaffected by repeal of prior enabling
36 statute.

