

FIRST REGULAR SESSION

HOUSE BILL NO. 597

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES LAWSON, WIGGINS, BERKOWITZ, BLACK, MERIDETH,
MYERS, KING, HEGEMAN (Co-sponsors), SHOEMYER, KLINDT, MARBLE, NAEGER, JETTON,
BURCHAM, MAYER, LEGAN, SHIELDS, CRAWFORD AND SCHWAB.

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TED WEDEL, Chief Clerk

1558L.011

AN ACT

To repeal section 413.005, RSMo 2000, relating to weights and measures, and to enact in lieu thereof ten new sections relating to the same subject.

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

Section A. Section 413.005, RSMo 2000, is repealed and ten new sections enacted in lieu thereof, to be known as sections 413.005, 413.440, 413.443, 413.446, 413.449, 413.452, 413.455, 413.458, 413.461 and 413.464, to read as follows:

413.005. As used in [sections 413.005 to 413.229] **this chapter**, unless the context clearly indicates otherwise, the following words and terms mean:

- (1) "Commercial device", any weighing or measuring device used in commerce to establish the size, quantity, extent, area or measurement of quantities, things produced or articles for distribution or consumption, purchased, offered or submitted for sale, hire or award, or in computing any basic charge or payment for services rendered on the basis of weight or measure, and includes any accessory attached to or used in connection with a commercial device when such accessory is so designed or installed that its operation affects or may affect the accuracy of the weighing or measuring device;
- (2) "Correct", that, in addition to being accurate, a device meets all applicable specifications, performance and installation requirements;
- (3) "Director", the director of the department of agriculture, or his or her designated representative;
- (4) "Division", the division of weights and measures of the department of agriculture;

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

15 (5) "Net weight", the weight of a commodity excluding any materials, substances, or
16 items not considered to be part of the commodity, which include but are not limited to
17 containers, conveyances, bags, wrappers, packaging material, labels, individual piece coverings,
18 decorative accompaniments and coupons;

19 (6) **"Oxygenate", agriculturally derived, denatured ethanol, ETBE, MTBE or other**
20 **alcohol or ether, approved as an oxygenate by the Environmental Protection Agency;**

21 (7) **"Oxygenate blender", a person who has registered with the division to blend**
22 **and distribute, transport, sell or offer to sell gasoline containing a minimum of two percent**
23 **and an average of two point seven percent oxygen by weight;**

24 (8) "Package", any commodity enclosed in a container or wrapped in any manner in
25 advance of wholesale or retail sales, or whose weight or measure has been determined in advance
26 of wholesale or retail sale, and an individual item or lot of any commodity on which there is
27 marked a selling price based on an established price per unit of weight or of measure;

28 [(7)] (9) "Person", individuals, partnerships, corporations, companies, societies, and
29 associations;

30 [(8)] (10) "Point-of-sale system", a point-of-sale system includes cash registers or
31 devices and systems capable of recovering stored information related to the price of individual
32 retail items;

33 [(9)] (11) "Primary standards", the physical standards of the state which serve as the legal
34 reference from which all other standards of weights and measures are derived;

35 [(10)] (12) "Random package", a package that is one of a lot, shipment or delivery of
36 packages of the same consumer commodity with no fixed pattern of weight or measure;

37 [(11)] (13) **"Refinery" or "terminal", a petroleum refinery, pipeline terminal, river**
38 **terminal, storage facility or other point of origin where petroleum products are**
39 **manufactured, or imported by rail, truck, barge or pipe; and held, stored, transferred,**
40 **offered for distribution, distributed, offered for sale or sold. For the purpose of restricting**
41 **petroleum product blending, this definition includes all refineries and terminals within and**
42 **outside of the state, but does not include a licensed distributor's bulk storage facility that**
43 **is used to store petroleum products for which the petroleum inspection fee charged**
44 **pursuant to this chapter is either not due or has been paid;**

45 (14) "Sale from bulk", the sale of commodities when the quantity is determined at the
46 time of sale;

47 [(12)] (15) "Secondary standards", the physical standards used in the enforcement of
48 weights and measures laws and regulations which are traceable to the primary standards through
49 comparisons, using acceptable laboratory procedures;

50 [(13)] (16) "Standard package", a package that is one of a lot, shipment or delivery of

51 packages of the same commodity with identical net contents declarations;

52 [(14)] (17) "Weight", as used in connection with any commodity, means net weight.
53 Where the label declares that the product is sold by drained weight, the term means net drained
54 weight;

55 [(15)] (18) "Weights and measures", instruments and devices of every kind, used for
56 weighing, measuring and counting, and any appliance, accessory or object used with or
57 associated with the use of all such instruments and devices.

**413.440. 1. After January 1, 2002, all gasoline sold or offered for sale shall contain
2 at least twenty-seven one thousandths oxygen by weight, except for gasoline specifically
3 exempted pursuant to subsection 2 of this section.**

**4 2. Gasoline that is not oxygenated in accordance with subsection 1 of this section
5 may be sold or offered for sale in:**

6 (1) Marinas and airports; and

**7 (2) Any area of the state subject to the requirements of the federal reformulated
8 gasoline program, 42 U.S.C. 7545, but only during the times of the year when gasoline that
9 is oxygenated in accordance with subsection 1 of this section does not meet the
10 requirements of the federal reformulated gasoline program. The provisions of this
11 subsection shall expire on January 1, 2005.**

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

413.443. The director shall:

**2 (1) Take samples, free of charge, of petroleum products wherever processed,
3 blended, held, stored, imported, transferred, offered for sale or use or sold in this state,
4 limiting each sample to:**

5 (a) Two-tenths of one gallon, except when an octane test is planned; or

6 (b) Seven-tenths of one gallon for an octane test;

**7 (2) Inspect and test petroleum product samples according to the methods of the
8 American Society for Testing and Materials or other valid test methods adopted by rule,
9 to determine whether the products comply with the provisions of this chapter;**

**10 (3) Publish octane test data and information to assist persons who produce and sell
11 gasoline and gasoline-oxygenate blends;**

12 (4) Register gasoline-oxygenate blenders according to the requirements of the EPA.

**413.446. After a gasoline product is purchased, transferred or otherwise removed
2 from a refinery or terminal, the person responsible for the product shall:**

3 (1) Keep the product free from contamination with water and impurities;

4 (2) Not blend the product with dissimilar petroleum products;

- 5 **(3) Not blend the product with any contaminant, dye, chemical or additive, except:**
6 **(a) Agriculturally derived, denatured ethanol that complies with the specifications**
7 **of this chapter;**
8 **(b) An antiknock additive or an additive designed to replace tetra-ethyl lead, that**
9 **is registered by the EPA; or**
10 **(c) A dye to distinguish heating fuel from low sulfur diesel fuel; and**
11 **(4) Maintain a record of the name or chemical composition of the additive, with the**
12 **product shipping manifest or bill of lading for one year after the date of the manifest or**
13 **bill.**

413.449. When a product is rejected, the person responsible for the product shall
2 **blend or remove the product according to the director's instructions. If the rejected**
3 **product is blended with another product to bring it into compliance, the person responsible**
4 **for the product shall provide testing and documentation that the blended product will**
5 **comply with the specifications provided in section 413.455. If the rejected product is**
6 **removed, the person responsible for the product shall provide documentation to prove to**
7 **the director that the rejected product has been removed and replaced with a product that**
8 **complies with the specifications in section 413.455.**

413.452. 1. A person responsible for the product shall securely affix a metal
2 **identification tag on the fill pipe of a petroleum product storage tank at a business where**
3 **petroleum products are sold, offered for sale or dispensed at retail into the storage tanks**
4 **of motor vehicles. A bulk storage facility operator shall securely affix a metal identification**
5 **tag on the fill pipe of each storage tank at the distributor's bulk storage facility. The**
6 **identification tag shall be printed with the appropriate product identification according**
7 **to subsection 2 or 3 of this section.**

2. An identification tag placed on a storage tank containing gasoline or oxygenated
9 **gasoline shall be marked with the word "GASOLINE" and with the correct octane number**
10 **and the appropriate product name of the fuel stored in the tank. The product name shall**
11 **be selected from the following:**

- 12 **(1) "REGULAR" for oxygenated gasoline of less than eighty-eight octane;**
13 **(2) "MID-GRADE" for oxygenated gasoline of at least eighty-eight octane but less**
14 **than ninety-one octane;**
15 **(3) "PREMIUM" for oxygenated gasoline of at least ninety-one octane;**
16 **(4) "NONOXY PREM" for nonoxygenated gasoline of at least ninety-one octane;**
17 **(5) "AVIATION" for gasoline used solely as a fuel for aircraft;**
18 **(6) "RACING" for a special racing gasoline intended to be sold for use in off-road**
19 **motor vehicles; or**

20 (7) "SPECIAL" for gasoline blended with mineral oil or other additives and
21 intended to be sold for use in boats, chainsaws, snowmobiles or off-road equipment.

22 3. An identification tag placed on a storage tank containing unblended alcohol or
23 a predominantly alcohol-based motor fuel shall be marked with the word "ALCOHOL"
24 and with the appropriate product name of the fuel stored in the tank. The product name
25 shall be selected from the following:

- 26 (1) "ETHANOL" for denatured ethanol;
27 (2) "METHANOL" for methanol;
28 (3) "E-85" for an ethanol-gasoline blend;
29 (4) "M-85" for a methanol-gasoline blend.

413.455. 1. Gasoline that is not blended with ethanol shall not be contaminated
2 with water or other impurities and shall comply with American Society for Testing and
3 Materials specification D 4814-96. Gasoline that is not blended with ethanol shall also
4 comply with the volatility requirements in Code of Federal Regulations, title 40, part 80.
5 After gasoline is sold, transferred or otherwise removed from a refinery or terminal, a
6 person responsible for the product:

7 (1) May blend the gasoline with agriculturally derived ethanol as provided in
8 subsection 2 of this section;

9 (2) Shall not blend the gasoline with any oxygenate other than denatured,
10 agriculturally derived ethanol;

11 (3) Shall not blend the gasoline with other petroleum products that are not gasoline
12 or denatured, agriculturally derived ethanol;

13 (4) Shall not blend the gasoline with products commonly and commercially known
14 as casing head gasoline, absorption gasoline, condensation gasoline, drip gasoline or
15 natural gasoline; and

16 (5) May blend the gasoline with a detergent additive, an antiknock additive or an
17 additive designed to replace tetra-ethyl lead, that is registered by the EPA.

18 2. Gasoline may be blended with up to ten percent, by volume, agriculturally
19 derived, denatured ethanol that complies with the requirements of subsection 3 of this
20 section. A gasoline-ethanol blend shall:

21 (1) Comply with the volatility requirements in Code of Federal Regulations, title
22 40, part 80;

23 (2) Comply with American Society for Testing and Materials specification D 4814-
24 96 or the gasoline base stock from which a gasoline-ethanol blend was produced shall
25 comply with American Society for Testing and Materials specification D 4814-96; and

26 (3) Not be blended with casing head gasoline, absorption gasoline, condensation

27 gasoline, drip gasoline or natural gasoline after the gasoline-ethanol blend has been sold,
28 transferred or otherwise removed from a refinery or terminal.

29 **3. Denatured ethanol that is to be blended with gasoline shall be agriculturally**
30 **derived and shall comply with American Society for Testing and Materials specification**
31 **D 4806-95b. This includes the requirement that ethanol may be denatured only as**
32 **specified in Code of Federal Regulations, title 27, parts 20 and 21.**

33 **4. Gasoline that is blended with an oxygenate, other than denatured ethanol, shall**
34 **comply with American Society for Testing and Materials specification D 4814-96.**
35 **Oxygenates, other than denatured ethanol, shall not be blended into gasoline after the**
36 **gasoline has been sold, transferred or otherwise removed from a refinery or terminal.**

413.458. A person responsible for the products listed in this section shall transfer,
2 **ship, distribute, offer for distribution, sell or offer to sell the products by volume.**
3 **Volumetric measurement of the product shall not be temperature compensated or adjusted**
4 **by any other factor. This section applies to gasoline, number one and number two diesel**
5 **fuel oils, number one and number two heating fuel oils, kerosene, denatured ethanol that**
6 **is to be blended into gasoline and an oxygenate that is to be blended into gasoline. This**
7 **section shall not apply to the measurement of petroleum products transferred, sold or**
8 **traded between refineries, between refineries and terminals or between terminals.**

413.461. 1. Except as provided in subsections 5 to 9 of this section:

2 **(1) After August 28, 2003, fifty percent of all gasoline sold or offered for sale shall**
3 **contain at least two point seven percent oxygen by weight;**

4 **(2) After August 28, 2005, seventy-five percent of all gasoline sold or offered for**
5 **sale shall contain at least two point seven percent oxygen by weight; and**

6 **(3) After August 28, 2007, all gasoline sold or offered for sale shall contain at least**
7 **two point seven percent oxygen by weight.**

8 **2. When gasoline contains an oxygenate, a person responsible for the product shall**
9 **not blend the product with ethanol or with any other oxygenate after it is transferred or**
10 **otherwise removed from a refinery or terminal.**

11 **3. The director shall audit the records of registered oxygenate blenders to ensure**
12 **that each blender has met all requirements in this chapter. Specific information or data**
13 **relating to sales figures or to processes or methods of production unique to the blender or**
14 **that would tend to adversely affect the competitive position of the blender shall be only for**
15 **the confidential use of the director, unless otherwise specifically authorized by the**
16 **registered blender.**

17 **4. A refinery or terminal shall provide, at the time gasoline is sold or transferred**
18 **from the refinery or terminal, a bill of lading or shipping manifest to the person who**

19 receives the gasoline. For oxygenated gasoline, the bill of lading or shipping manifest shall
20 include the identity and the volume percentage or gallons of oxygenate included in the
21 gasoline, and shall state: "This fuel contains an oxygenate. Do not blend this fuel with
22 ethanol or with any other oxygenate.". For nonoxygenated gasoline sold or transferred
23 after August 28, 2007, the bill or manifest shall state: "This fuel is not oxygenated. It must
24 not be sold at retail in Missouri.". The provisions of this subsection shall not apply to sales
25 or transfers of gasoline between refineries, between terminals or between a refinery and
26 a terminal.

27 **5. A person responsible for the product may offer for sale, sell or dispense at an**
28 **airport, marina, mooring facility or resort, for use in airplanes or for purposes listed**
29 **pursuant to subdivision (1) of subsection 7 of this section, gasoline that is not oxygenated**
30 **in accordance with subsection 1 of this section if the gasoline is unleaded premium grade.**

31 **6. A person responsible for the product may offer for sale, sell or dispense at a**
32 **public or private race course, gasoline that is not oxygenated in accordance with subsection**
33 **1 of this section if the gasoline is intended to be used exclusively as a fuel for off-highway**
34 **motor sports racing events.**

35 **7. (1) A person responsible for the product may offer for sale, sell or dispense at**
36 **a retail gasoline station for use in historic motor vehicles or vehicles eligible to be licensed**
37 **as historic motor vehicles, off-road vehicles, motorcycles, boats, snowmobiles or small**
38 **engines, gasoline that is not oxygenated in accordance with subsection 1 of this section if**
39 **the person meets the conditions in subdivisions (2) to (4) of this subsection. If the**
40 **nonoxygenated gasoline is for use in a small engine, it shall be dispensed into a can with a**
41 **capacity of six or fewer gallons.**

42 **(2) The nonoxygenated gasoline shall be unleaded premium grade.**

43 **(3) No more than one storage tank on the premises of the retail gasoline station may**
44 **be used for storage of the nonoxygenated gasoline offered for sale, sold or dispensed by the**
45 **station.**

46 **(4) The pump stands shall be posted with a permanent notice stating:**
47 **"NONOXYGENATED GASOLINE. FOR USE IN HISTORIC MOTOR VEHICLES OR**
48 **VEHICLES ELIGIBLE TO BE LICENSED AS HISTORIC MOTOR VEHICLES, OFF-**
49 **ROAD VEHICLES, MOTORCYCLES, BOATS, SNOWMOBILES OR SMALL**
50 **ENGINES ONLY."**

51 **8. (1) A person responsible for the product may offer for sale, sell and deliver**
52 **directly to a bulk fuel storage tank gasoline that is not oxygenated in accordance with**
53 **subsection 1 of this section if the conditions in subdivisions (2) to (5) of this subsection are**
54 **met.**

55 **(2) The nonoxygenated gasoline shall be unleaded premium grade.**

56 **(3) The bulk fuel storage tank shall be stationary or permanent.**

57 **(4) The bulk fuel storage tank shall be under the control of an owner of littoral or**
58 **riparian property and located on that littoral or riparian property.**

59 **(5) The nonoxygenated gasoline shall be purchased for use in vehicles that would**
60 **qualify for an exemption pursuant to subdivision (1) of subsection 7 of this section.**

61 **9. A person responsible for the product may offer for sale, sell and deliver directly**
62 **to a bulk fuel storage tank gasoline that is not oxygenated in accordance with subsection**
63 **1 of this section for use in aircraft if the nonoxygenated gasoline is unleaded premium**
64 **grade.**

413.464. A person responsible for the product shall clearly, conspicuously and
2 **permanently label each gasoline dispenser that is used to sell gasoline or gasoline-oxygenate**
3 **blends at retail or to dispense gasoline or gasoline-oxygenate blends into the fuel supply**
4 **tanks of motor vehicles, with the minimum octane of the gasoline dispensed.**