

Act No. 278
Public Acts of 2004
Approved by the Governor
July 22, 2004
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**STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2004**

Introduced by Senator Jelinek

ENROLLED SENATE BILL No. 1209

AN ACT to amend 1984 PA 44, entitled "An act to provide purity and quality standards for motor fuels; to regulate the transfer, sale, dispensing, or offering motor fuels for sale; to provide for an inspection and testing program; to provide for the powers and duties of certain state agencies; to provide for the licensing of certain persons engaged in the transfer, sale, dispensing, or offering of motor fuels for sale; to regulate stage I and stage II vapor-recovery systems at certain facilities; to provide for fees; and to provide remedies and prescribe penalties," by amending sections 6 and 9i (MCL 290.646 and 290.649i), section 6 as amended by 2002 PA 13 and section 9i as added by 1993 PA 236.

The People of the State of Michigan enact:

Sec. 6. (1) Before a distributor or retail dealer engages in transferring, selling, dispensing, or offering for sale gasoline in this state, the distributor or retail dealer shall obtain a license from the department for each retail outlet operated by that person. In administering the licensing under this section, the department may attempt to coordinate the licensing with the licensing applicable to gasoline administered by the department of treasury pursuant to the motor fuel tax act, 2000 PA 403, MCL 207.1001 to 207.1170, and the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78.

(2) A license expires annually on November 30 unless renewed before December 1 of each year or unless suspended, denied, or revoked by the department.

(3) The fee for a license is \$15.00 for each year or portion of a year through July 31, 2002, \$50.00 for each year or portion of a year through July 31, 2003, \$75.00 for each year or portion of a year through July 31, 2004, and \$100.00 beginning August 1, 2004 and each year or portion of a year thereafter. A license shall not be issued or renewed until the fee and any administrative fines issued under section 10a have been paid. A hearing is not required before the refusal to issue or renew a license under this subsection. Fees collected shall be deposited in the gasoline inspection and testing fund.

(4) An application for a license shall be made to the department upon a form furnished by the department. The completed form shall contain the information requested by the department and shall be accompanied by the fee specified in subsection (3).

(5) The director may suspend, deny, or revoke a license issued pursuant to this act for failure to comply with the requirements provided for in section 3, for failure to provide notice as provided in section 4, for violating section 31 of the weights and measures act of 1964, 1964 PA 283, MCL 290.631, if that violation occurs at any of the licensee's retail outlets and involves the transferring, selling, dispensing, or the offering for sale of gasoline in this state, or for otherwise failing to comply with this act or a rule promulgated under this act or an order issued under this act.

(6) This section does not apply until June 29, 1985.

(7) If a person licensed under this act is convicted of a willful violation under section 31 of the weights and measures act of 1964, 1964 PA 283, MCL 290.631, any license issued pursuant to this act shall be revoked for 2 years.

(8) A suspension, revocation, or denial of a license of a person who is an individual shall result in the suspension, revocation, or denial of any other license held or applied for by that individual under this act. The license of a corporation, partnership, or other association shall be suspended when a license or license application of a partner,

trustee, director, or officer, member, or a person exercising control of the corporation, partnership, or other association is suspended, revoked, or denied. The suspension shall remain in force until the director determines that the disability created by the suspension, revocation, or denial has been removed.

(9) Except as otherwise provided in subsection (3), beginning on the effective date of the amendatory act that added this subsection, the department shall issue an initial or renewal license not later than 120 days after the applicant files a completed application. If the application is considered incomplete by the department, the department shall notify the applicant in writing or make 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 tolled upon notification by the department of a deficiency until the date all of the information requested during the 40-day period is received by the department. Requests for new or additional information by the department that fall outside the 40-day period do not toll the 120-day period. The determination of the completeness of an application does not operate as an approval of the application for the license and does not confer eligibility of an applicant determined otherwise ineligible for issuance of a license.

(10) If the department does not issue or deny a license within 120 days after the receipt of a completed application, the department shall return the license fee and shall reduce the license fee for the applicant's next renewal application, if any, by 15%. The failure to issue a license within the time required under this subsection does not allow the department to otherwise delay the processing of the application, and that application, upon completion, shall be placed in sequence with other completed applications received at that same time. The department shall not discriminate against an applicant in the processing of an application based on the fact that the application fee was refunded or discounted under this subsection.

(11) Beginning October 1, 2005, the director of the department shall 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 shall include all of the following information in the report concerning the preceding fiscal year:

(a) The number of initial and renewal applications the department received and completed within the 120-day time period described in subsection (9).

(b) The number of applications denied.

(c) The number of applications not issued within the 120-day period and the amount of money returned to licensees and registrants under subsection (10).

(12) Before a blender engages in the transferring, selling, dispensing, or offering for sale blended gasoline in this state, the blender shall register the finished product with the department and provide to the department test results as the department considers necessary. If the product does not comply with the requirements of section 3, the blender shall provide the department with a written list of the business names and addresses to whom the blended product is sold.

(13) As used in this section, "completed application" means an application complete on its face and submitted with any applicable licensing fees as well as any other information, records, approval, security, or similar item required by law or rule from a local unit of government, a federal agency, or a private entity but not from another department or agency of the state of Michigan.

Sec. 9i. (1) A dispensing facility constructed after November 15, 1990 shall obtain a dispensing permit. The fee for a dispensing permit is \$25.00 for each year or portion of a year.

(2) Before a dispensing permit is issued, a dispensing facility shall install an approved stage I and, if required, stage II vapor-recovery system and, in addition to the fee for the dispensing permit, shall pay a registration fee for each dispensing unit located at the dispensing facility. A permit shall not be issued or renewed until all fees and administrative fines issued under section 10a are paid. A hearing shall not be required before the refusal to issue or renew a permit under this subsection.

(3) A dispensing permit expires annually on November 30 unless renewed before December 1 of each year or unless suspended, denied, or revoked by the department. Application for a dispensing permit shall be made on a form furnished by the department. The completed form shall contain the information requested by the department and shall be accompanied by the fees specified.

(4) The director may suspend, deny, or revoke a dispensing permit issued pursuant to this act for failure to pay the fee required by subsection (1) or (2) or for failure to comply with the requirements of sections 9a to 10c.

(5) A fee shall be charged to the operator of stage I and stage II vapor-recovery or gasoline-dispensing equipment for its inspection if any of the following occur:

(a) The inspection is a reinspection of equipment that has already been tested and found to contain a substantial defect as defined under section 9c.

(b) The inspection is performed at the request of the operator.

(6) The department shall establish the fees and expenses for special services, including the fee for an operator requested inspection or reinspection, for registrations, for training courses, and for accreditation of a trainer, to provide that each fee is sufficient to cover the cost of an operator requested inspection, reinspection, registration, training, or

trainer accreditation, respectively, and that the aggregate of all fees collected is sufficient to pay for all salaries and other expenses connected with the activity. The department shall review and adjust the fees at the end of each year and have all fees approved by the director before they are adopted. Fees collected under this section shall be deposited in the gasoline inspection and testing fund and reserved for conducting the vapor-recovery program.

(7) Subject to subsection (2) and beginning on the effective date of the amendatory act that added this subsection, the department shall issue an initial or renewal permit not later than 120 days after the applicant files a completed application. If the application is considered incomplete by the department, the department shall notify the applicant in writing or make 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 tolled upon notification by the department of a deficiency until the date all of the information requested during the 40-day period is received by the department. The determination of the completeness of an application does not operate as an approval of the application for the permit and does not confer eligibility of an applicant determined otherwise ineligible for issuance of a permit. Requests for new or additional information by the department that fall outside the initial 40-day period do not toll the 120-day period.

(8) If the department does not issue or deny a permit within 120 days after the receipt of a completed application, the department shall return the permit fee and shall reduce the permit fee for the applicant's next renewal application, if any, by 15%. The failure to issue a permit within the time required under this subsection does not allow the department to otherwise delay the processing of the application, and that application, upon completion, shall be placed in sequence with other completed applications received at that same time. The department shall not discriminate against an applicant in the processing of an application based on the fact that the application fee was refunded or discounted under this subsection.

(9) Beginning October 1, 2005, the director of the department shall 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 shall include all of the following information in the report concerning the preceding fiscal year:

(a) The number of initial and renewal applications the department received and completed within the 120-day time period described in subsection (7).

(b) The number of applications denied.

(c) The number of applications not issued within the 120-day period and the amount of money returned to permittees under subsection (8).

(10) As used in this section, "completed application" means an application complete on its face and submitted with any applicable permitting fees as well as any other information, records, approval, security, or similar item required by law or rule from a local unit of government, a federal agency, or a private entity but not from another department or agency of the state of Michigan.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Jay E. Randall

Clerk of the House of Representatives

Approved

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Governor