

MOTOR FUELS QUALITY ACT Act 44 of 1984

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 prescribe certain powers of the governor; 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 vapor-recovery systems at certain facilities; to provide for fees; to make appropriations; and to provide remedies and prescribe fines and penalties.

History: 1984, Act 44, Eff. Mar. 29, 1985;—Am. 1993, Act 236, Imd. Eff. Nov. 13, 1993;—Am. 2006, Act 104, Imd. Eff. Apr. 6, 2006.

The People of the State of Michigan enact:

290.641 Short title.

Sec. 1. This act shall be known and may be cited as the “motor fuels quality act”.

History: 1984, Act 44, Eff. Mar. 29, 1985.

Compiler's note: For transfer of powers and duties relating to purity and quality standards for biofuels from department of energy, labor, and economic growth to department of agriculture, see E.R.O. No. 2009-4, compiled at MCL 445.2026.

290.642 Definitions.

Sec. 2. As used in this act:

(a) "Additive" means any substance in gasoline other than gasoline but does not include approved blending components, other than lead, sodium, and phosphate components, introduced at refineries or terminals as octane or product quality enhancers in quantities of less than 1% of volume.

(b) "American society for testing and materials" means an international nonprofit scientific and educational society devoted to the promotion of knowledge of the materials of engineering and the standardization of specification and methods of testing.

(c) "Antiknock index" or "AKI" means an index number arrived at by adding the motor octane number and the research octane number, then dividing by 2.

(d) "Biodiesel" means a fuel composed of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, and, in accordance with standards specified by the American society for testing and materials, designated B100, and meeting the requirements of D-6751, as approved by the department.

(e) "Biodiesel blend" means a fuel comprised of a blend of biodiesel fuel with petroleum-based diesel fuel, suitable for use as a fuel in a compression-ignition internal combustion diesel engine.

(f) "Blender" means a person who as an individual or through his or her agent adds an oxygenate to a gasoline.

(g) "Bulk purchaser-end user" means a person who is an ultimate consumer of gasoline and receives delivery of gasoline into a storage tank of at least 550-gallon capacity substantially under his or her control.

(h) "CARB" means the California air resources board.

(i) "Delivery vessel" means a tank truck, tank equipped trailer, or a similar vessel used for the delivery of gasoline to a dispensing facility.

(j) "Department" means the department of agriculture.

(k) "Diesel fuel" means any liquid other than gasoline that is suitable for use as a fuel or a component of a fuel in a compression-ignition internal combustion diesel engine.

(l) "Director" means the director of the department of agriculture or his or her authorized representative.

(m) "Dispensing facility" means a site used for gasoline refueling.

(n) "Dispensing unit" means a device designed for the delivery of gasoline in which 1 nozzle equates to 1 dispensing unit.

(o) "Distributor" means a person who purchases, transports, or stores or causes the transportation or storage of gasoline at any point between a gasoline refinery and a retail outlet or bulk purchaser-end user facility.

(p) "E.P.A." means the United States environmental protection agency.

(q) "Gasoline" means a volatile mixture of liquid hydrocarbons generally containing small amounts of additives suitable for use in spark-ignition internal combustion engines, and commonly or commercially known or sold as gasoline.

(r) "Hydrogen fuel" means a substance containing the chemical formula H_2 that exists as a colorless, odorless, and highly flammable gas except at low cryogenic temperatures or when highly compressed that is

gaseous or liquefied and suitable for use in a fuel cell or hydrogen fuel vehicle.

(s) "Leak" means liquid or vapor loss from the gasoline dispensing system or stage I vapor-recovery system as determined by visual inspection or functional testing.

(t) "Modification" means any change, removal, or addition, other than an identical replacement, of any component contained within a stage I vapor-recovery system. The resultant modification must constitute an approved vapor-recovery system.

(u) "Motor octane number" or "MON" means a knock characteristic of gasoline determined by use of standard procedures on a motor engine.

(v) "Operator" means a person who owns, leases, operates, manages, supervises, or controls, directly or indirectly, a gasoline-dispensing facility.

(w) "Oxygenate" means an oxygen-containing, ashless, organic compound, such as alcohol or ether, that may be used as fuel or fuel supplement.

(x) "Person" means an individual, sole proprietorship, partnership, corporation, association, or other legal entity.

(y) "Refiner" means a person who owns, leases, operates, controls, or supervises a refinery.

(z) "Refinery" means a plant at which gasoline is produced.

(aa) "Research octane number" or "RON" means a knock characteristic of gasoline determined by use of standard procedures on a research engine.

(bb) "Retail dealer" means a person who owns, leases, operates, controls, or supervises a retail outlet.

(cc) "Retail outlet" means an establishment at which motor fuel is sold or offered for sale to the public.

(dd) "Rule" means a rule promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(ee) "Stage I vapor-recovery system" means a vapor tight collection system that is approved by the department and is designed to capture the gasoline vapors displaced during delivery into a stationary storage tank and to return not less than 90% of the displaced vapors to the delivery vessel.

History: 1984, Act 44, Eff. Mar. 29, 1985;—Am. 1986, Act 127, Eff. Aug. 1, 1986;—Am. 1988, Act 84, Imd. Eff. Mar. 29, 1988;—Am. 1993, Act 236, Imd. Eff. Nov. 13, 1993;—Am. 2006, Act 104, Imd. Eff. Apr. 6, 2006;—Am. 2006, Act 271, Imd. Eff. July 7, 2006.

Compiler's note: For transfer of powers and duties relating to purity and quality standards for biofuels from department of energy, labor, and economic growth to department of agriculture, see E.R.O. No. 2009-4, compiled at MCL 445.2026.

290.643 Establishment of standards by rules.

Sec. 3. (1) The director shall establish standards pursuant to this act to ensure the purity and quality of gasoline and diesel fuel sold or offered for sale in this state.

(2) The director shall establish standards for the amount and type of additives allowed to be included in gasoline and diesel fuel.

(3) The director shall establish standards for the grading of gasoline, including, but not limited to, subregular with a minimum 85 AKI, regular with a minimum 87 AKI and a minimum 82 MON, midgrade 88 with a minimum 88 AKI and a minimum 82 MON, midgrade 89 with a minimum 89 AKI and a minimum 83 MON, premium with a minimum 90 AKI, premium 91 with a minimum 91 AKI, premium 92 with a minimum 92 AKI, premium 93 with a minimum 93 AKI, and premium 94 with a minimum 94 AKI.

(4) The director shall establish standards for vapor pressure as specified by the American society for testing and materials, except as otherwise required to conform to federal or state law. Notwithstanding anything to the contrary in section 10d, the director shall establish the vapor pressure as 9.0 pounds per square inch (psi) for retail outlets during the period beginning June 1 through September 15 of each year, except for dispensing facilities in counties where the director establishes the vapor pressure as 7.0 psi or 7.8 psi in the year 2007 and thereafter. As used in this act, "vapor pressure" means the vapor pressure of gasoline or gasoline oxygenate blend as determined by ASTM test method D6378 or D5191 or an ASTM method approved by the department.

(5) In establishing additive and grading standards the director shall adopt the latest standards for gasoline established by the American society for testing and materials and shall adopt the latest standards for gasoline established by federal law or regulation. The standards established by the director shall not prohibit a gasoline blend that is permitted by a valid waiver granted by the United States environmental protection agency pursuant to the fuel or fuel additive waiver in section 211(f)(4) of part A of title II of the clean air act, 42 USC 7545, and the ethanol waiver of 1.0 psi in section 211(h)(4) of part A of title II of the clean air act, 42 USC 7545, if the gasoline blend meets all of the conditions set forth in the waiver. Beginning June 1, 2003, the director shall not permit the use of the additive methyl tertiary butyl ether (MTBE) in this state.

(6) The director shall establish standards pursuant to this act to ensure the purity and quality of diesel fuel sold or offered for sale in this state. No later than June 1, 2009, the director shall make available for public

comment proposed standards to ensure the purity and quality of diesel fuel that is biodiesel or a biodiesel blend, including, but not limited to, a biodiesel blend designated as B20.

(7) Any firm offering hydrogen fuel for sale in this state shall first register with and obtain approval from the department. Registration shall include a complete list of the fuel specifications the product is to meet and the sites where the product is offered for sale to the general public.

(8) Standards established pursuant to this section shall be by rules promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 1984, Act 44, Eff. Mar. 29, 1985;—Am. 1988, Act 84, Imd. Eff. Mar. 29, 1988;—Am. 1993, Act 231, Imd. Eff. Nov. 13, 1993;—Am. 2000, Act 206, Eff. Mar. 28, 2001;—Am. 2002, Act 13, Imd. Eff. Feb. 19, 2002;—Am. 2006, Act 104, Imd. Eff. Apr. 6, 2006;—Am. 2006, Act 271, Imd. Eff. July 7, 2006;—Am. 2008, Act 313, Imd. Eff. Dec. 18, 2008.

Administrative rules: R 285.564.1 et seq. of the Michigan Administrative Code.

Compiler's note: For transfer of powers and duties relating to purity and quality standards for biofuels from department of energy, labor, and economic growth to department of agriculture, see E.R.O. No. 2009-4, compiled at MCL 445.2026.

290.644 Transferring, selling, dispensing, or offering gasoline for sale; posting notice on pump dispensing gasoline; contents and design of notice; exception; rule to contain design for uniform notice; violation; liability; disposition of civil fine; applicability of subsection (1).

Sec. 4. (1) A retail dealer shall not transfer, sell, dispense, or offer gasoline for sale in this state unless the pump dispensing the gasoline is posted with a notice, as provided in subsection (2), that indicates the grade of gasoline and the additives in the gasoline that are dispensed from the pump. If the gasoline contains at least 1% alcohol by volume, the notice shall state: "Contains (indicate the type of alcohol such as methanol, and if methanol the label shall state "alcohol: methanol", followed, in the same size type, by the concentration to the nearest whole percent)". If the gasoline contains alcohols or ethers that have a molecular weight greater than ethanol and are not mixed with methanol, those alcohols or ethers are not subject to the notice requirement of this section. Gasoline that contains 10% or less ethanol is not subject to the notice requirement of this section.

(2) The director shall design a uniform means of providing the notice required by subsection (1). The notice shall be designed in such a manner that the consumer can readily identify the grade of gasoline and the additives in the gasoline. The notice shall include a statement indicating that the gasoline dispensed from the pump meets the quality and purity standards established by the laws of this state and indicating the number of the 24-hour toll free consumer hot line maintained pursuant to section 7(2).

(3) The director shall include the design for the uniform notice required by this section in a rule promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(4) A person who violates this section or rules promulgated pursuant to this section is liable for a civil fine not to exceed \$1,000.00 for each day of the continuance of the violation. A civil fine ordered pursuant to this section shall be submitted to the state treasurer for deposit in the gasoline inspection and testing fund created by section 8.

(5) Subsection (1) shall not apply until 90 days after the rule required by subsection (3) is promulgated.

History: 1984, Act 44, Eff. Mar. 29, 1985;—Am. 1986, Act 127, Eff. Aug. 1, 1986;—Am. 2003, Act 116, Eff. Jan. 1, 2004.

Compiler's note: The rule required by subsection (3) was promulgated June 23, 1987, and took effect September 22, 1987, 90 days later. See R 285.562.1 et seq. of the Michigan Administrative Code.

Enacting section 1 of Act 116 of 2003 provides:

"Enacting section 1. This amendatory act shall not take effect until January 1, 2004, or until the energy policy act of 2003, or the safe, accountable, flexible, and efficient transportation equity act of 2003 is passed by the 108th Congress, whichever comes first."

For transfer of powers and duties relating to purity and quality standards for biofuels from department of energy, labor, and economic growth to department of agriculture, see E.R.O. No. 2009-4, compiled at MCL 445.2026.

290.644a Testing storage tank at retail outlet to determine water or water-alcohol level; prohibited sales; testing supplies.

Sec. 4a. (1) A storage tank at a retail outlet shall be periodically tested by the retail dealer to insure that the tank does not have water or water-alcohol at the bottom of that tank in an amount greater than 2 inches. If there is more than 2 inches of water or water-alcohol at the bottom of the storage tank, gasoline, diesel fuel, biodiesel, or biodiesel blend shall not be sold to a consumer from that tank until the water or water-alcohol level is reduced to a level of less than 2 inches.

(2) Adequate testing supplies, as determined by the department, shall be maintained at the retail outlet and shall also be made available to the department to determine the water or water-alcohol level in the storage tank.

History: Add. 1986, Act 127, Eff. Aug. 1, 1986;—Am. 2002, Act 13, Imd. Eff. Feb. 19, 2002;—Am. 2002, Act 425, Imd. Eff. June 5, 2002;—Am. 2006, Act 271, Imd. Eff. July 7, 2006.

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Compiler's note: For transfer of powers and duties relating to purity and quality standards for biofuels from department of energy, labor, and economic growth to department of agriculture, see E.R.O. No. 2009-4, compiled at MCL 445.2026.

290.645 Prohibitions; contents of bill, invoice, or other instrument evidencing delivery of gasoline, diesel fuel, biodiesel, biodiesel blend, or hydrogen fuel; violation; disposition of civil fine.

Sec. 5. (1) Except as provided by federal law or regulation, in the manufacture of gasoline, diesel fuel, or hydrogen fuel at any refinery in this state, a refiner shall not manufacture gasoline, diesel fuel, or hydrogen fuel at a refinery in this state unless the gasoline, diesel fuel, or hydrogen fuel meets the requirements in sections 3 and 10d. Except as provided by federal law or regulation, a blender shall not blend gasoline unless the finished blend meets the requirements in sections 3 and 10d.

(2) Except as provided by federal law or regulation, a distributor shall not sell or transfer to any distributor, retail dealer, or bulk purchaser-end user any gasoline, diesel fuel, biodiesel, biodiesel blend, or hydrogen fuel unless that gasoline, diesel fuel, biodiesel, biodiesel blend, or hydrogen fuel meets the requirements in sections 3 and 10d and is suitable for its intended purpose.

(3) A carrier or an employee or agent of a carrier, whether operating under contract or tariff, shall not cause gasoline, diesel fuel, biodiesel, biodiesel blend, or hydrogen fuel tendered to the carrier for shipment or transfer to another carrier, distributor, or retail dealer to fail to comply, at the time of delivery, with the requirements in sections 3 and 10d.

(4) A person shall not knowingly sell, dispense, or offer for sale gasoline, diesel fuel, biodiesel, biodiesel blend, or hydrogen fuel unless that gasoline, diesel fuel, biodiesel, biodiesel blend, or hydrogen fuel meets the requirements in sections 3 and 10d.

(5) A refiner or distributor shall not transfer, sell, dispense, or offer gasoline, diesel fuel, biodiesel, biodiesel blend, or hydrogen fuel for sale in this state to a distributor unless the refiner or distributor indicates on each bill, invoice, or other instrument evidencing a delivery of gasoline, diesel fuel, biodiesel, biodiesel blend, or hydrogen fuel the name of the wholesale distributor who received delivery of the gasoline, diesel fuel, biodiesel, biodiesel blend, or hydrogen fuel.

(6) A distributor or refiner shall not transfer, sell, dispense, or offer gasoline, diesel fuel, biodiesel, biodiesel blend, or hydrogen fuel for sale in this state to a retail dealer unless the retail dealer has a valid retail gasoline outlet license pursuant to this act.

(7) A bill, invoice, or other instrument evidencing a delivery of gasoline, diesel fuel, biodiesel, biodiesel blend, or hydrogen fuel issued by a refiner or distributor for deliveries of gasoline, diesel fuel, biodiesel, biodiesel blend, or hydrogen fuel to purchasers who are not required to hold a license issued pursuant to the motor fuel tax act, 2000 PA 403, MCL 207.1001 to 207.1170, or this act shall clearly indicate the name and address and other information necessary to identify the purchaser of the gasoline, diesel fuel, biodiesel, biodiesel blend, or hydrogen fuel.

(8) A bill, invoice, or other instrument evidencing a delivery of gasoline required by subsection (5), (6), or (7) shall include a guarantee that the gasoline delivered meets the requirements in sections 3 and 10d and shall indicate the concentration range of alcohol in the gasoline, except for alcohols or ethers that have a molecular weight greater than ethanol and are not mixed with methanol or ethanol, or both, and shall indicate the possible presence, without regard to concentration range, of any alcohols or ethers that have a molecular weight greater than ethanol and are not mixed with methanol or ethanol, or both.

(9) A refiner, distributor, bulk purchaser-end user, or retail dealer shall not transfer, sell, dispense, or offer gasoline, diesel fuel, biodiesel, or biodiesel blend for sale unless that gasoline, diesel fuel, biodiesel, or biodiesel blend is visibly free of undissolved water, sediments, and other suspended matter and the gasoline is clear and bright at an ambient temperature or 70 degrees Fahrenheit, whichever is greater.

(10) A person who violates this section or rules promulgated under this section is liable for a civil fine not to exceed \$10,000.00 for each day of the continuance of the violation. A civil fine ordered pursuant to this section shall be submitted to the state treasurer for deposit in the gasoline inspection and testing fund created by section 8.

History: 1984, Act 44, Eff. Mar. 29, 1985;—Am. 1986, Act 127, Eff. Aug. 1, 1986;—Am. 1993, Act 236, Imd. Eff. Nov. 13, 1993;—Am. 2002, Act 13, Imd. Eff. Feb. 19, 2002;—Am. 2006, Act 104, Imd. Eff. Apr. 6, 2006;—Am. 2006, Act 271, Imd. Eff. July 7, 2006.

Compiler's note: For transfer of powers and duties relating to purity and quality standards for biofuels from department of energy, labor, and economic growth to department of agriculture, see E.R.O. No. 2009-4, compiled at MCL 445.2026.

290.645a Renewable fuels fund; creation; deposits; investment; funds at close of fiscal year; disbursement; department as administrator; definitions.

Sec. 5a. (1) The renewable fuels fund is created within the state treasury. The state treasurer may receive

money or other assets from any source for deposit into the renewable fuels fund. The state treasurer shall direct the investment of the renewable fuels fund. The state treasurer shall credit to the fund interest and earnings from fund investments. Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(2) The state treasurer shall disburse money in the fund described in subsection (1) on a quarterly basis to the department. Beginning not later than February 1, 2009, the department shall submit to the state treasurer a summary of expenditures during the preceding year of the money received under this section.

(3) The department shall be the administrator of the fund for auditing purposes.

(4) The department shall administer the fund to do 1 or more of the following:

(a) Promote the production and use of alternative fuels.

(b) Award grants to selected recipients to improve the production of alternative fuels in this state.

(c) Encourage the development of motor fuel quality standards for renewable fuels under this act.

(d) Provide incentives to retailers who sell renewable fuels.

(e) Promote the sale of vehicles that can be powered by renewable fuels.

(5) As used in this section:

(a) "Renewable fuels" includes, but is not limited to, biodiesel, biodiesel blend, hydrogen fuel, and E85 fuel.

(b) "E85 fuel" means that term as defined in section 78 of the Michigan strategic fund act, 1984 PA 270, MCL 125.2078.

History: Add. 2008, Act 321, Imd. Eff. Dec. 18, 2008.

Compiler's note: For transfer of powers and duties relating to purity and quality standards for biofuels from department of energy, labor, and economic growth to department of agriculture, see E.R.O. No. 2009-4, compiled at MCL 445.2026.

***** 290.646 THIS SECTION IS AMENDED EFFECTIVE MARCH 29, 2017: See 290.646.amended

290.646 License required; coordination of licensing; expiration and renewal of license; license fee; disposition of fees; application for license; grounds for suspending, denying, or revoking license; applicability of section; conviction under weights and measures act; effect of suspension, revocation, or denial of license or other licenses; issuance of license within certain time period; report; registering blended products; "completed application" defined.

Sec. 6. (1) Before a distributor or retail dealer engages in transferring, selling, dispensing, or offering for sale gasoline, diesel fuel, biodiesel, biodiesel blend, or hydrogen fuel 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 July 23, 2004, 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.

History: 1984, Act 44, Eff. Mar. 29, 1985;—Am. 1986, Act 127, Eff. Aug. 1, 1986;—Am. 1993, Act 236, Imd. Eff. Nov. 13, 1993;—Am. 2002, Act 13, Imd. Eff. Feb. 19, 2002;—Am. 2004, Act 278, Imd. Eff. July 23, 2004;—Am. 2006, Act 271, Imd. Eff. July 7, 2006

Compiler's note: For transfer of powers and duties relating to purity and quality standards for biofuels from department of energy, labor, and economic growth to department of agriculture, see E.R.O. No. 2009-4, compiled at MCL 445.2026.

***** 290.646.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 29, 2017 *****

290.646.amended License required; coordination of licensing; expiration and renewal of license; application for license; grounds for suspending, denying, or revoking license; conviction under weights and measures act; effect of suspension, revocation, or denial of license or other licenses; report; registering blended products; "completed application" defined.

Sec. 6. (1) Before a distributor or retail dealer engages in transferring, selling, dispensing, or offering for sale gasoline, diesel fuel, biodiesel, biodiesel blend, or hydrogen fuel 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) A license shall not be issued or renewed until 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.

(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.

(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, or 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) If a person licensed under this act is convicted of an intentional 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.

(7) 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.

(8) Except as otherwise provided in subsection (3), 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 the 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.

(9) 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 (8).

(b) The number of applications denied.

(c) The number of applications not issued within the 120-day period.

(11) Before a blender engages in the transferring, selling, dispensing, or offering for sale of 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.

(12) As used in this section, "completed application" means an application complete on its face and submitted with 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 this state.

History: 1984, Act 44, Eff. Mar. 29, 1985;—Am. 1986, Act 127, Eff. Aug. 1, 1986;—Am. 1993, Act 236, Imd. Eff. Nov. 13, 1993;—Am. 2002, Act 13, Imd. Eff. Feb. 19, 2002;—Am. 2004, Act 278, Imd. Eff. July 23, 2004;—Am. 2006, Act 271, Imd. Eff. July 7, 2006;—Am. 2016, Act 466, Eff. Mar. 29, 2017.

Compiler's note: For transfer of powers and duties relating to purity and quality standards for biofuels from department of energy, labor, and economic growth to department of agriculture, see E.R.O. No. 2009-4, compiled at MCL 445.2026.

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290.647 Inspection, investigation, and testing program; establishment; purpose; monitoring; payment of expenses; consumer hot line; violation; providing documents; authority of director; enforcement powers; transmitting information; rules; implementation of program.

Sec. 7. (1) The director shall establish a gasoline, diesel fuel, biodiesel, and biodiesel blend inspection, investigation, and testing program. The purpose of the inspection, investigation, and testing program is to determine whether gasoline, diesel fuel, biodiesel, and biodiesel blend transferred, sold, dispensed, or offered for sale in this state meet the requirements provided in this act, to sample, to investigate allegations of fraud, to inspect and investigate violations of the weights and measures act, 1964 PA 283, MCL 290.601 to 290.634, and whether notice required by section 4 is provided. The program shall provide for a regular system of monitoring gasoline, diesel fuel, biodiesel, and biodiesel blend sold or offered for sale in this state. The department shall implement the inspection, investigation, and testing program as provided in subsection (8). The expenses of operating the program shall be paid from money in the gasoline inspection and testing fund created in section 8.

(2) As part of the inspection and testing program the director shall maintain a 24-hour toll free consumer hot line to receive consumer complaints regarding vapor-recovery systems and the purity and quality of gasoline sold or offered for sale in this state.

(3) If the director has reason to believe a violation of section 5 or rules promulgated under section 5 has occurred, the director may require a refiner, distributor, storage facility, blender, bulk purchaser-end user, or retail dealer to provide to the department the original documents pertaining to the receipt, transfer, delivery, storage, or sale of gasoline, diesel fuel, biodiesel, biodiesel blend, or hydrogen fuel and to allow the original documents to remain in the possession of the department. If original documents remain in the possession of the department and the documents are necessary for conducting business, the department shall provide copies of the documents to the refiner, distributor, blender, bulk purchaser-end user, or retail dealer upon request. A refiner, distributor, bulk purchaser-end user, blender, or retail dealer shall preserve information regarding the receipt, transfer, delivery, storage, or sale of gasoline, including loading tickets, bills of lading, drop tickets, meter tickets, invoices, sales reports, and billings, for 3 years. A retail outlet shall retain on its premises the original drop tickets, bills of lading, and invoices for 1 month before transfer to another location.

(4) The director, upon presentation of appropriate credentials, may do all of the following:

(a) Enter upon or through any retail outlet, bulk purchaser-end user facility, dispensing facility, or the premises or property of any refiner or distributor.

(b) Make inspections, take samples, and conduct tests during any hours the business is operating.

(c) Examine records during normal business hours to determine compliance with this act.

(5) In addition to the powers provided in this act, the director has all the powers to enforce this act that the director has under the weights and measures act, 1964 PA 283, MCL 290.601 to 290.634.

(6) The director may transmit any information obtained pursuant to the inspection and testing program to any other agency of this state if the information will assist the other agency to carry out any of the agency's regulatory functions or responsibilities related to the transfer, sale, dispensing, or offering of gasoline for sale in this state.

(7) The director may promulgate rules for the purpose of implementing and enforcing this act.

(8) The department shall implement the inspection and testing program provided in subsection (1) as follows:

(a) Inspection and testing for standards regarding lead, alcohol, free water, and sediments within 90 days after the effective date of this act.

(b) Inspection and testing for any other standards by March 29, 1987.

History: 1984, Act 44, Eff. Mar. 29, 1985;—Am. 1988, Act 84, Imd. Eff. Mar. 29, 1988;—Am. 1993, Act 236, Imd. Eff. Nov. 13, 1993;—Am. 2006, Act 271, Imd. Eff. July 7, 2006.

Compiler's note: For transfer of powers and duties relating to purity and quality standards for biofuels from department of energy, labor, and economic growth to department of agriculture, see E.R.O. No. 2009-4, compiled at MCL 445.2026.

290.648 Gasoline inspection and testing fund; creation; administration; investment of money; use of money and earnings from investment; disposition of civil fines, appropriations, federal money, and other funds.

Sec. 8. The gasoline inspection and testing fund is created in the state treasury and shall be administered by the director. The state treasurer shall direct the investment of money in the fund. The money in the fund and earnings from investment of the money shall be used exclusively for the purpose of funding the gasoline inspection and testing program and the vapor-recovery program established in this act. Any civil fines ordered in an enforcement proceeding brought under sections 4 and 5, any money that may be appropriated from the

general fund for the purposes of sections 7 and 9a to 9j, and any money made available to the director by an agency of the federal government for purposes of sections 7 and 9a to 9j shall be deposited in the fund. In addition, any other funds authorized by law for the enforcement of this act may be deposited in the gasoline inspection and testing fund.

History: 1984, Act 44, Eff. Mar. 29, 1985;—Am. 1993, Act 236, Imd. Eff. Nov. 13, 1993.

Compiler's note: For transfer of powers and duties relating to purity and quality standards for biofuels from department of energy, labor, and economic growth to department of agriculture, see E.R.O. No. 2009-4, compiled at MCL 445.2026.

290.649 Civil action for damage to motor vehicle; costs; other rights to relief not restricted.

Sec. 9. (1) Any person may commence a civil action on that person's own behalf seeking relief for damage caused to that person's motor vehicle as a result of a violation of section 4a or 5 or rules promulgated pursuant to section 4a or 5 against any person alleged to be in violation of section 4a or 5 or rules promulgated pursuant to those sections.

(2) In an action brought pursuant to subsection (1), the court may award costs of litigation, including reasonable attorney and expert witness fees, if the court determines that the award is appropriate.

(3) This section shall not be construed to restrict any right that a person or class of persons has under common law or a law of this state or the United States to seek relief from a violation of section 4a or 5 or rules promulgated pursuant to those sections.

History: 1984, Act 44, Eff. Mar. 29, 1985;—Am. 1986, Act 127, Eff. Aug. 1, 1986.

Compiler's note: For transfer of powers and duties relating to purity and quality standards for biofuels from department of energy, labor, and economic growth to department of agriculture, see E.R.O. No. 2009-4, compiled at MCL 445.2026.

290.649a Rules.

Sec. 9a. The director shall promulgate rules as necessary to implement sections 9b to 9h and 9j.

History: Add. 1993, Act 236, Imd. Eff. Nov. 13, 1993.

Compiler's note: For transfer of powers and duties relating to purity and quality standards for biofuels from department of energy, labor, and economic growth to department of agriculture, see E.R.O. No. 2009-4, compiled at MCL 445.2026.

290.649b Dispensing facility exempt from certain requirements; annual report; records; notice.

Sec. 9b. (1) Except as otherwise provided for in this section, a dispensing facility that never dispenses 10,000 gallons (37,850 liters) or more of gasoline per month on average in any 12-month period, beginning with the 12 months preceding the effective date of this section is exempt from the requirements of sections 9a to 9d, 9i, and 9j. If the dispensing facility is inactive for any period during the 12-month averaging period, the average shall be calculated based upon the months of actual operation. The exemption described in this subsection does not apply to a dispensing facility that dispenses 10,000 or more gallons of gasoline per month on average in any 12-month period and such a facility is subject to sections 9a to 9f, 9i, and 9j and continues to be subject to these sections even if the facility's gasoline throughput later falls below the exemption threshold.

(2) A dispensing facility that claims or intends to claim exempt status under subsection (1) and which has 2,000 or more gallons stationary gasoline storage capacity beginning in 1994 shall submit an annual report to the department by March 1 of each year for gasoline dispensed during the preceding year. These throughput records shall contain the quantity of gasoline dispensed at the facility during each month of operation for the preceding calendar year and shall list any period of time the facility was not operational during the preceding calendar year. The director shall review and verify the accuracy of the documents before making final determination on eligibility for exemption.

(3) If a dispensing facility's gasoline throughput for any calendar month ever exceeds the applicability threshold, the operator shall notify the department within 30 days.

History: Add. 1993, Act 236, Imd. Eff. Nov. 13, 1993;—Am. 2006, Act 104, Imd. Eff. Apr. 6, 2006.

Compiler's note: For transfer of powers and duties relating to purity and quality standards for biofuels from department of energy, labor, and economic growth to department of agriculture, see E.R.O. No. 2009-4, compiled at MCL 445.2026.

290.649c Repealed. 2006, Act 104, Imd. Eff. Apr. 6, 2006.

Compiler's note: The repealed section pertained to stage II vapor recovery system equipment.

290.649d Maintenance of stage I vapor-recovery system; inspection of systems; repair, modification, or tampering prohibited.

Sec. 9d. (1) The operator shall maintain the stage I vapor-recovery systems in proper operating condition as specified by the manufacturer and free of defects that could impair the effectiveness of the system. Any

component identified as defective, but which does not substantially impair the effectiveness of the system, may remain in operation but shall be repaired or replaced within 15 days after identification.

(2) The stage I vapor-recovery systems and gasoline-dispensing equipment shall be maintained to have no leaks.

(3) The operator shall conduct equipment inspections at least weekly to determine if the stage I vapor-recovery system is operating in accordance with this act and rules promulgated under this act.

(4) A person shall not repair, modify, or permit the repair or modification of the stage I vapor-recovery system or its components so that they are different from their approved configuration; or tamper with, or permit tampering with, the system in a manner that would impair the operation or effectiveness of the system.

History: Add. 1993, Act 236, Imd. Eff. Nov. 13, 1993;—Am. 2006, Act 104, Imd. Eff. Apr. 6, 2006.

Compiler's note: For transfer of powers and duties relating to purity and quality standards for biofuels from department of energy, labor, and economic growth to department of agriculture, see E.R.O. No. 2009-4, compiled at MCL 445.2026.

290.649e, 290.649f Repealed. 2006, Act 104, Imd. Eff. Apr. 6, 2006.

Compiler's note: The repealed sections pertained to training requirements, subject areas, and initial and subsequent compliance testing.

290.649g Records.

Sec. 9g. (1) An operator shall maintain accurate records of all of the following at the dispensing facility location:

(a) All current licenses and permits required to operate the dispensing facility.

(b) The location, including the contact person's name, address, and telephone number, of the records required under this act which are not maintained at the dispensing facility location.

(2) An operator shall maintain accurate stage I vapor-recovery or gasoline-dispensing equipment maintenance records on forms approved by the department for 3 years.

(3) The records required by subsection (2) shall be maintained for 1 year at the dispensing facility location. After this time these records may be maintained at another business location.

(4) Records required under this act and maintained at the dispensing facility location shall be made available to the director upon request during normal business hours. If records required under this section are not maintained at the dispensing facility location, the records shall be provided to the director within 72 hours of a request.

History: Add. 1993, Act 236, Imd. Eff. Nov. 13, 1993;—Am. 2006, Act 104, Imd. Eff. Apr. 6, 2006.

Compiler's note: For transfer of powers and duties relating to purity and quality standards for biofuels from department of energy, labor, and economic growth to department of agriculture, see E.R.O. No. 2009-4, compiled at MCL 445.2026.

290.649h Duties of director to implement MCL 290.649a to 290.649h; rejected or condemned equipment; enforcement; temporary restraining order or permanent injunction.

Sec. 9h. (1) To implement this section and sections 9a to 9g, the director shall do all of the following:

(a) Develop and conduct training for department inspectors to provide knowledge and proficiency on stage I vapor-recovery program requirements and procedures.

(b) Prepare information on the purposes and benefits of stage I vapor-recovery controls and distribute this information to regulated facilities.

(c) Conduct a minimum of 1 compliance inspection per year per dispensing facility, with mandatory reinspection of dispensing facilities that are found to be in violation of this act or rules promulgated under this act. A compliance inspection consists of the inspection of the records required in section 9g and inspection of the equipment.

(d) Monitor the compliance of the regulated facilities with this act through data collection, including applications and required documents.

(e) Investigate complaints and initiate and conduct other investigations on possible violations of this act.

(2) If the director finds a defect in a stage I vapor-recovery system, the director shall reject or condemn and mark the equipment as "rejected" or "condemned". Equipment that is rejected or condemned and ordered corrected or disposed of shall remain under the control of the director until suitable repair or disposition has been made under this section. The operator of the rejected or condemned equipment shall cause it to be made correct within the specified time period authorized by the director, or may dispose of the equipment in a manner specified by the director. Equipment that has been rejected or condemned and ordered corrected or disposed of may be confiscated and may be destroyed by the director if not corrected as required by, or if disposed of contrary to the requirements of, this section.

(3) If necessary for the enforcement of this act or rules promulgated under this act, the director may do all

of the following:

(a) Issue stop-use orders, hold orders, or removal orders for stage I vapor-recovery and gasoline-dispensing equipment. A person shall not use, remove from the premises specified, or fail to remove from the premises specified any stage I vapor-recovery or gasoline-dispensing equipment contrary to any order issued pursuant to this section.

(b) Seize for use as evidence without formal warrant, any incorrect or unapproved stage I vapor-recovery system or dispensing equipment found to be used or exposed for use in violation of this act or rules promulgated under this act.

(4) With respect to enforcement of this act, the director has the power of a peace officer.

(5) The director may petition a court of competent jurisdiction for a temporary restraining order or permanent injunction restraining a person from violating this act or a rule promulgated under this act.

History: Add. 1993, Act 236, Imd. Eff. Nov. 13, 1993;—Am. 2006, Act 104, Imd. Eff. Apr. 6, 2006.

Compiler's note: For transfer of powers and duties relating to purity and quality standards for biofuels from department of energy, labor, and economic growth to department of agriculture, see E.R.O. No. 2009-4, compiled at MCL 445.2026.

290.649i Dispensing permit; requirements; fees; issuance of license within certain time period; report; "completed application" defined.

Sec. 9i. (1) A dispensing facility in the county of Wayne, Oakland, Macomb, Washtenaw, Livingston, Monroe, or St. Clair 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 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 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.

(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.

History: Add. 1993, Act 236, Imd. Eff. Nov. 13, 1993;—Am. 2002, Act 13, Imd. Eff. Feb. 19, 2002;—Am. 2004, Act 278, Imd. Eff. July 23, 2004;—Am. 2006, Act 104, Imd. Eff. Apr. 6, 2006.

Compiler's note: For transfer of powers and duties relating to purity and quality standards for biofuels from department of energy, labor, and economic growth to department of agriculture, see E.R.O. No. 2009-4, compiled at MCL 445.2026.

290.649j Delivery of gasoline; Stage I vapor-recovery system; applicability of subsection (7).

Sec. 9j. (1) A person shall not deliver gasoline or permit the delivery of gasoline to a dispensing facility that lacks a stage I vapor-recovery system.

(2) Prior to delivery of gasoline to a dispensing facility, a delivery vessel shall be certified by the department of environmental quality as vapor tight by meeting the requirements of R 336.1627 of the Michigan administrative code.

(3) A person shall not deliver gasoline or permit the delivery of gasoline to a dispensing facility unless the stage I vapor-recovery system is employed during delivery and the dispensing facility storage tank is equipped with a permanent submerged fill pipe.

(4) A stage I vapor-recovery system shall include a properly functioning interlocking system or procedure that ensures that the vapor-tight collection line is connected before any gasoline is loaded, or shall include an equivalent system approved by the department.

(5) A stage I vapor-recovery system shall have a poppetted drybreak on the vapor return or an equivalent system approved by the department.

(6) All open vent pipes for a stage I vapor-recovery system that are on stationary tanks at dispensing facilities shall be equipped with pressure-vacuum relief valves in a system approved by the department.

(7) A dispensing facility regulated under this act is not subject to R 336.1606 or R 336.1703, or both, of the Michigan administrative code. This subsection does not apply to a delivery vessel which shall continue to be subject to the rules listed in this subsection.

History: Add. 1993, Act 236, Imd. Eff. Nov. 13, 1993;—Am. 2006, Act 104, Imd. Eff. Apr. 6, 2006.

Compiler's note: For transfer of powers and duties relating to purity and quality standards for biofuels from department of energy, labor, and economic growth to department of agriculture, see E.R.O. No. 2009-4, compiled at MCL 445.2026.

290.649k Declaration of emergency.

Sec. 9k. If the governor declares an emergency under the emergency management act, 1976 PA 390, MCL 30.401 to 30.421, or 1982 PA 191, MCL 10.81 to 10.89, the governor may exercise his or her discretion to grant a temporary variance suspending the low vapor pressure fuel provisions of this act or rules promulgated under this act if the governor concludes it is necessary to avoid disruptions in fuel supply. Fuel manufactured, sold, distributed, offered for sale or distribution, dispensed, offered for supply, stored, or transported under the variance shall be deemed compliant with the low vapor pressure fuel requirements of this act. The fine described in section 9l does not apply to a variance described in this section. The variance shall be granted only for the minimum period necessary. The allowable vapor pressure under the variance shall be the minimum the governor considers necessary and in no event shall the variance allow the refiner, distributor, or terminal to operate with a vapor pressure of greater than 9.0 psi.

History: Add. 2006, Act 104, Imd. Eff. Apr. 6, 2006.

Compiler's note: For transfer of powers and duties relating to purity and quality standards for biofuels from department of energy, labor, and economic growth to department of agriculture, see E.R.O. No. 2009-4, compiled at MCL 445.2026.

290.649/ Variance; conditions for granting; fines; disposition.

Sec. 9l. (1) A gasoline refiner, distributor, or terminal may petition the department for a temporary variance from the vapor pressure standards established by the director or in this act. In order to receive a variance, the refiner, distributor, or terminal shall demonstrate that fuel necessary to meet the current standard cannot be supplied and that the refiner, distributor, or terminal has taken and will continue to take all reasonable steps to minimize the vapor pressure of fuel during the period the variance is in effect. If the department finds that the reason fuel that would allow the refiner, distributor, or terminal to meet the standard is not available is beyond the control of the refiner, distributor, or terminal and that compliance with the vapor pressure standard would result in fuel shortages that cannot otherwise be made up, the department may grant the variance. The variance shall be granted only for the minimum period necessary and in no event shall the department grant a variance for longer than 20 days. The allowable vapor pressure under the variance shall be the minimum the department considers necessary and in no event shall allow the refiner, distributor, or terminal to operate with a vapor pressure of greater than 9.0 psi.

(2) A fine of 10 cents per gallon of fuel sold or released for sale during the variance period shall be collected by the department for every variance granted. After 2006, the amount of the fine shall be the amount charged in 2006 annually adjusted by the same percentage increase or decrease as the increase or decrease in the Detroit consumer price index. The department shall collect the fines on forms generated by the department and shall establish a payment schedule for payment of fines. Fines collected under this section shall be deposited in the gasoline inspection and testing fund established in section 8 and shall be appropriated annually by the legislature for air quality mitigation projects in the geographic area covered by the applicable state implementation plan requirement for low vapor pressure fuel.

History: Add. 2006, Act 104, Imd. Eff. Apr. 6, 2006.

Compiler's note: For transfer of powers and duties relating to purity and quality standards for biofuels from department of energy, labor, and economic growth to department of agriculture, see E.R.O. No. 2009-4, compiled at MCL 445.2026.

290.650 Hindering, obstructing, assaulting, or committing bodily injury upon director or authorized representative as misdemeanor; penalty.

Sec. 10. A person who hinders or obstructs in any way, or assaults or commits a bodily injury upon the director or an authorized representative of the director while in the performance of his or her official duties, knowing that person to be the director or an authorized representative of the director, shall be guilty of a misdemeanor, punishable by imprisonment for not more than 2 years, by a fine of not more than \$5,000.00, or both. In addition, any license issued or applied for pursuant to this act by a person convicted under this section shall be revoked or denied for 2 years.

History: Add. 1986, Act 127, Eff. Aug. 1, 1986.

Compiler's note: For transfer of powers and duties relating to purity and quality standards for biofuels from department of energy, labor, and economic growth to department of agriculture, see E.R.O. No. 2009-4, compiled at MCL 445.2026.

290.650a Violation; administrative fine; hearing; judicial review; action brought by attorney general; payment and disposition of fine, costs, and economic benefit.

Sec. 10a. (1) A person who individually, or by the action of his or her agent or employee, or as the agent or employee of another violates this act or a rule promulgated under this act is subject to an administrative fine. Upon the request of a person to whom an administrative fine is issued, the director shall conduct a hearing conducted pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. A fine authorized by this section shall be as follows:

(a) For a first violation, not less than \$100.00 or more than \$500.00, plus actual costs of the investigation and double the amount of any economic benefit associated with the violation.

(b) For a second violation within 5 years after the first violation, not less than \$500.00 or more than \$1,000.00, plus actual costs of the investigation and double the amount of any economic benefit associated with the violation.

(c) For a third violation within 5 years after the date of the first violation, not less than \$1,000.00 or more than \$2,000.00, plus actual costs of the investigation and double the amount of any economic benefit associated with the violation.

(2) A decision of the director under this section is subject to judicial review as provided by law.

(3) The director shall advise the attorney general of the failure of any person to pay an administrative fine imposed under this section. The attorney general shall bring an action in court of competent jurisdiction to recover the fine.

(4) Any administrative fine, costs, and the recovery of any economic benefit associated with a violation collected under this section shall be paid to the state treasury and deposited into the gasoline inspection and testing fund.

History: Add. 1993, Act 236, Imd. Eff. Nov. 13, 1993;—Am. 2002, Act 13, Imd. Eff. Feb. 19, 2002.

290.650b Conduct as misdemeanor or felony; assessment of costs.

Sec. 10b. (1) A person who individually, or by the action of his or her agent or employee, or as the agent or employee of another, performs any of the following is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$1,000.00 or more than \$2,000.00, or both:

(a) Renders less effective or inoperable any part of a stage I vapor-recovery system.

(b) Makes a false statement, representation, or certification on an application, report, plan, label, or other document that is required to be maintained under this act or rules promulgated under this act.

(c) Fails to disclose to the department any knowledge or information relating to or observation of any modification of a stage I vapor-recovery system which makes the system less effective or inoperable, or falsification of records required to be maintained under this act or rules promulgated under this act.

(d) Removes a tag, seal, or mark placed on a dispensing device by the director.

(e) Violates this act or a rule promulgated under this act for which a specific penalty is not prescribed.

(2) A person who individually, or by the action of his or her agent or employee, or as the agent or employee of another, performs any of the following acts is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$2,000.00 or more than \$10,000.00, or both:

(a) Violates a prohibited act listed in this section within 24 months after another violation of this section that results in a conviction.

(b) Impersonates in any way the director or any department inspector.

(3) A person who individually, or by the action of his or her agent or employee, or as the agent or employee of another, performs any of the following acts is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not less than \$10,000.00 or more than \$15,000.00, or both:

(a) Intentionally commits a prohibited act under this section.

(b) Violates a prohibited act listed in this section within 24 months after 2 previous violations of this section that result in convictions.

(4) If a violation of this section results in a conviction, the court shall assess against the defendant the costs of the department's investigation, and these costs shall be paid to the state treasury and deposited in the gasoline inspection and testing fund to be used for the enforcement of this act.

History: Add. 1993, Act 236, Imd. Eff. Nov. 13, 1993;—Am. 2002, Act 13, Imd. Eff. Feb. 19, 2002;—Am. 2006, Act 104, Imd. Eff. Apr. 6, 2006.

290.650c Stage I vapor control program; implementation.

Sec. 10c. The director retains the authority to implement the stage I vapor control program in areas where it is determined necessary to attain or maintain national ambient air quality standards.

History: Add. 1993, Act 236, Imd. Eff. Nov. 13, 1993;—Am. 2006, Act 104, Imd. Eff. Apr. 6, 2006.

290.650d Areas requiring certain vapor pressure; termination of requirement.

Sec. 10d. Beginning June 1 through September 15 of 2007 and for that period of time each subsequent year, the vapor pressure standard shall be 7.0 psi for dispensing facilities in Wayne, Oakland, Macomb, Washtenaw, Livingston, Monroe, St. Clair, and Lenawee counties. The director retains the authority to implement the vapor pressure 7.0 psi requirement or 7.8 psi requirement in areas where it is determined necessary to attain or maintain national ambient air quality standards. If an area of the state that is required to use a low vapor pressure fuel of 7.8 psi or 7.0 psi has been redesignated by the United States environmental protection agency as in attainment of national ambient air quality standards, and the Michigan department of environmental quality has demonstrated that maintenance of the national ambient air quality standards can be achieved without the use of low vapor pressure fuel, the director may, with the approval of the United States environmental protection agency, terminate the low vapor pressure fuel requirement for that area.

History: Add. 1993, Act 231, Imd. Eff. Nov. 13, 1993;—Am. 2006, Act 104, Imd. Eff. Apr. 6, 2006.