

1 AN ACT relating to motor fuel standards and making an appropriation therefor.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 363.900 is amended to read as follows:

4 As used in KRS 363.900 to 363.908, unless the context clearly requires otherwise:

- 5 (1) ***"ASTM International" means the international voluntary consensus standards***  
6 ***organization formed for the development of standards on characteristics and***  
7 ***performance of materials, products, systems, services, and the promotion of***  
8 ***related knowledge***~~["ASTM standard" means the latest standards and specifications~~  
9 ~~as set forth by the American Society for Testing and Materials in accordance with~~  
10 ~~the most recent version of ASTM specifications for automotive gasoline, or ASTM~~  
11 ~~specifications for diesel fuel oils];~~
- 12 (2) "Commissioner" means the Commissioner of Agriculture or a departmental  
13 employee designated by the Commissioner to act on his behalf for the purposes of  
14 KRS 363.900 to 363.908;
- 15 (3) "Department" means the Kentucky Department of Agriculture;
- 16 (4) "Diesel ~~fuel~~" means ***a refined hydrocarbon suitable for use as a fuel in a***  
17 ***compression-ignition internal combustion engine that may contain fuel additives***  
18 ***and up to five percent (5%) by volume of biodiesel or biomass-based diesel***~~refined~~  
19 ~~oil commonly used in internal combustion engines and defined as diesel fuel under~~  
20 ~~the ASTM standard classification of diesel fuel oils];~~
- 21 (5) "Division" means the Division of Regulation and Inspection in the Kentucky  
22 Department of Agriculture;
- 23 (6) "Gasoline" means ***a volatile mixture of liquid hydrocarbons containing small***  
24 ***amounts of additives for use as a fuel in a spark-ignition internal combustion***  
25 ***engine that has not been blended with oxygenates. The term "gasoline" shall***  
26 ***include neat gasoline, conventional gasoline, and recreational gasoline***~~gasoline~~  
27 ~~as defined in KRS 138.210];~~

1 (7) "Gasoline-oxygenate blend" means a fuel consisting primarily of gasoline  
 2 blended with more than one percent (1%) by volume oxygenate, with more than  
 3 three-tenths (3/10) of a percent by volume methanol, or with not more than  
 4 sixteen percent (16%) isobutanol. The term "gasoline-oxygenate blend" shall  
 5 include gasoline-ethanol blends;

6 (8) "Motor fuel" means any product used for the generation of power in an internal  
 7 combustion or turbine engine including~~and includes~~ gasoline, diesel fuel, and~~or~~  
 8 gasoline-alcohol blend fuels; and

9 (9)~~(8)~~ "Retail facility" means a service station, garage, truck stop, or other outlet  
 10 selling from a motor fuel retail dispensing device. The term "retail facility" shall  
 11 not include an outlet using dispensers exclusively for company and fleet use and  
 12 price contract sales~~facility that sells motor fuels to the general public~~.

13 ➔Section 2. KRS 363.902 is amended to read as follows:

14 (1) The Commissioner or his authorized agent shall implement and administer an  
 15 inspection and testing program for motor fuels intended for sale from a retail  
 16 facility to ensure compliance with KRS 363.900 to 363.908.

17 (2) For the purposes of administering and giving effect to the provisions of KRS  
 18 363.900 to 363.908, the standards set forth in the annual book of ASTM  
 19 International standards, supplements, and revisions shall be applied.

20 (3) In administering KRS 363.900 to 363.908, the department shall conform to any  
 21 provisions of federal law or regulations which impose requirements in conflict with  
 22 the ASTM International standard.

23 (4) The department may promulgate administrative regulations to implement and  
 24 enforce KRS 363.900 to 363.908.

25 ➔Section 3. KRS 363.904 is amended to read as follows:

26 (1) No motor fuel~~article or commodity~~ shall be sold or offered for sale at a retail  
 27 facility~~and use~~ in Kentucky ~~as motor fuel~~ unless it conforms to the following:

- 1 (a) The motor fuel shall be labeled and posted in accordance with applicable  
2 federal and state laws; and
- 3 (b) The motor fuel shall conform to the latest ASTM ***International*** specifications  
4 for that particular type, class, and grade of motor fuel, except when one (1) or  
5 more of the following circumstances exists:
- 6 1. When a federal law or a federal administrative regulation imposes  
7 requirements in conflict with the ASTM ***International*** standard, as  
8 provided by KRS 363.902(3); or
- 9 2. When the Governor determines that circumstances present, or are likely  
10 to present, a disruption in motor fuel supply, the Governor or the  
11 Commissioner or the secretary of the Energy and Environment Cabinet,  
12 as designated by the Governor, may issue a temporary waiver of ASTM  
13 ***International*** specifications for motor fuel. The temporary waiver shall  
14 be effective for a defined period of time and shall be the shortest  
15 practicable time period necessary to permit the correction of the  
16 disruption in motor fuel supplies.
- 17 (2) For gasoline-***oxygenate blends*** containing up to fifteen percent (15%) ethanol, ~~in~~  
18 ~~which case the vapor pressure limit for each class shall be increased by one (1)~~  
19 ~~pound per square inch, and~~ the ASTM ***International*** V/L (vapor to liquid ratio)  
20 specification shall be waived. ***For gasoline-oxygenate blends containing between***  
21 ***nine percent (9%) and fifteen percent (15%) by volume ethanol, the vapor***  
22 ***pressure limit for each class shall be increased by one (1) pound per square inch.***  
23 Additionally, the department shall adopt a minimum temperature for fifty percent  
24 (50%) distillation of gasoline-***oxygenate blends*** containing up to fifteen percent  
25 (15%) ethanol through the promulgation of an administrative regulation in  
26 accordance with KRS Chapter 13A.
- 27 (3) The motor fuel compliance with ASTM ***International*** shall be determined in

1 accordance with the test methods prescribed in the latest ASTM *International*  
 2 publications. *When no such standard exists, the department shall designate a test*  
 3 *or specification based upon widely accepted scientific principles.*

4 (4) All shipments of motor fuel shall state on either the *product transfer*  
 5 *documentation*~~[bill of lading]~~ or invoice the destination of the shipment and that  
 6 the shipment meets the standards and specifications required in *an administrative*  
 7 *regulation promulgated pursuant to* this section. The division may obtain a sample  
 8 of any shipment of motor fuel for testing. Motor fuel blending components shall be  
 9 exempt from this section until they are offered for sale as motor fuel by *a retail*  
 10 *facility*~~[the refiner or manufacturer].~~

11 ➔Section 4. KRS 363.9055 is amended to read as follows:

12 (1) As used in this section, "biodiesel fuel" means a biodegradable, combustible liquid  
 13 fuel derived from renewable fats and vegetable oils that meets ASTM *International*  
 14 specification PS 121-99 and is suitable for blending with petroleum-based diesel  
 15 fuel for use in diesel engines.

16 (2) The General Assembly strongly encourages that, beginning on January 1, 2006, all  
 17 diesel fuel sold or offered for sale in the Commonwealth and reformulated to  
 18 achieve federally mandated sulfur reduction requirements use biodiesel in a blend  
 19 not less than two percent (2%) by volume to meet those requirements.

20 ➔Section 5. KRS 363.906 is amended to read as follows:

21 *(1) A person shall not operate a retail motor fuel facility unless the person obtains*  
 22 *and maintains a retail motor fuel license from the department.*

23 *(2)* The department shall ~~[levy and]~~ collect *an* annual *licensure fee*~~[fees]~~ in the amount  
 24 of *one hundred dollars (\$100)*~~[fifty dollars (\$50)]~~ per *retail* facility from the  
 25 *license holder*~~[owner or operator of a retail facility]~~ for the purpose of funding the  
 26 administration of the *retail* motor fuels quality program. The fees shall be deposited  
 27 into an interest-bearing account in the State Treasury. Money unexpended at the

1           close of a fiscal year shall not lapse but shall be carried forward to the next fiscal  
2           year for future use. The annual fees shall be paid to the department by January 31.

3           **(3) A retail motor fuel license shall be valid from the date of issuance until January**  
4           **31.**