

As Introduced

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H. B. No. 80

Representatives Healy, Peterson

**Cosponsors: Representatives Adams, Brown, Carano, Combs, Distel, Dodd,
Domenick, Dyer, Evans, Fende, Foley, Garrison, Harwood, Hughes, Luckie,
McGregor, R., Oelslager, Okey, Otterman, Sayre, Skindell, Stebelton,
Stewart, D., Strahorn, Sykes, Ujvagi, Williams, B., Yuko**

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A B I L L

To amend section 1327.99 and to enact sections 319.56 1
and 1327.70 of the Revised Code to require the 2
Department of Agriculture to establish a motor 3
fuel quality testing program under which county 4
auditors may conduct such testing. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 1327.99 be amended and sections 6
319.56 and 1327.70 of the Revised Code be enacted to read as 7
follows: 8

sec. 319.56. (A) As used in this section, "motor fuel" has 9
the same meaning as in section 1327.70 of the Revised Code. 10

(B) In accordance with the motor fuel quality testing program 11
established under section 1327.70 of the Revised Code and rules 12
adopted under it, a county auditor, or a person who is designated 13
by the county auditor to act as a motor fuel inspector, may 14
inspect and test motor fuel that is sold in the auditor's county, 15
sediment from motor fuel pumps, and water in motor fuel storage 16

tanks that are located in the auditor's county. If a county 17
auditor or a person who is designated by the county auditor to act 18
as a motor fuel inspector inspects and tests motor fuel that is 19
sold in the auditor's county, sediment from motor fuel pumps, or 20
water in motor fuel storage tanks that are located in the 21
auditor's county, the auditor or the person who is designated to 22
act as a motor fuel inspector shall determine the frequency of 23
inspections of retailers that sell or offer for sale motor fuel in 24
the auditor's county. A county auditor may terminate motor fuel 25
testing in the auditor's county by sending written notice of the 26
termination to the director of agriculture. 27

Sec. 1327.70. (A) As used in this section: 28

(1) "Authorized testing equipment" means any type of testing 29
equipment that is authorized for use in the motor fuel quality 30
testing program in rules adopted under division (B) of this 31
section. 32

(2) "Diesel fuel" has the same meaning as in section 5735.01 33
of the Revised Code. 34

(3) "Motor fuel" means gasoline or diesel fuel that is sold 35
by a retailer. 36

(B) The director of agriculture shall establish a motor fuel 37
quality testing program. In establishing the program, the director 38
shall adopt rules in accordance with Chapter 119. of the Revised 39
Code that do all of the following: 40

(1)(a) Establish requirements that are modeled on the uniform 41
laws and regulations of the national institute of standards and 42
technology published in handbook 130 and that incorporate 43
standards for motor fuel based on standards developed by the 44
American society for testing and materials committee D02 on 45
petroleum products and lubricants; 46

(b) Specify the types of testing equipment that may be used 47
in the motor fuel quality testing program, which shall include 48
portable scanning devices. 49

(2) Authorize a county auditor, or a person who is designated 50
by the county auditor to act as a motor fuel inspector, to do any 51
or all of the following: 52

(a) Inspect and test motor fuel that is sold in the auditor's 53
county; 54

(b) Inspect each location at which a retailer sells or offers 55
for sale motor fuel in the auditor's county to determine whether 56
the retailer is in compliance with the program; 57

(c) Upon the county auditor's own initiative or upon a 58
complaint made by a person, inspect any location where a retailer 59
sells or offers for sale motor fuel; 60

(d) Determine the frequency of inspections of retailers that 61
sell or offer for sale motor fuel in the auditor's county; 62

(e) Terminate motor fuel testing in the auditor's county by 63
sending written notice of the termination to the director. 64

(3) Require a person who is designated by a county auditor to 65
act as a motor fuel inspector to successfully complete training 66
that is provided by the director, another state, an institution of 67
higher education that has received a certificate of authorization 68
from the Ohio board of regents under section 1713.02 of the 69
Revised Code, a state institution of higher education as defined 70
in section 3345.011 of the Revised Code, or a private firm that is 71
approved and monitored by the director; 72

(4) Require a retailer, upon the request of a county auditor 73
or a county auditor's designated inspector, immediately to provide 74
to the auditor or inspector, free of charge and in containers 75
provided by the auditor or inspector, an amount of motor fuel as 76

required by the auditor or inspector for testing. The rules shall 77
require that each motor fuel sample that is provided for purposes 78
of the motor fuel quality testing program be pumped by the county 79
auditor or the county auditor's designated inspector. 80

(5)(a) Require a county auditor or a county auditor's 81
designated inspector to test a sample that is provided in 82
accordance with rules adopted under division (B)(4) of this 83
section using authorized testing equipment to determine whether 84
the motor fuel complies with the standards established for motor 85
fuel by the American society for testing and materials committee 86
D02 on petroleum products and lubricants. In addition, the rules 87
shall require the auditor or inspector to provide the results of 88
the testing to the retailer. 89

(b) Specify that motor fuel is in compliance with standards 90
if it is within one octane point of the applicable octane 91
certification using authorized testing equipment or within 92
six-tenths of one octane point of the applicable octane 93
certification when tested by a certified laboratory. 94

(6)(a) Allow a retailer, if the results of the motor fuel 95
quality testing using authorized testing equipment indicate that 96
the motor fuel is not in compliance with the standards established 97
for octane certification, to challenge the results by immediately 98
submitting a written statement, on a form prescribed by the 99
director, to the county auditor or inspector before the auditor or 100
inspector leaves the retailer's location indicating that the 101
retailer disagrees with the results of the testing. The rules 102
shall require the county auditor or the designated inspector, if 103
the retailer challenges the results of the testing, to submit a 104
sample of the motor fuel, which shall be provided in accordance 105
with rules adopted under division (B)(6)(b) of this section, to a 106
laboratory that is certified by the American society for testing 107
and materials to determine whether the motor fuel is in compliance 108

with the standards. 109

(b) Require a retailer who challenges the results of the 110
motor fuel quality testing using authorized testing equipment 111
immediately to provide the auditor or inspector, free of charge 112
and in containers provided by the auditor or inspector, an 113
additional amount of motor fuel that is from the same fuel from 114
which the original sample was provided and that is necessary to 115
submit a sample of the motor fuel to a certified laboratory. 116

(7) Require a retailer to take actions to ensure that motor 117
fuel is brought into compliance with the standards established for 118
octane certification if the results of the motor fuel quality 119
testing conducted by a county auditor or a designated inspector 120
indicate that the motor fuel is not in compliance with the 121
standards and the retailer has not challenged the results that 122
were obtained using authorized testing equipment or if the results 123
of any testing conducted by a certified laboratory indicate that 124
the motor fuel is not in compliance with those standards; 125

(8) Require a county auditor or a designated inspector to 126
issue a warning to a retailer if the results of the motor fuel 127
quality testing indicate that the motor fuel is not in compliance 128
with the standards established for octane certification. In 129
addition, the rules shall require that not later than five days 130
after a test indicates that the motor fuel is not in compliance 131
with the standards for octane certification, a county auditor or a 132
designated inspector retest the motor fuel using a new sample 133
pumped from the same source from which the original sample of 134
motor fuel was obtained that was not in compliance with the 135
standards. 136

(9) Require county auditors to maintain records that are 137
determined necessary to ascertain compliance with this section and 138
the rules adopted under it. At a minimum, the rules shall require 139
a county auditor to retain, for not less than two years after the 140

date on which the results from motor fuel quality testing were 141
obtained, all records of testing that indicate that the motor fuel 142
was not in compliance with the standards established for octane 143
certification. 144

(10) Establish requirements and procedures under which the 145
director may examine records of county auditors to ascertain 146
compliance with this section and the rules adopted under it; 147

(11) Prescribe all forms that are necessary for the motor 148
fuel quality testing program; 149

(12)(a) Establish guidelines and standards in accordance with 150
which a county auditor may test sediment from the motor fuel pumps 151
and water in the motor fuel storage tanks of a retailer located in 152
the auditor's county. The guidelines and standards shall be 153
modeled on the uniform laws and regulations of the national 154
institute of standards and technology published in handbook 130. 155
The rules shall allow a county auditor to establish additional 156
guidelines and standards for the testing of water and sediment, 157
provided that the guidelines and standards do not conflict with 158
state or federal laws and regulations. Further, the rules shall 159
allow a county auditor to establish penalties for a violation of 160
the guidelines and standards established by the director or the 161
county auditor, if applicable. 162

(b) Authorize a county auditor or an inspector designated by 163
the auditor to test the sediment from the motor fuel pumps and 164
water in the motor fuel storage tanks of a retailer located in the 165
auditor's county; 166

(c) Require a retailer to allow an auditor or an auditor's 167
designated inspector to test the sediment from the retailer's 168
motor fuel pumps and water in the retailer's motor fuel storage 169
tanks upon the request of the auditor or designated inspector; 170

(d) Require a county auditor or a designated inspector to 171

issue a warning to a retailer if the results of the testing of 172
sediment from the motor fuel pumps or the testing of water in the 173
motor fuel storage tanks conducted by the auditor or inspector 174
indicate that the amount of sediment from a motor fuel pump or the 175
amount of water in a storage tank is not in compliance with the 176
guidelines and standards established in rules adopted under this 177
section. In addition, the rules shall require that not later than 178
five days after a test indicates that the amount of sediment from 179
a motor fuel pump or the amount of water in a storage tank is not 180
in compliance with the guidelines and standards, a county auditor 181
or a designated inspector retest the sediment or water from the 182
same motor fuel pump or in the same motor fuel storage tank. 183

(e) Require a retailer to take actions to ensure that the 184
motor fuel pump is brought into compliance with the guidelines or 185
standards established in rules adopted under this section if the 186
results of the sediment testing from the motor fuel pumps 187
conducted by the county auditor or the designated inspector 188
indicate that the amount of sediment from the motor fuel pump is 189
not in compliance with the guidelines and standards; 190

(f) Require a retailer to take actions to ensure that the 191
storage tank is brought into compliance with the guidelines or 192
standards established in rules adopted under this section if the 193
results of the water testing of the motor fuel storage tanks 194
conducted by the county auditor or the designated inspector 195
indicate that the storage tank is not in compliance with the 196
guidelines and standards. 197

(13) Establish other procedures, criteria, and requirements 198
that are necessary to implement or administer this section. 199

(C)(1) No retailer shall sell or offer for sale motor fuel 200
that fails to comply with the standards for motor fuel that are 201
established in rules adopted under this section. 202

(2) Notwithstanding any other section of the Revised Code governing the crediting of money from fines, money that is collected from fines pursuant to division (B) of section 1327.99 of the Revised Code as a result of a violation of division (C)(1) of this section shall be credited to a special fund that shall be created in the county in which the violation occurred. The county auditor of that county shall use the money in the fund to administer the motor fuel quality testing program in the county. 203
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(D) A record of or document concerning test results is a public record under section 149.43 of the Revised Code only if the record or document substantiates a fine that is levied under division (B) of section 1327.99 of the Revised Code. 211
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Sec. 1327.99. (A) Whoever violates section 1327.54 or division (A), (B), (C), or (D) of section 1327.61 of the Revised Code is guilty of a misdemeanor of the second degree on a first offense; on each subsequent offense within seven years after the first offense, such person is guilty of a misdemeanor of the first degree. 215
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(B)(1) Whoever violates division (C)(1) of section 1327.70 of the Revised Code shall be issued a warning. If the violator challenges the results of authorized testing equipment under rules adopted under that section and subsequent testing of the motor fuel in a certified laboratory in accordance with those rules indicates that the fuel violates the motor fuel standards established in those rules, the violator shall pay an amount that is equal to laboratory costs. 221
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(2) A violator who commits a second offense within two years after committing the first offense shall be fined two hundred fifty dollars. If the violator challenges the results of authorized testing equipment under rules adopted under section 1327.70 of the Revised Code and subsequent testing of the motor 229
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fuel in a certified laboratory in accordance with those rules 234
indicates that the fuel violates the motor fuel standards 235
established in those rules, the violator also shall pay an amount 236
that is equal to laboratory costs. 237

(3) A violator who commits a third offense within two years 238
after committing the first offense shall be fined five hundred 239
dollars. If the violator challenges the results of authorized 240
testing equipment under rules adopted under section 1327.70 of the 241
Revised Code and subsequent testing of the motor fuel in a 242
certified laboratory in accordance with those rules indicates that 243
the fuel violates the motor fuel standards established in those 244
rules, the violator also shall pay an amount that is equal to 245
laboratory costs. 246

(4) A violator who commits a fourth offense within two years 247
after committing the first offense shall be fined one thousand 248
dollars. If the violator challenges the results of authorized 249
testing equipment under rules adopted under section 1327.70 of the 250
Revised Code and subsequent testing of the motor fuel in a 251
certified laboratory in accordance with those rules indicates that 252
the fuel violates the motor fuel standards established in those 253
rules, the violator also shall pay an amount that is equal to 254
laboratory costs. 255

(5) A violator who commits a fifth offense within two years 256
after committing the first offense shall be fined two thousand 257
dollars. If the violator challenges the results of authorized 258
testing equipment under rules adopted under section 1327.70 of the 259
Revised Code and subsequent testing of the motor fuel in a 260
certified laboratory in accordance with those rules indicates that 261
the fuel violates the motor fuel standards established in those 262
rules, the violator also shall pay an amount that is equal to 263
laboratory costs. 264

(6) A violator who commits a sixth or subsequent offense 265

within two years after committing the first offense shall be fined 266
an amount that is equal to twice the amount of the most recent 267
fine that was imposed on the violator. If the violator challenges 268
the results of authorized testing equipment under rules adopted 269
under section 1327.70 of the Revised Code and subsequent testing 270
of the motor fuel in a certified laboratory in accordance with 271
those rules indicates that the fuel violates the motor fuel 272
standards established in those rules, the violator also shall pay 273
an amount that is equal to laboratory costs. 274

(C) As used in division (B) of this section: 275

(1) "Authorized testing equipment" has the same meaning as in 276
section 1327.70 of the Revised Code. 277

(2) "Laboratory costs" means all costs associated with 278
testing the octane of a sample of motor fuel at a certified 279
laboratory for purposes of the motor fuel quality testing program 280
established under section 1327.70 of the Revised Code and rules 281
adopted under it. "Laboratory costs" includes, but is not limited 282
to, shipping costs of a sample of motor fuel, fees charged by a 283
certified laboratory for the testing of a sample of motor fuel, 284
taxes, and other similar costs. 285

Section 2. That existing section 1327.99 of the Revised Code 286
is hereby repealed. 287