

2003 SENATE BILL 117

April 16, 2003 – Introduced by Senators SCHULTZ, COWLES, WELCH, WIRCH, DARLING, REYNOLDS and ZIEN, cosponsored by Representatives FREESE, GRONEMUS, GARD, M. LEHMAN, AINSWORTH, J. WOOD, SUDER, OTT, MUSSER, TOWNSEND, HINES, MILLER, OWENS, GIELOW, BIES, MONTGOMERY, HAHN, ALBERS, GUNDERSON, VAN ROY, WASSERMAN, ZIEGELBAUER, McCORMICK, VRAKAS and NASS. Referred to Committee on Environment and Natural Resources.

1 **AN ACT** *to renumber and amend* 168.04; and *to create* 168.04 (2) and 168.04
2 (3) of the statutes; **relating to:** prohibiting methyl tertiary–butyl ether in
3 automotive gasoline, providing an exemption from emergency rule procedures,
4 and granting rule–making authority.

Analysis by the Legislative Reference Bureau

Current law requires the Department of Commerce (Commerce) to set minimum specifications for gasoline, reformulated gasoline, and kerosene and authorizes Commerce to set minimum specifications for other types of fuel.

This bill requires Commerce to set, by rule, minimum specifications for automotive gasoline that prohibit automotive gasoline from containing more than 0.5%, by volume, of methyl tertiary–butyl ether (MTBE). Similarly, the bill requires Commerce, by rule, to prohibit any person from offering for sale, distributing, blending, or manufacturing MTBE as an automotive gasoline additive (except that persons may offer for sale, distribute, blend, or manufacture automotive gasoline containing up to 0.5%, by volume, of MTBE). These prohibitions first apply on August 1, 2004. MTBE is a chemical compound that is added to gasoline, often to boost the gasoline’s octane or to meet clean fuel oxygen requirements.

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For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 168.04 of the statutes is renumbered 168.04 (1) and amended to
2 read:

3 168.04 (1) The department by rule shall prescribe minimum product grade
4 specifications for gasoline, automotive gasoline, automotive gasoline additives, as
5 described in sub. (2) (b), reformulated gasoline, as defined in s. 285.37 (1), and
6 kerosene and may prescribe product grade specifications for ~~automotive gasoline,~~
7 ~~gasoline-alcohol fuel blends, aviation gasoline, fuel oils, and diesel fuels.~~
8 ~~Automotive gasoline specifications shall include lead content. The rules shall, to the~~
9 ~~extent feasible, be in conformity with nationally recognized standards, specifications~~
10 ~~and classifications, such as those published by the American society for testing and~~
11 ~~materials, the society of automotive engineers and the U.S. environmental~~
12 ~~protection agency. The department may not promulgate or enforce a rule prohibiting~~
13 ~~additional information from placement on the dispensing device.~~

14 **SECTION 2.** 168.04 (2) of the statutes is created to read:

15 168.04 (2) (a) The rule promulgated by the department under sub. (1) to set
16 standards for automotive gasoline shall prohibit automotive gasoline, beginning on
17 August 1, 2004, from containing more than 0.5%, by volume, of methyl tertiary-butyl
18 ether.

19 (b) The rule promulgated by the department under sub. (1) to set standards for
20 automotive gasoline additives shall prohibit any person from offering for sale,
21 distributing, blending, or manufacturing methyl tertiary-butyl ether as an

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1 automotive gasoline additive in this state, beginning on August 1, 2004. It is not a
2 violation of such a rule for a person to offer for sale, distribute, blend, or manufacture
3 automotive gasoline containing not more than 0.5%, by volume, of methyl
4 tertiary-butyl ether.

5 **SECTION 3.** 168.04 (3) of the statutes is created to read:

6 168.04 (3) Except as otherwise provided in this section, rules promulgated
7 under this section shall be in conformity with nationally recognized standards,
8 specifications, and classifications, such as those published by the American Society
9 for Testing and Materials, the Society of Automotive Engineers, and the U.S.
10 Environmental Protection Agency. The department may not promulgate or enforce
11 a rule prohibiting the placement of additional information on the dispensing device.

12 **SECTION 4. Nonstatutory provisions.**

13 (1) EMERGENCY RULE. Using the procedure under section 227.24 of the statutes,
14 the department of commerce shall promulgate the rule described under section
15 168.04 (2) of the statutes, as created by this act, for the period before the permanent
16 rule becomes effective, but not to exceed the period authorized under section 227.24
17 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3)
18 of the statutes, the department is not required to provide evidence that promulgating
19 a rule under this subsection as an emergency rule is necessary for the preservation
20 of the public peace, health, safety, or welfare and is not required to provide a finding
21 of emergency for the rule promulgated under this subsection.

22 (2) STATEMENT OF LEGISLATIVE FINDINGS AND PURPOSE. The legislature finds that
23 methyl tertiary-butyl ether may contaminate groundwater through various means,
24 including leaking fuel storage tanks and pipelines, refueling spills, automobile
25 accidents, and improper consumer disposal of gasoline. As a result of its odor and

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1 taste, methyl tertiary-butyl ether can make drinking water supplies undrinkable.
2 The purpose of section 168.04 (2) of the statutes, as created by this act, is to reduce
3 or eliminate the instances of methyl tertiary-butyl ether contaminating
4 groundwater.

5 (END)