

**SENATE SUBSTITUTE AMENDMENT 1,
TO 2003 SENATE BILL 117**

May 5, 2003 – Offered by Senator SCHULTZ.

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 gasoline, automotive gasoline, gasoline–alcohol fuel blends, and reformulated
4 gasoline, providing an exemption from emergency rule procedures, and
5 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 substitute amendment requires Commerce to set, by rule, minimum specifications for gasoline, automotive gasoline, gasoline–alcohol fuel blends, and reformulated gasoline that prohibit these fuels from containing more than 0.5%, by volume, of methyl tertiary-butyl ether (MTBE). MTBE is a chemical compound that is added to gasoline, often to boost the gasoline’s octane or to meet clean fuel oxygen requirements. These prohibitions first apply on August 1, 2004. These prohibitions do not apply, though, to racing fuel used at racing events or in preparation for racing events. Although the substitute amendment does not define “racing event,” the term

would likely include such events as automobile racing, snowmobile racing, and the racing of watercraft.

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

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

15 168.04 (2) (a) Except as provided in par. (b), the rules required under sub. (1)
16 shall prohibit gasoline, automotive gasoline, gasoline–alcohol fuel blends, and
17 reformulated gasoline, as defined in s. 285.37 (1), beginning on August 1, 2004, from
18 containing more than 0.5%, by volume, of methyl tertiary–butyl ether.

19 (b) The rules required under sub. (1) shall not prohibit racing fuel used at
20 racing events or in preparation for racing events from containing any amount of
21 methyl tertiary–butyl ether.

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

2 168.04 **(3)** Except as otherwise provided in this section, rules promulgated
3 under this section shall be in conformity with nationally recognized standards,
4 specifications, and classifications, such as those published by the American Society
5 for Testing and Materials, the Society of Automotive Engineers, and the U.S.
6 Environmental Protection Agency. The department may not promulgate or enforce
7 a rule prohibiting the placement of additional information on the dispensing device.

8 **SECTION 4. Nonstatutory provisions.**

9 (1) EMERGENCY RULE. Using the procedure under section 227.24 of the statutes,
10 the department of commerce shall promulgate the rules described under section
11 168.04 (2) of the statutes, as created by this act, for the period before the permanent
12 rules becomes effective, but not to exceed the period authorized under section 227.24
13 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3)
14 of the statutes, the department is not required to provide evidence that promulgating
15 a rule under this subsection as an emergency rule is necessary for the preservation
16 of the public peace, health, safety, or welfare and is not required to provide a finding
17 of emergency for the rules promulgated under this subsection.

18 (2) STATEMENT OF LEGISLATIVE FINDINGS AND PURPOSE. The legislature finds that
19 methyl tertiary–butyl ether may contaminate groundwater through various means,
20 including leaking fuel storage tanks and pipelines, refueling spills, automobile
21 accidents, and improper consumer disposal of gasoline. As a result of its odor and
22 taste, methyl tertiary–butyl ether can make drinking water supplies undrinkable.
23 The purpose of section 168.04 (2) of the statutes, as created by this act, is to reduce

1 or eliminate the instances of methyl tertiary-butyl ether contaminating
2 groundwater.

3 (END)