

No. 31, A.]

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**CHAPTER 323**

AN ACT to repeal 168.14; to renumber 168.16; to renumber and amend 168.06 (2), (3) and (4), 168.07 and 168.155; to amend 168.04, 168.05, 168.06 (1), 168.08, 168.09, 168.10, 168.12, 168.13 and 168.15; to repeal and recreate 168.01, 168.02, 168.03 and 168.11; and to create 168.12 (3) and (4), 168.16 and 168.17 of the statutes, relating to oil inspection and providing penalties.

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

SECTION 1. 168.01 of the statutes is repealed and recreated to read:

168.01 DEPARTMENT DEFINED. "Department" means the department of taxation.

SECTION 2. 168.02 of the statutes is repealed and recreated to read:

168.02 INSPECTOR DEFINED. "Inspector" means a duly authorized petroleum products inspector of the department.

SECTION 3. 168.03 of the statutes is repealed and recreated to read:

168.03 PETROLEUM PRODUCTS DEFINED. "Petroleum products" means gasoline and kerosene.

SECTION 4. 168.04 of the statutes is amended to read:

168.04 STANDARDS. (1) Gasoline sold *or offered for sale* in this state shall meet the following specifications:

- (a) An initial boiling point of not more than 131° F.
- (b) Not less than 10 per cent shall be evaporated at 167° F.
- (c) Not less than 50 per cent shall be evaporated at 284° F.
- (d) Not less than 90 per cent shall be evaporated at 392° F.
- (e) The end point shall not exceed 437° F.
- (f) Not less than 95 per cent shall be recovered.

(h) There shall be no gasoline sold within the state to the public which does not conform to the Federal Specifications Board specification for motor gasoline VV-G-101 or the latest revision thereof.

(2) Any petroleum product designated by name or reference "kerosene" shall meet the following specifications:

(a) The flash point by means of the Tagliabue closed cup shall not be less than \* \* \* 110° F.

(b) The end point shall \* \* \* not exceed 572° F.

(c) The color shall not be darker than plus 16 Saybolt.

(3) Any petroleum product meeting the specifications set out in sub. (2) \* \* \* shall, for the purposes of this chapter, be classified as kerosene; provided that if any product meets the flash and end point specifications given above and is darker in color than plus 16 Saybolt because of the addition of artificial coloring or of any other product of a darker color, the color specification provided above automatically becomes ineffective, and the flash and end point specifications become the sole determining factors.

SECTION 5. 168.05 of the statutes is amended to read:

168.05 (1) No petroleum product imported into and received in this state or received from a manufacturer or refiner or from a marine or pipe-line terminal within this state shall be unloaded from its original container, sold, offered for sale or used until a true sample of not less than 8 ounces is taken therefrom as hereinafter provided; provided, however, that if such petroleum product has been previously inspected by the department at the refinery, marine or pipe-line terminal the same may be unloaded, sold, offered for sale or used. Each person so importing or receiving a petroleum product which has not been previously inspected shall notify the \* \* \* inspector in his district of the receipt thereof, and such \* \* \* inspector shall take a sample of such petroleum product.

(2) If such petroleum product is received on a regular business day between the hours of 8 \* \* \* a.m. and 5 \* \* \* p.m., such notice shall be given forthwith upon receipt of such petroleum product. \* \* \* If received at any other time, such notice shall be given between the next succeeding hours of 8 a.m. and 10 a.m. of a regular business day. Provided, \* \* \* that if any petroleum product is received on Saturday afternoon, Sunday or any legal holiday, \* \* \* designated in s. 256.17, such notice shall be given on the next following regular business day between the hours of \* \* \* 8 a.m. and \* \* \* 10 a.m.

(3) If the \* \* \* inspector does not, upon proper notice, after a reasonable length of time, take such sample, the recipient of such petroleum product may, in the presence of a disinterested witness, unseal such original container and take a true sample of not less than 8 ounces of the contents thereof. Such sample shall be immediately placed in a glass bottle and sealed \* \* \*. The recipient shall record upon \* \* \* a label attached to such bottle the means of conveyance, the type of container, the product name, and quantity of the contents thereof and such other information as the \* \* \* department may reasonably require for the proper identification of such shipment. Such sample thus taken shall be held for delivery, upon demand, to the \* \* \* inspector. After such sample is thus taken such petroleum product may be unloaded, sold, offered for sale or used the same as if sampled by the \* \* \* inspector.

(4) For the purpose of this section, the following shall constitute a reasonable length of time in which \* \* \* an inspector shall take the sample herein required: If notice is properly given to \* \* \* an inspector before the hour of 12 \* \* \* noon, he shall take such sample before the hour of 5 \* \* \* p.m. of the day; \* \* \* except, however, that if such notice is properly given before the hour of 12 \* \* \* noon on a regular business day that falls on Saturday, such sample shall be taken before the hour of 12 \* \* \* noon of the next following regular business day; if notice is properly given between the hours of 12 \* \* \* noon and 5 \* \* \* p.m., such sample shall be taken before the hour of 12 \* \* \* noon of the next following regular business day. Saturdays after the hour of 12 \* \* \* noon, Sundays and legal holidays, \* \* \* designated in s. 256.17, shall not be considered regular business days.

SECTION 6. 168.06 (1) of the statutes is amended to read:

168.06 (1) For the purposes of administering this chapter, \* \* \* inspectors are authorized to take samples of gasoline, kerosene, other refined oils, fuel oils and distillates for tests and to make inspections at any points within or without this state, and shall have power to open any original container containing gasoline, kerosene, other refined oils, fuel oils and distillates and take a true sample of not less than 8 ounces of the contents thereof, even though such original containers may still be in the possession of a common or contract carrier, provided such opening and sampling does not unduly inconvenience or hamper the transportation of such products. After such original containers are thus opened and sampled the same shall be resealed with seals furnished by the \* \* \*

*department* for such purposes. The authority conferred by this section shall be in addition to, and not in limitation of any of the provisions of s. 168.05.

SECTION 7. 168.06 (2) of the statutes is renumbered 168.07 (2) and amended to read:

168.07 (2) Inspections made by the \* \* \* inspectors shall be conducted, so far as applicable, in accordance with methods outlined in federal standard stock catalog, section IV, part 5, federal specification \* \* \* *VV-L-791-d*, as adopted \* \* \* *November 15, 1948*, or any changes, modifications or amendments that may be made thereto.

SECTION 8. 168.06 (3) of the statutes is renumbered 168.06 (2) and amended to read:

168.06 (2) If any \* \* \* petroleum product is emptied or transferred into any container in which is contained any other grade of \* \* \* petroleum product, then the entire commingling shall be deemed uninspected and a sample of such commingled petroleum product shall be taken before such commingled petroleum product is removed from such container, sold, offered for sale or used.

SECTION 9. 168.06 (4) of the statutes is renumbered 168.06 (3) and amended to read:

168.06 (3) Notice of such commingling of any \* \* \* petroleum \* \* \* *products* shall be given in the same manner and subject to the same conditions as notice of the receipts of petroleum \* \* \* *products* as provided in s. 168.05. The sample of such commingled petroleum \* \* \* *products* shall be taken by the \* \* \* inspector within a reasonable length of time, as defined and set forth in s. 168.05, after notice. If such \* \* \* inspector does not take such sample within such time, the commingler shall take a true sample of not less than 8 ounces of the commingled petroleum \* \* \* *products*. The taking, sealing and holding of such sample by the commingler shall, so far as applicable, be governed by the provisions of s. 168.05 relating to the same by a person receiving a petroleum product.

SECTION 10. 168.07 of the statutes is renumbered 168.07 (1) and amended to read:

168.07 (1) The \* \* \* inspector shall inspect each sample of \* \* \* *petroleum product* and if he finds that \* \* \* *it meets* the minimum specifications herein provided, he shall issue an inspection certificate \* \* \*. If the \* \* \* inspector finds that the \* \* \* *petroleum product* does not meet the minimum specifications herein provided, he shall \* \* \* notify the person for whom the inspection was made and *after such notice* it shall be unlawful for such person or any other person to sell or use said \* \* \* *product* in this state *or remove it from storage* as long as \* \* \* *it fails to* meet the minimum specifications \* \* \* *or until* \* \* \* *satisfactory disposition has been* approved by the \* \* \* inspector.

SECTION 11. 168.08 of the statutes is amended to read:

168.08 The \* \* \* *department* shall keep a record of each inspection made, showing:

- (1) Time and place of each.
- (2) Number of containers inspected.
- (3) Number of gallons contained therein.
- (4) Amount of fees thereon.
- (5) Product name of petroleum product inspected.
- (6) *Name and address of person for whom inspection is made.*

SECTION 12. 168.09 of the statutes is amended to read:

168.09 AUTHORITY TO ENTER. Any \* \* \* inspector shall have authority to enter in or upon the premises of any manufacturer, vendor, dealer or user of gasoline, kerosene, other refined oils, fuel oils and distillates, during regular business hours to determine whether any \* \* \* *petroleum product* intended for sale or use has not been sampled and inspected in accordance with the provisions of this chapter.

SECTION 13. 168.10 of the statutes is amended to read:

168.10 Every agent and employe of any railroad company or other transportation company and every person transporting gasoline, kerosene, other refined oils, fuel oils and distillates, having the custody of books or records showing the shipment or receipt of gasoline, kerosene, or other refined oils, fuel oils and distillates shall give and permit the \* \* \* *department* and the \* \* \* inspectors free access to such books and records for the purpose of determining the amount of \* \* \* *petroleum products* shipped and received. All clerks, bookkeepers, express agents, railroad agents or officials, employes, or common carriers, or other persons shall render the \* \* \* *department* and the \* \* \* inspectors all information in their possession when so requested in tracing, finding, sampling and inspecting such shipments.

SECTION 14. 168.11 of the statutes is repealed and recreated to read:

168.11 IDENTIFICATIONS. (1) All devices used for drawing products of petroleum from underground storage containers at filling stations, garages or other places

where such products are sold or offered for sale shall be marked or labeled in a conspicuous place and in a conspicuous manner with the name of the product of petroleum.

(2) No person shall deliver, place, receive or store any gasoline (or a like product of petroleum which has a flash point of less than 110° F. when tested in the Tagliabue closed cup tester) in any visible container, except the motor fuel supply tank connected to an internal combustion engine, of less than 275 gallons capacity unless such visible container is completely painted a bright red color and the name of the product contained therein conspicuously stenciled in English thereon; provided \* \* \* that such products of petroleum may be delivered, placed, received or stored in a container of not more than one quart if the contents thereof are clearly designated on a label securely attached to such container with the name of the product and the words "dangerous when exposed to heat or fire" printed in bright red ink in letters not less than one-fourth inch in size on such label.

(3) No person shall deliver, place, receive or store any kerosene, diesel fuel or burner oil (or a like product of petroleum which has a flash point of 110° F. or more when tested in the Tagliabue closed cup tester) in any container which is in any manner painted red or stenciled as required in sub. (2).

(4) No person shall use interchangeably any pipe line, hose, pump or metering device to dispense gasoline (or a like product of petroleum which has a flash point of less than 110° F. when tested in the Tagliabue closed cup tester) and to dispense kerosene, diesel fuel or burner fuel oils (or a like product of petroleum which has a flash point of 110° F. or more when tested in the Tagliabue closed cup tester) unless such pipe line, hose, pump or metering device has been sufficiently flushed and cleaned before such interchanged use to eliminate any contamination of products due to such interchanged use.

SECTION 15. 168.12 of the statutes is amended to read:

168.12 (1) \* \* \* *The department shall demand and \* \* \* receive within 2 weeks after demand, from the owner or other person for whom \* \* \* it shall inspect any \* \* \* petroleum product, an inspection fee of 1½ cents for each 50 gallons from which the sample was taken. Such fees shall be a lien on the products so inspected, and when collected shall be paid within 2 weeks after receipt into the general fund, and are appropriated therefrom for defraying the expenses incident to such inspection as provided in s. \* \* \* 20.09 (11). Within \* \* \* 30 days after the close of each fiscal year, the \* \* \* department shall determine what the cost of inspection has been for the preceding fiscal year, and shall divide that cost by the gallons inspected. If the cost so calculated is less than 1½ cents for each 50 gallons \* \* \* it shall so publicly certify and shall fix the nearest \* \* \* one-quarter cent above such calculated cost as the fee to be charged for such inspection fees during the then current fiscal year and for the 30 days next succeeding. \* \* \* It shall publish by one publication in the official state paper a certificate as to the previous cost and the fee so fixed to be charged for such service during the ensuing fiscal year and for 30 days thereafter. From 30 days after the close of the preceding fiscal year until 30 days after the close of the then current fiscal year the said certified fee shall be the fee which \* \* \* the department shall demand and collect in lieu of the legal fee heretofore provided and fixed.*

(2) If \* \* \* a petroleum product is shipped outside of the state after inspection, the person so making such \* \* \* shipment shall be given credit or be reimbursed by the \* \* \* department for such fees, \* \* \* provided notice of such shipment out of the state, properly acknowledged and sworn to before a notary public, is given the \* \* \* department not later than the twentieth day of the following month. *Reimbursements shall be paid from the appropriation made by s. 20.09 (11).*

SECTION 16. 168.12 (3) and (4) of the statutes are created to read:

168.12 (3) If a petroleum product is shipped after inspection from a refinery within the state to any marine terminal, pipe-line terminal, or pipe-line tank farm in spot quantities of 100,000 gallons or more, the refinery so making such shipment shall be given credit or be reimbursed by the department for such fees, provided notice of such shipment, properly acknowledged and sworn to before a notary public, is given the department not later than the twentieth day of the following month. Reimbursements shall be paid from the appropriation made by s. 20.09 (11).

(4) If a petroleum product is imported into and received in this state or received from a manufacturer or refiner or from a marine terminal, pipe-line terminal, or pipe-line tank farm by a refinery within this state after inspection, the refinery so importing or receiving such shipment shall be given credit or be reimbursed by the department for such fees, provided notice of such shipment, properly acknowledged and sworn to before a notary public, is given the department not later than the twentieth day of the following month. Reimbursements shall be paid from the appropriation made by s. 20.09 (11).

SECTION 17. 168.13 of the statutes is amended to read:

168.13 Every person receiving \* \* \* petroleum products in this state shall keep

books and records of all \* \* \* *petroleum products* so received, together with bills of lading, waybills and other pertinent documents. Such books and records and other papers and documents shall, at all times during business hours of the day, be subject to inspection by the \* \* \* *department* and \* \* \* *its* inspectors. Such books, records and other papers and documents shall be preserved for not less than \* \* \* 3 years, unless the \* \* \* *department*, in writing, authorizes their destruction or disposal at an earlier date.

SECTION 18. 168.14 of the statutes is repealed.

SECTION 19. 168.155 of the statutes is renumbered 168.14 and amended to read:

168.14 MISBRANDING. (1) Every person dealing in previously used or previously used and reclaimed, rerefined, recleaned or reconditioned lubricating oils, lubricants or mixtures of lubricants shall at all times have each and every container or item of equipment in or through which any of such products are sold, kept for sale, displayed or dispensed plainly labeled in lettering as large as any other lettering thereon and in any event in letters of not less than one-half inch in height on containers of one quart or less and of not less than one inch in height on containers larger than one quart, showing that the contents thereof are reclaimed oils. Every person who causes to be published, displayed or circulated any advertising matter offering for sale any previously used or previously used and reclaimed, rerefined, recleaned or reconditioned lubricating oils, lubricants or mixtures of lubricants, shall state in such advertising in letters at least as large as any other lettering therein the fact that such products are reclaimed oils. \* \* \*

(2) Any person dealing in previously used or previously used and reclaimed, rerefined, recleaned or reconditioned lubricating oils, lubricants or mixtures of lubricants without having each and every container or item of equipment in or through which any of such products are sold, kept for sale, displayed or dispensed plainly labeled as required in sub. (1), or advertising any of such products for sale without inserting in such advertising a statement as required in sub. (1) may upon proper hearing be enjoined from selling any of such products or offering, displaying or advertising any of the same for sale. Action for such injunction may be brought in any court having jurisdiction to hear and decide equity cases in the county in which the defendant resides, and may be brought either by the attorney-general or by the district attorney for such county. The authority granted by this subsection shall be in addition to and not in lieu of authority to prosecute criminally any person for a violation of sub. (1) The granting or enforcing of any injunction under the provisions of this subsection is a preventive measure for the protection of the people of this state, not a punitive measure, and the fact that a person has been charged or convicted of a violation of sub. (1) shall not prevent \* \* \* *him from being enjoined* to prevent further unlawful dealing in previously used or previously used and reclaimed, rerefined, recleaned or reconditioned lubricating oils, lubricants or mixtures of lubricants, nor shall the fact that \* \* \* *such person is enjoined* under the provisions of this subsection preclude the institution of criminal prosecution or punishment.

(3) \* \* \* *It shall be unlawful for any person to receive, unload, use, sell or offer for sale in this state, any gasoline, kerosene, other refined oils, fuel oils and distillates which he knows, or reasonably should know is misnamed.*

SECTION 20. 168.15 of the statutes is amended to read:

168.15 Every person who violates any provision of this chapter \* \* \* shall be fined not less than \$5 nor more than \$1,000 or be imprisoned \* \* \* *for* not less than 30 days nor more than 6 months *or both*.

SECTION 21. 168.16 of the statutes is renumbered 168.18.

SECTION 22. 168.16 and 168.17 of the statutes are created to read:

168.16 DUTIES OF DEPARTMENT. (1) The department shall enforce this chapter. Inspection districts shall be defined and numbered by the department.

(2) Any accident or explosion involving products of petroleum which comes to the knowledge of the department shall be investigated to determine whether or not there has been a violation of this chapter.

(3) The department may promulgate reasonable rules relating to the administration and enforcement of this chapter.

168.17 ATTORNEY-GENERAL AND DISTRICT ATTORNEY TO PROSECUTE. Upon request of the department, the attorney-general or proper district attorney shall prosecute any action to enforce this chapter.

SECTION 23. This act shall take effect upon July 1, 1953.

Approved June 26, 1953.