

## CHAPTER 183

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**HEALTH AND ENVIRONMENT**

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**SENATE BILL 00-190**

BY SENATORS Feeley, Hernandez, Martinez, Phillips, Powers, Sullivant, and Thiebaut;  
also REPRESENTATIVES Kaufman, Clarke, Coleman, Gagliardi, Mace, Miller, Plant, Scott, Swenson, and Taylor.

**AN ACT**

CONCERNING METHYL TERTIARY BUTYL ETHER.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** Part 1 of article 7 of title 25, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**25-7-139. Methyl tertiary butyl ether - prohibition - phase-out - civil penalty.**

(1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT METHYL TERTIARY BUTYL ETHER ("MTBE") IS AN OXYGENATE USED IN GASOLINE AND OTHER FUEL PRODUCTS IN THIS STATE AND IN THE UNITED STATES. THE GENERAL ASSEMBLY ALSO FINDS THAT MTBE MAY LEAK INTO AND CONTAMINATE GROUNDWATER SUPPLIES, AND THAT MTBE IS WATER SOLUBLE AND THEREFORE IS DIFFICULT AND COSTLY TO REMOVE FROM WATER. MTBE IS COLORLESS, TASTES AND SMELLS LIKE TURPENTINE, AND CAN BE TASTED AND DETECTED BY SMELL AT EXTREMELY LOW CONCENTRATIONS. MTBE MAY BE A HUMAN CARCINOGEN AND POSES OTHER POTENTIAL HEALTH RISKS, INCLUDING BUT NOT LIMITED TO MEMORY LOSS, ASTHMA, AND SKIN IRRITATION.

(2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT WATER IS PRECIOUS AND VITAL TO THIS STATE'S GROWING POPULATION, AGRICULTURAL INDUSTRY, AND UNIQUE ENVIRONMENT. THEREFORE IT IS THE INTENT OF THE GENERAL ASSEMBLY IN ENACTING THIS SECTION TO HALT FURTHER CONTAMINATION AND POLLUTION OF THIS STATE'S GROUNDWATER SUPPLIES BY MTBE.

(3) (a) (I) EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH (a) AND IN PARAGRAPH (b) OF THIS SUBSECTION (3), A PERSON MAY NOT SELL, OFFER FOR SALE, OR STORE ANY FUEL PRODUCT CONTAINING OR TREATED WITH MTBE.

(II) THE PROVISIONS OF THIS PARAGRAPH (a) SHALL NOT APPLY IF THE PRESENCE

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

OF MTBE IN A FUEL PRODUCT IS CAUSED SOLELY BY INCIDENTAL CO-MINGLING OF MTBE WITH THE FUEL PRODUCT DURING STORAGE OR TRANSFER OF THE FUEL PRODUCT. IN NO EVENT SHALL THE PROVISIONS OF THIS SUBSECTION (3) BE CONSTRUED TO PERMIT THE KNOWING OR WILLFUL ADDITION OF MTBE TO ANY FUEL PRODUCT.

(b) ANY PERSON WHO, AS OF MARCH 1, 2000, IS SELLING OR OFFERING TO SELL OR STORING ANY FUEL PRODUCT CONTAINING OR TREATED WITH MTBE, SHALL PHASE OUT THE SALE, OFFER FOR SALE, AND STORAGE THEREOF ON OR BEFORE APRIL 30, 2002.

(c) FOR PURPOSES OF THIS SECTION, "FUEL PRODUCT" MEANS GASOLINE, REFORMULATED GASOLINE, BENZINE, BENZENE, NAPHTHA, BENZOL, AND KEROSENE AND ANY OTHER VOLATILE AND INFLAMMABLE LIQUID THAT IS PRODUCED, COMPOUNDED, AND OFFERED FOR SALE OR USED FOR THE PURPOSE OF GENERATING POWER IN INTERNAL COMBUSTION ENGINES OR GENERATING HEAT OR LIGHT OR USED FOR CLEANING OR FOR ANY OTHER SIMILAR USAGE.

(4) ANY PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION SHALL BE SUBJECT TO A CIVIL PENALTY AS PROVIDED IN SECTION 25-7-122 (1) (e).

**SECTION 2.** 25-7-122 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**25-7-122. Civil penalties.** (1) Upon application of the division, penalties as determined under this article may be collected by the division by action instituted in the district court for the district in which is located the air pollution source affected in accordance with the following provisions:

(e) ANY PERSON WHO VIOLATES ANY PROVISION OF SECTION 25-7-139 SHALL BE SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN ONE THOUSAND DOLLARS.

**SECTION 3.** 25-7-106.8 (1) (a), Colorado Revised Statutes, is amended to read:

**25-7-106.8. Colorado clean vehicle fleet program.** (1) As used in this section, unless the context otherwise requires:

(a) "Alternative fuel" means compressed natural gas, propane, ethanol, or any mixture of ethanol containing eighty-five percent or more ethanol by volume with gasoline or other fuels, electricity, or any other fuels, which fuels may include, but are not limited to, clean diesel and reformulated gasoline so long as these other fuels make comparable reductions in carbon monoxide emissions and brown cloud pollutants as determined by the air quality control commission. "ALTERNATIVE FUEL" DOES NOT INCLUDE ANY FUEL PRODUCT, AS DEFINED IN SECTION 25-7-139 (3), THAT CONTAINS OR IS TREATED WITH METHYL TERTIARY BUTYL ETHER (MTBE).

**SECTION 4.** 8-20-211.5, Colorado Revised Statutes, is amended to read:

**8-20-211.5. Labeling of containers.** Throughout the state of Colorado, all visible containers and all devices for drawing motor fuel blends containing class A fuel products and at least two percent by volume of alcohol ~~or at least two percent by~~

~~volume of methyl tert butyl ether (MTBE) from underground containers at filling stations, garages, or other places where such products are sold or offered for sale shall be stamped or labeled in a visible place with information indicating the presence of alcohol or the presence of methyl tert butyl ether (MTBE) in the motor fuel blend. If the volume of ethanol exceeds ten percent, or if the volume of methanol exceeds two percent, or if the volume of methyl tert butyl ether (MTBE) exceeds eleven percent, the stamp or label shall state the exact percentage. Such information shall appear on the front of the pump in a position clear and conspicuous to the driver's position, in at least one-half inch block letters, with information which THAT identifies the maximum percentage by volume to the nearest whole percent of ethanol or of methanol or methanol with cosolvents. or of methyl tert butyl ether (MTBE).~~

**SECTION 5. Effective date - applicability.** (1) This act shall take effect September 1, 2000, unless a referendum petition is filed during the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution. If such a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to violations committed on or after the applicable effective date of this act.

Approved: May 23, 2000