

## CHAPTER 298

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**LABOR AND INDUSTRY**

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**HOUSE BILL 05-1328**

BY REPRESENTATIVE(S) Kerr, Hoppe, Knoedler, Massey, and Berens;  
also SENATOR(S) Taylor, Entz, Isgar, and Kester.

**AN ACT**

**CONCERNING THE RECODIFICATION OF STATUTES GOVERNING THE REGULATION OF FUEL PRODUCTS,  
AND, IN CONNECTION THEREWITH, CLARIFYING, HARMONIZING, AND MODERNIZING SUCH STATUTES.**

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

**SECTION 1.** 8-20-201 (1), (1.5), and (2), Colorado Revised Statutes, are amended, and the said 8-20-201 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

**8-20-201. Definitions.** As used in this part 2, unless the context otherwise requires:

(1) ~~(a) "British thermal unit" or "BTU" means a scientific unit of measurement equal to the quantity of heat required to raise the temperature of one pound of water one degree Fahrenheit at approximately sixty degrees Fahrenheit. "ANTIKNOCK INDEX" OR "AKI" MEANS THE ARITHMETIC AVERAGE OF THE RESEARCH OCTANE NUMBER (RON) AND MOTOR OCTANE NUMBER (MON): AKI=(RON+MON)/2. THIS VALUE IS CALLED BY A VARIETY OF NAMES IN ADDITION TO ANTIKNOCK INDEX INCLUDING: OCTANE RATING, POSTED OCTANE, AND (R+M)/2 OCTANE.~~

~~(b) (Deleted by amendment, L. 97, p. 137, § 1, effective March 28, 1997.)~~

(1.1) "ASTM" MEANS ASTM INTERNATIONAL, FORMERLY KNOWN AS THE AMERICAN SOCIETY FOR TESTING AND MATERIALS.

(1.2) "BRITISH THERMAL UNIT" OR "BTU" MEANS A SCIENTIFIC UNIT OF MEASUREMENT EQUAL TO THE QUANTITY OF HEAT REQUIRED TO RAISE THE TEMPERATURE OF ONE POUND OF WATER ONE DEGREE FAHRENHEIT AT APPROXIMATELY SIXTY DEGREES FAHRENHEIT.

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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.*

(1.5) "Department" means the ~~oil inspection section~~ DEPARTMENT OF LABOR AND EMPLOYMENT, division of oil and public safety.

(1.7) "DOT" MEANS THE UNITED STATES DEPARTMENT OF TRANSPORTATION.

(2) "Fuel products" means all gasoline, ~~benzine, benzene, naphtha, benzol,~~ AVIATION GASOLINE, AVIATION TURBINE FUEL, DIESEL, JET FUEL, FUEL OIL, BIODIESEL, BIODIESEL BLENDS, kerosene, ALL ALCOHOL BLENDED FUELS, LIQUIFIED PETROLEUM GAS, GAS OR GASEOUS COMPOUNDS, and ALL other volatile, ~~and inflammable~~ FLAMMABLE, OR COMBUSTIBLE liquids, produced, compounded, and offered for sale or used for the purpose of generating heat, light, OR power in internal combustion engines OR FUEL CELLS, FOR cleaning, or for any other similar usage.

(3.5) "Hg" MEANS THE ELEMENT MERCURY.

(5.3) "NFPA" MEANS THE NATIONAL FIRE PROTECTION ASSOCIATION.

(5.5) "NIST" MEANS THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

**SECTION 2.** 8-20-202, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

**8-20-202. Classification of liquid fuel products.** (1) "LIQUID" MEANS ANY MATERIAL THAT HAS A FLUIDITY GREATER THAN THAT OF THREE HUNDRED PENETRATION ASPHALT WHEN TESTED IN ACCORDANCE WITH ASTM SPECIFICATIONS THAT ARE FOUND IN PUBLICATION NUMBER D 5, "TEST FOR PENETRATION OF BITUMINOUS MATERIALS". UNLESS OTHERWISE IDENTIFIED, THE TERM "LIQUID" SHALL INCLUDE BOTH FLAMMABLE AND COMBUSTIBLE LIQUIDS.

(2) "FLAMMABLE LIQUID" OR "CLASS I LIQUID" MEANS A LIQUID THAT HAS A FLASH POINT BELOW ONE HUNDRED DEGREES FAHRENHEIT AND A VAPOR PRESSURE NOT EXCEEDING FORTY PSIA AT ONE DEGREE FAHRENHEIT. CLASS I LIQUIDS ARE SUBDIVIDED AS FOLLOWS:

(a) CLASS IA LIQUIDS HAVE A FLASH POINT BELOW SEVENTY-THREE DEGREES FAHRENHEIT AND A BOILING POINT BELOW ONE HUNDRED DEGREES FAHRENHEIT.

(b) CLASS IB LIQUIDS HAVE A FLASH POINT BELOW SEVENTY-THREE DEGREES FAHRENHEIT AND A BOILING POINT AT OR ABOVE ONE HUNDRED DEGREES FAHRENHEIT.

(c) CLASS IC LIQUIDS HAVE A FLASH POINT AT OR ABOVE SEVENTY-THREE DEGREES FAHRENHEIT AND BELOW ONE HUNDRED DEGREES FAHRENHEIT.

(3) "COMBUSTIBLE LIQUID" MEANS A LIQUID THAT HAS A FLASH POINT AT OR ABOVE ONE HUNDRED DEGREES FAHRENHEIT. COMBUSTIBLE LIQUIDS ARE SUBDIVIDED AS FOLLOWS:

(a) CLASS II LIQUIDS HAVE A FLASH POINT AT OR ABOVE ONE HUNDRED DEGREES FAHRENHEIT AND BELOW ONE HUNDRED FORTY DEGREES FAHRENHEIT.

(b) CLASS IIIA LIQUIDS HAVE A FLASH POINT AT OR ABOVE ONE HUNDRED FORTY DEGREES FAHRENHEIT AND BELOW TWO HUNDRED DEGREES FAHRENHEIT.

(c) CLASS IIIB LIQUIDS HAVE A FLASH POINT AT OR ABOVE TWO HUNDRED DEGREES FAHRENHEIT.

**SECTION 3.** 8-20-203 (1), (2), and (3), Colorado Revised Statutes, are amended to read:

**8-20-203. Inspection.** (1) All fuel products included within classes ~~A and B~~, I AND II shall be inspected and the containers of such products marked by brand or stencil as provided in this part 2, and all fuel products shall comply with the specifications provided for in this part 2.

(2) Fuel products included in class ~~E~~ III shall be subject to inspection.

(3) All transports and other tank trucks used to carry fuel products shall prominently display thereon, in letters at least three inches in height, the name and address of the owner or operator thereof. All such transport, tank, and delivery trucks shall also display prominently upon the rear of the tank the ~~word "Gasoline" in broad letters at least three inches in height~~ APPROPRIATE DOT PLACARD FOR THE PRODUCT CONTAINED THEREIN.

**SECTION 4.** 8-20-204 (1), (5), and (6), Colorado Revised Statutes, are amended to read:

**8-20-204. Specifications - classes I, II, and III.** (1) All products in ~~class A~~ CLASSES I, II, AND III shall comply with the most current APPLICABLE specifications of ~~the American society for testing and materials~~ ASTM, which are found in ~~publication number D-4814~~ SECTION 5 OF THAT ORGANIZATION'S PUBLICATION "PETROLEUM PRODUCTS, LUBRICANTS, AND FOSSIL FUELS" and supplements thereto or revisions thereof as may be designated by ~~said society~~ ASTM, except as modified or rejected by this article or any rule or regulation promulgated pursuant to this article. ~~with the exception of the products commonly known as naphtha, benzol, benzine, and benzene. If the class A products are blended with ethanol, the American society for testing and materials specifications shall apply only to the class A product prior to blending.~~ IF GASOLINE IS BLENDED WITH ETHANOL, THE ASTM D 4814 SPECIFICATIONS SHALL APPLY TO THE BASE GASOLINE PRIOR TO BLENDING. BLENDS OF GASOLINE AND ETHANOL SHALL NOT EXCEED THE ASTM D 4814 VAPOR PRESSURE STANDARD BY MORE THAN 1.0 PSI. Class ~~A~~ I products shall not be blended at a retail location with products commonly and commercially known as casinghead gasoline, absorption gasoline, condensation gasoline, drip gasoline, or natural gasoline.

(5) To further avoid the perpetration of fraud upon the users and purchasers of motor fuel offered for sale for highway vehicle use, the artificial coloring of such motor fuel is absolutely prohibited, except in motor fuel having a research octane rating of eighty-eight or better after coloring, AS DETERMINED by the ~~American society for testing materials~~ ASTM'S RESEARCH method.

(6) ~~In no case shall motor fuel of advertised trademark quality be sold or offered for sale, unless the octane number by the American society for testing materials~~

~~research method will not be less than one and five-tenths octane number of that specified by the owner of said trademark or trade name.~~ THE SALE OF ANY PRODUCT UNDER ANY GRADE NAME THAT INDICATES TO THE PURCHASER THAT IT IS OF A CERTAIN AUTOMOTIVE FUEL RATING OR ASTM GRADE SHALL NOT BE PERMITTED UNLESS THE AUTOMOTIVE FUEL RATING OR GRADE INDICATED IN THE GRADE NAME IS CONSISTENT WITH THE VALUE AND MEETS THE APPLICABLE REQUIREMENTS OF ASTM. THE AKI SHALL NOT BE LESS THAN THE AKI POSTED ON THE PRODUCT DISPENSER OR AS CERTIFIED ON THE INVOICE, BILL OF LADING, SHIPPING PAPER, OR OTHER DOCUMENTATION.

**SECTION 5. Repeal.** 8-20-205, Colorado Revised Statutes, is repealed as follows:

**8-20-205. Specifications of kerosene.** ~~(1) Kerosene shall comply with the following specifications:~~

~~(a) The oil shall be free from water, glue, and suspended matter;~~

~~(b) The color shall not be darker than plus 16 Saybolt;~~

~~(c) The flash point shall not be lower than one hundred fifteen degrees Fahrenheit, tag closed tester;~~

~~(d) The sulphur shall not exceed two-tenths percent;~~

~~(e) The end point shall not be higher than six hundred twenty-five degrees Fahrenheit;~~

~~(f) The oil shall not show a cloud at five degrees Fahrenheit;~~

~~(g) The oil shall burn freely and steadily for sixteen hours.~~

~~(2) All tests shall be made in accordance with the most recent American society for testing materials standard methods of tests.~~

**SECTION 6.** 8-20-206, Colorado Revised Statutes, is amended to read:

**8-20-206. Shipper notify director of division of oil and public safety.** (1) Any person who ships fuel products included in classes ~~A and B~~ I AND II into the state, or who ships such fuel products from any refinery or pipeline terminal within the state to another point within the state, shall notify the director of the division of oil and public safety of the shipment within twenty-four hours after the shipment has been billed for departure in the case of tank cars, or after the shipment has been loaded for departure in the case of barrels, trucks, or tank wagons. At the same time, such person shall forward to the director of the division of oil and public safety a true sample of the contents of the shipment weighing at least eight ounces, with the specifications thereof and the number and initial of the tank car, or if some other method of transportation is used, an adequate description of the means of conveyance or container, so as to enable identification of the shipment. Any person who diverts a shipment of such fuel products into the state of Colorado from outside the state shall give the same notice and forward the same type of sample to the director of the

division of oil and public safety within twenty-four hours after the billing of the shipment is changed to a Colorado destination.

(2) If more than one car of fuel products included in classes ~~A and B~~ I AND II is shipped at the same time from the same source and refinery run, the director of the division of oil and public safety may accept one sample for all or any part of such shipment.

**SECTION 7.** 8-20-206.5 (4) (b), Colorado Revised Statutes, is amended to read:

**8-20-206.5. Environmental response surcharge - liquefied petroleum gas inspection fund.** (4) For the purposes of this section:

(b) "Fuel product" means gasoline, blended gasoline, gasoline sold for gasohol production, gasohol, diesel, BIODIESEL BLENDS, and special fuels, and special fuel mixes with alcohol.

**SECTION 8.** 8-20-207, Colorado Revised Statutes, is amended to read:

**8-20-207. Method of tests.** Tests made by the director of the division of oil and public safety shall be made in accordance with the most recent standard methods of tests of ~~the American society for testing materials~~ ASTM. The director of the division of oil and public safety is not required in every case to make a complete analysis to ascertain every form of impurities, such as sulphur and tar-like matter, but when, in the opinion of the director, ~~of the division of oil and public safety~~, a more complete analysis is necessary or advisable, the director may make a detailed chemical analysis to determine exactly the impurities or imperfections. The director in his or her discretion is authorized to make inspections of petroleum products loaded for shipment into this state, at points outside of this state.

**SECTION 9.** 8-20-208 (2), Colorado Revised Statutes, is amended to read:

**8-20-208. Director to keep record.** (2) If any fuel products included in classes ~~A and B~~ I AND II have been rejected, such report shall show THE date and place thereof and quantity rejected, together with the name of the person ~~having it in his possession~~ POSSESSING IT, together with a record from whom received. All such records shall be open for public inspection.

**SECTION 10.** 8-20-209 (2), Colorado Revised Statutes, is amended to read:

**8-20-209. Access to premises - records.** (2) Every distributor shall keep a complete and accurate record of the number of gallons, as covered in classes ~~A and B~~ I AND II, sold by ~~him~~ SUCH DISTRIBUTOR and of the number of gallons of fuel used by ~~him~~ SUCH DISTRIBUTOR, the date of such sales and of such use, and, except in the case of retail sales through filling stations operated by such distributor, the names and addresses of the purchasers.

**SECTION 11.** 8-20-211, Colorado Revised Statutes, is amended to read:

**8-20-211. Labeling visible containers.** All visible containers and all devices used for drawing class ~~A~~ I product from underground OR ABOVEGROUND containers

at filling stations, garages, or other places where such products are sold or offered for sale shall be stamped or labelled in a visible place with the letters and figures:

"State Inspected .....(Date).....".

**SECTION 12.** 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~~ I fuel products and at least two percent by volume of alcohol 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 in the motor fuel blend. If the volume of ethanol exceeds ten percent, or if the volume of methanol exceeds two 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 that identifies the maximum percentage by volume to the nearest whole percent of ethanol or of methanol or methanol with cosolvents.

**SECTION 13.** 8-20-215, Colorado Revised Statutes, is amended to read:

**8-20-215. Mislabeling.** No person shall mark, stencil, brand, or certify falsely any pump, receptacle, or container of fuel products, or change, alter, or deface the mark, brand, or a certificate on any such pump, receptacle, or container, or falsely represent the quality or ~~kind~~ GRADE of any fuel product.

**SECTION 14.** 8-20-218 (1) and (2), Colorado Revised Statutes, are amended to read:

**8-20-218. Calibration of transport, tank truck, or delivery trucks.** (1) The director of the division of oil and public safety shall calibrate transport, trailer, and delivery truck tanks to determine the legal capacity of each compartment, allowing for expansion outage to conform to ~~16 C.F.R.~~ DOT regulations, except in the case of delivery truck tanks where two percent outage will suffice. Each tank compartment shall have affixed and spot-welded by the owner or operator thereof a capacity marker, which shall be set by measuring with a steel rule from the bottom of a steel bar set across the fill opening to the bottom of the marker (floated). The compartment gallonage shall be marked or stenciled with paint in figures at least one inch in height on each compartment dome collar.

(2) All new or additional vehicular tanks purchased or leased after April 6, 1955, by any person for hauling class ~~A, B, or C~~ I, II, OR III petroleum products within or into the state shall be calibrated by the director of the division of oil and public safety and a certificate of calibration shall be issued to the owner or operator thereof before such equipment is put in service. A copy of the certificate of calibration ~~must~~ SHALL accompany the tank at all times.

**SECTION 15.** 8-20-222, Colorado Revised Statutes, is amended to read:

**8-20-222. Improvers of products.** All materials, fluids, or substances offered for sale or exposed for sale, purporting to be substances for, or improvers of, ~~gasoline,~~

~~naphtha, motor spirits, or any products of petroleum~~ FUEL PRODUCTS to be used for power, heating, lubricating, or illuminating purposes, before being sold, exposed, or offered for sale, shall be submitted to the director of the division of oil and public safety for examination and inspection, and shall only be sold or offered for sale when properly labeled with a label, the form and contents of which label has been approved by the director in writing.

**SECTION 16.** 8-20-223, Colorado Revised Statutes, is amended to read:

**8-20-223. Containers - inspection.** It is the duty of the director of the division of oil and public safety and the director's deputies to inspect all containers or storage tanks from which products of petroleum to be used for illuminating or power purposes are retailed. When such containers or storage tanks are found to be placed in an unsafe position or to contain water or foreign matter, the director shall make a written order to have the same properly cleaned or removed, and upon failure of the owner to comply with said order within ten days ~~from~~ AFTER the date thereof, the director shall confiscate and cause the same to be destroyed or removed. All vendors of classes ~~A, B, and C~~ I, II, AND III fuel products shall have fire extinguishers in their establishments.

**SECTION 17.** 8-20-225 (2), Colorado Revised Statutes, is amended to read:

**8-20-225. Measuring device - sealing - approval of prover and procedure.** (2) The specifications, tolerances, and other technical requirements published in the ~~national bureau of standards~~ NIST handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Commercial Weighing and Measuring Devices", NIST HANDBOOK 130, "UNIFORM LAWS AND REGULATIONS IN THE AREA OF LEGAL METROLOGY AND ENGINE FUEL QUALITY", and supplements thereto or revisions thereof, shall apply to the provisions of this article, except as modified or rejected by this article or any rule ~~or regulation~~ promulgated pursuant to this article.

**SECTION 18.** 8-20-227, Colorado Revised Statutes, is amended to read:

**8-20-227. Tests used.** Where no tests are specified in this part 2, the most recent tests prescribed, accepted, and considered as standards by ~~the American society of testing materials~~ ASTM OR NIST shall be used.

**SECTION 19.** 8-20-231, Colorado Revised Statutes, is amended to read:

**8-20-231. Minimum standards.** The design, construction, location, installation, and operation of liquid fuel systems and equipment and the ~~transporting and~~ handling of liquid fuels shall conform to the minimum standards as prescribed by the applicable sections of the current edition of the national fire code published by the national fire protection association, as revised by the association from time to time. The minimum standards as prescribed shall also apply to marine and pipeline terminals, natural gasoline plants, refineries, tank farms, underground storage facilities, aboveground storage facilities, and chemical plants utilizing liquid fuels; except that the gallon limitations in such minimum standards shall not apply to aboveground storage facilities associated with mining, oil and gas production facilities, asphalt or concrete production, construction projects, and activities related thereto. Copies of the codes shall be kept and maintained in the office of the director

of the division of oil and public safety at all times for examination by any interested person.

**SECTION 20.** 8-20-411 (2), Colorado Revised Statutes, is amended to read:

**8-20-411. Location and charging of containers.** (2) ~~Surface transportation board~~ DOT containers not provided with excess flow or back-flow check valves shall not be filled within the limits or boundaries of an area in which two or more mobile vehicles are situated. Such containers shall be filled in accordance with the applicable provisions of basic rules and of the national fire code, at a properly equipped container filling plant. Such plant shall be located at least fifty feet from the nearest trailer, important building, or line of property ~~which~~ THAT may be built upon, and at least twenty-five feet from any public road, street, or highway. Such filling plant shall be enclosed by man-proof fencing or otherwise protected from tampering or physical damage. The area shall be kept locked when unattended.

**SECTION 21.** 8-20.5-101 (6), Colorado Revised Statutes, is amended to read:

**8-20.5-101. Definitions.** As used in this article, unless the context otherwise requires:

(6) "Fuel products" means all gasoline, ~~benzine, benzene, naphtha, benzol,~~ AVIATION GASOLINE, DIESEL, AVIATION TURBINE FUEL, JET FUEL, FUEL OIL, BIODIESEL, BIODIESEL BLENDS, kerosene, ALL ALCOHOL BLENDED FUELS, GAS OR GASEOUS COMPOUNDS, and other volatile, ~~and inflammable~~ FLAMMABLE, OR COMBUSTIBLE liquids, produced, compounded, and offered for sale or used for the purpose of generating heat, light, or power in internal combustion engines OR FUEL CELLS, FOR cleaning or for any other similar usage.

**SECTION 22. Effective date.** This act shall take effect at 12:01 a.m. on the day following the expiration of 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 (August 10, 2005, if adjournment sine die is on May 11, 2005); except that, if 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.

Approved: June 3, 2005