

C. Uniform Engine Fuels and Automotive Lubricants Inspection Law

as adopted by
The National Conference on Weights and Measures*

1. Background

In 1984, the National Conference on Weights and Measures (NCWM) adopted a section in the Uniform Regulation for the Method of Sale of Commodities requiring that motor fuel containing alcohol be labeled to disclose to the retail purchaser that the fuel contains alcohol. The delegates deemed this action necessary since motor vehicle manufacturers were qualifying their warranties with respect to some gasoline-alcohol blends, motor fuel users were complaining to weights and measures officials about fuel quality and vehicle performance, and the American Society for Testing and Materials (ASTM) had not yet finalized quality standards for oxygenated (which includes alcohol-containing) fuels. While many argued that weights and measures officials should not cross the line from quantity assurance programs to programs regulating quality, the delegates were persuaded that the issue needed immediate attention.

A Motor Fuels Task Force was appointed in 1984 to develop mechanisms for achieving uniformity in the evaluation and regulation of motor fuels. The Task Force developed the Uniform Motor Fuel Inspection Law and the Uniform Motor Fuel Regulation (see the Uniform Regulations section of this Handbook) to accompany the Law. The recommended Law required registration and certification of motor fuel as meeting ASTM standards. It established a motor fuel quality testing capability by the state. Funding for the installation and support of the testing facility was established by a fee per liter or per gallon on all fuel marketed within the state.

In 1992, the NCWM established the Petroleum subcommittee under the Laws and Regulations Committee. The subcommittee recommended major revisions to the Law that was adopted at the 80th NCWM in 1995. The scope of the Law was expanded to include all engine fuels, petroleum products, and automotive lubricants, and its title was changed accordingly. Other changes included expansion of the definitions section, limitation of the scope of the registration section to engine fuels designed for special use, and addition of sections on administrative and civil penalties and on criminal penalties.

In 2007 the Fuel and Lubricants Subcommittee (formerly the Petroleum Subcommittee) undertook a review of this uniform law to update it to eliminate reference to “petroleum products” and reflect the addition of new engine fuels to the marketplace. The amendments included new provisions to provide officials with the authority to review delivery records and grant waivers of requirements adopted under the law in times of emergency or natural disasters.

At the 2008 NCWM Interim Meeting, the Laws and Regulations Committee changed the Petroleum Subcommittee’s name to the Fuels and Lubricants Subcommittee (FALS) in recognition of its work with a wide variety of fuels including petroleum and biofuels.

2. Status of Promulgation

The current Uniform Engine Fuels and Automotive Lubricants Inspection Law was recommended for adoption by the Conference in 2008. The table beginning on page 10, Section II. Uniformity of Laws and Regulations of Handbook 130 shows the status of adoption of the law.

(Amended 2008)

**The National Conference on Weights and Measures (NCWM) is supported by the National Institute of Standards and Technology (NIST) in partial implementation of its statutory responsibility for “cooperation with the states in securing uniformity in weights and measures laws and methods of inspection.”*

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Uniform Engine Fuels and Automotive Lubricants Inspection Law

Section 1. Purpose

There should be uniform requirements for engine fuels, non-engine fuels, and automotive lubricants among the states. This Act provides for the establishment of quality specifications for these products.

(Amended 2008)

Section 2. Scope

The Act establishes a sampling, testing, and enforcement program, provides authority for fee collection, requires registration of engine fuels, and empowers the state to promulgate regulations as needed to carry out the provisions of the Act. It also provides for administrative, civil, and criminal penalties.

Section 3. Definitions

As used in this act:

3.1. Engine Fuel. – Any liquid or gaseous matter used for the generation of power in an internal combustion engine.

3.2. Director. – The _____ of the Department of _____ and designated agents.

3.3. Person. – An individual, corporation, company, society, association, partnership, or governmental entity.

3.4. ASTM International. (www.astm.org) – An international voluntary consensus standards organization formed for the development of standards on characteristics and performance of materials, products, systems, and services, and the promotion of related knowledge.

3.5. Automotive Lubricants. – Any material interposed between two surfaces that reduces the friction or wear between them.

3.6. Engine Fuel Designed for Special Use. – Engine fuels designated by the Director requiring registration. These fuels normally have no ASTM or other national consensus standards applying to their quality or usability; common special fuels are racing fuels and those intended for agricultural and other off-road applications.

3.7. Sold. – Kept, offered, or exposed for sale.

3.8. Non-engine Fuels. – Any liquid or gaseous matter used for the generation of heat, power, or similar uses.

(Added 2008)

Section 4. Administration, Adoption of Standards, and Rules

The provisions of this Act shall be administered by the Director. For the purpose of administering and giving effect to the provisions of this Act, the specification and test method standards set forth in the most recent version available of ASTM International standards as published on its website www.astm.org are adopted except as amended or modified as required by the Director to comply with federal and state laws. When no ASTM standard exists, other generally recognized national consensus standards may be used. The Director is empowered to write rules and regulations on the advertising, posting of prices, labeling, standards for, and identity of fuels, non-engine fuels, and automotive lubricants and is authorized to establish a testing laboratory.

(Amended 2008)

Section 5. General Duties and Powers

The Director shall have the authority to:

5.1. Enforce and administer all the provisions of this Act by inspections, analyses, and other appropriate actions.

5.2. Have access during normal business hours to all places where engine fuels, non-engine fuels, and automotive lubricants are kept, transferred, offered, exposed for sale, or sold for the purpose of examination, inspection, taking of samples, and review of fuel storage, receipts, transfers, sales records, or delivery records for determining compliance with this Act. If such access is refused by the owner, agent, or other persons leasing the same, the Director may obtain an administrative search warrant from a court of competent jurisdiction.

(Amended 2008)

5.3. Collect, or cause to be collected, samples of engine fuels, non-engine fuels, and automotive lubricants marketed in this state, and cause such samples to be tested or analyzed for compliance with the provisions of this Act.

(Amended 2008)

5.4. Define engine fuels for special use and refuse, revoke, suspend, or issue a stop-order if found not to be in compliance and remand stop-order if the engine fuel for special use is brought into full compliance with this Act.

5.5. Issue a stop-sale order for any engine fuel, non-engine fuels, and automotive lubricant found not to be in compliance and remand a stop-sale order if the engine fuel, petroleum product, or automotive lubricant is brought into full compliance with this Act.

(Amended 2008)

5.6. Refuse, revoke, or suspend the registration of an engine fuel, petroleum product, or automotive lubricant.

5.7. Delegate to appropriate personnel any of these responsibilities for the proper administration of this Act.

5.8. The Director is empowered to waive specific state requirements adopted under this Act or may establish alternative requirements for fuels as determined to be necessary in the event of an emergency or a natural disaster for a specified period of time.

(Added 2008)

Section 6. Registration of Engine Fuels Designed for Special Use

All engine fuels designed for special use must be registered with the Director. Such registration shall include:

6.1. Name, brand, or trademark under which the fuel will be sold.

6.2. Name and address of person registering the engine fuel.

6.3. The special use for which the engine fuel is designed.

6.4. A certification, declaration, or affidavit stating the fuel specifications.

Section 7. Inspection Fee

There shall be a fee of \$_____ per appropriate unit of measure on all products covered under the scope of this Act marketed within this state for the purposes of administering and effectively enforcing the provisions of this Act.

Section 8. Prohibited Acts

It shall be unlawful to:

8.1. Represent engine fuels, non-engine fuels, or automotive lubricants in any manner that may deceive or tend to deceive the purchaser as to the nature, brand, price, quantity, and/or quality of such products.

(Amended 1996 and 2008)

8.2. Fail to register an engine fuel designed for special use.

8.3. Submit incorrect, misleading, or false information regarding the registration of an engine fuel designed for special use.

8.4. Hinder or obstruct the Director in the performance of the Director's duties.

8.5. Represent an engine fuel, non-engine fuels, or automotive lubricant that is contrary to the provisions of this Act.

(Amended 2008)

8.6. Represent automotive lubricants with an S.A.E. (Society of Automotive Engineers) viscosity grade or API (American Petroleum Institute) service classification other than those specified by the intended purchaser.

(Added 1996)

Section 9. Civil Penalties

9.1. Assessment of Penalties. – Any person who, by himself or herself, by his or her servant or agent, or as the servant or agent of another person commits any of the acts enumerated in Section 8. Prohibited Acts may be assessed by the _____ a civil penalty of:

(a) not less than \$ _____ nor more than \$ _____ for a first violation;

(b) not less than \$ _____ nor more than \$ _____ for a second violation within _____ from the date of the first violation; and

(c) not less than \$ _____ nor more than \$ _____ for a third violation within _____ from the date of the first violation.

9.2. Administrative Hearing. – Any person subject to a civil penalty shall have a right to request an administrative hearing within _____ days of receipt of the notice of the penalty. The Director or his/her designee shall be authorized to conduct the hearing after giving appropriate notice to the respondent. The decision of the Director shall be subject to appropriate judicial review.

9.3. Collection of Penalties. – If the respondent has exhausted his or her administrative appeals and the civil penalty has been upheld, he or she shall pay the civil penalty within _____ days after the effective date of the final decision. If the respondent fails to pay the penalty, a civil action may be brought by the Director in any court of competent jurisdiction to recover the penalty. Any civil penalty collected under this Act shall be transmitted to _____.

Section 10. Criminal Penalties

10.1. Misdemeanor. – Any person who violates any provision of this Act or regulations promulgated thereto shall be guilty of a Class _____ misdemeanor and upon conviction shall be punished by a fine of not less than \$ _____ nor more than \$ _____, or imprisonment for not less than _____ nor more than _____, or both.

10.2. Felony. – Any person who intentionally violates any provision of this Act or regulations promulgated thereto or is convicted under the misdemeanor provisions of this section more than three times in a two-year period shall be guilty of a Class _____ felony and upon conviction shall be punished by a fine of not less than \$ _____ nor more than \$ _____, or imprisonment for not less than _____ nor more than _____, or both.

Section 11. Restraining Order and Injunction

The Director is authorized to apply to any court of competent jurisdiction for a restraining order or a temporary or permanent injunction restraining any person from violating any provision of this Act.

Section 12. Severability Provisions

If any word, phrase, provision, or portion of this Act shall be held in a court of competent jurisdiction to be unconstitutional or invalid, the unconstitutionality or invalidity shall apply only to such word, phrase, provision, or portion, and for this purpose the provisions of this Act are declared to be severable.

Section 13. Repeal of Conflicting Laws

All laws and parts of laws contrary to or inconsistent with the provisions of this Act are repealed except as to offense committed, liabilities incurred, and claims made there under prior to the effective date of this Act.

Section 14. Citation

This Act may be cited as the “Engine Fuels and Automotive Lubricants Inspection Act of _____.”
(Amended 2008)

Section 15. Effective Date

This Act shall become effective on _____.