



www.lsc.ohio.gov

# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 499  
133<sup>rd</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsors:** Reps. Kelly and Lang

[Click here for H.B. 499's Fiscal Note](#)

Amanda George Goodman, Attorney

### SUMMARY

- Authorizes a county auditor to implement a motor fuel quality testing program.
- Requires a county auditor that implements a motor fuel quality testing program to ensure that proper testing equipment is used by a fuel inspector.
- Specifies various duties a fuel inspector must perform when testing the quality of motor fuel.
- Requires a motor fuel retail dealer (for example, a gas station owner) to allow the fuel inspector to perform various tests of the retail dealer's motor fuel pumps and storage tanks.
- Establishes enforcement procedures for violations of a county's program standards.
- Allows any county that lawfully implemented a motor fuel quality testing program prior to the bill's effective date to continue that program, thus exempting that county from the bill's provisions.

### DETAILED ANALYSIS

#### Motor fuel quality testing

##### Overview

Currently, the Director of Agriculture may adopt rules establishing a statewide motor fuel quality testing program.<sup>1</sup> However, the Director has not yet established a statewide

---

<sup>1</sup> R.C. 1327.70(B).

program. The bill allows counties to establish their own program; however, a county can only implement a program absent a statewide program that is funded and implemented.

### **County motor fuel quality testing programs**

As indicated above, unless a statewide motor fuel quality testing program is established by the Director and is funded and implemented by the Department of Agriculture, a county auditor may implement a motor fuel quality testing program in the auditor's county. Under the program, a fuel inspector may test motor fuel quality for octane level, sediment, and water in the fuel. The bill prohibits a fuel inspector from charging any inspection or registration fees to perform motor fuel quality testing.<sup>2</sup>

Under current law, motor fuel is gasoline or diesel fuel that is sold by a retailer. The bill expands the definition of motor fuel to include any of the following types of fuel that is sold by a retail dealer (any person that sells or distributes motor fuel at a retail service station located in Ohio):

1. Conventional fuel (which is gasoline and diesel fuel);
2. Biodiesel (which is a mono-alkyl ester combustible liquid fuel that is derived from vegetable oils or animal fats, or any combination of those reagents that meets the American Society for Testing and Materials (ASTM) International specification for biodiesel fuel (B100) blend stock distillate fuels and any other standards that the Director of Administrative Services adopts by rule);
3. Blended biodiesel fuel (which is a blend of biodiesel with petroleum based diesel fuel in which the resultant product contains at least 20% biodiesel that meets the ASTM International specification for blended diesel fuel and any other standards that the Director of Administrative Services adopts by rule); and
4. Ethanol extended fuel (which is a mixture of gasoline and ethanol).<sup>3</sup>

### **Equipment**

The bill requires a county auditor who implements a motor fuel quality testing program to acquire testing equipment or ensure that testing equipment is available for the county's program. The county auditor must ensure that the testing equipment meets the most recent standards established by the ASTM International.

A county auditor may contract with another county to use that county's testing equipment so long as the contract provides that the testing is performed by a fuel inspector (who is the county auditor or a person who is designated by the county auditor to perform motor fuel quality testing)<sup>4</sup> from the county that owns the testing equipment. The bill prohibits

---

<sup>2</sup> R.C. 1327.70(C)(1).

<sup>3</sup> R.C. 1327.70(A); R.C. 125.831 and R.C. 5735.01, not in the bill.

<sup>4</sup> R.C. 1327.70(A).

a county auditor from allowing the county's testing equipment to be used in any other county for fuel quality testing purposes unless a fuel inspector for the county that owns the equipment is conducting the testing.<sup>5</sup> For example, suppose Delaware County and Franklin County establish their own motor fuel quality testing programs. Delaware County does not own any equipment to conduct the motor fuel quality testing, but Franklin County does own the necessary equipment. Delaware County can contract to use Franklin County's equipment, but Delaware County's testing must be done by a fuel inspector from Franklin County.

### **Fuel inspector duties**

Under the bill, a fuel inspector must do all of the following when performing motor fuel quality testing:

1. Use testing equipment that meets the most recent standards established by the ASTM International;
2. Adhere to any standard or guideline set forth by the Director of Agriculture relating to petroleum product quality and sampling and testing methods that are consistent with the ASTM; and
3. Adhere to the following motor fuel quality testing compliance standards (unless they are inconsistent with the Director's standards and guidelines):
  - a. Fuel storage tanks cannot exceed  $\frac{1}{4}$  inch of water for ethanol extended fuel and cannot exceed two inches of water for conventional fuel.
  - b. Gasoline and ethanol extended fuel octane levels tested at the pump must be within one octane point of the octane level listed on the pump.
  - c. Gasoline and ethanol extended fuel tested at the pump, per ASTM requirements, must be visually free of undissolved water, sediment, and suspended matter and must be clear and bright at either an ambient temperature or 70 degrees Fahrenheit, whichever is higher.
  - d. Diesel fuel tested at the pump must meet the standards defined by the ASTM.<sup>6</sup>

A fuel inspector must transmit data collected from motor fuel quality testing to the Director of Agriculture. The Director must compile the data, including dates, locations, and results received from fuel inspectors, and make the data accessible to the public via the Department of Agriculture's website.<sup>7</sup>

---

<sup>5</sup> R.C. 1327.70(C)(2).

<sup>6</sup> R.C. 1327.70(E).

<sup>7</sup> R.C. 1327.70(G).

## **Retail dealer duties**

If a county auditor implements a fuel quality testing program, a motor fuel retail dealer (for example, a gas station owner) must do all of the following when requested by a fuel inspector:

1. Allow the fuel inspector to test the octane level and sediment from the retail dealer's motor fuel pumps;
2. Allow the fuel inspector to test the water and sediment in the retail dealer's motor fuel storage tanks;
3. Allow the fuel inspector to pump a sample of motor fuel, free of charge and in containers provided by the fuel inspector, in an amount required by the fuel inspector for testing.<sup>8</sup>

## **Penalties**

If a retail dealer is in violation of a motor fuel quality standard detected at a retail service station for the first time, a fuel inspector must issue to the retail dealer one of the following:

1. An order to stop selling fuel until the fuel is in compliance with the standards of the program as determined by the fuel inspector;
2. A written citation; or
3. Both an order to stop selling and written citation.<sup>9</sup>

A retail dealer must correct any violation described in an order within seven days after the order or citation is issued. Failure to do so constitutes a subsequent offense. A retail dealer who violates the program's standards is also subject to a civil penalty established as follows:

1. By the Director via rules adopted within 90 days of the bill's effective date; or
2. By rule adopted by the county auditor if the Director does not adopt any rules as authorized by the bill. Rules adopted by the county auditor remain in effect until the Director adopts rules governing civil penalties.

All civil penalties collected must be deposited into the applicable county general fund. The Director also must adopt rules that establish procedures by which a retail dealer may appeal an order or citation issued by a fuel inspector.<sup>10</sup>

---

<sup>8</sup> R.C. 1327.70(D).

<sup>9</sup> R.C. 1327.70(F)(1).

<sup>10</sup> R.C. 1327.70 (F)(2), (3), and (4).

## Grandfather clause for existing county programs

The bill specifies that any county that lawfully implemented a motor fuel quality testing program prior to the bill's effective date is exempt from the bill's provisions, including the testing requirements and data transmission. A county that has an established program prior to the bill's effective date may continue to implement the motor fuel quality testing program as that program existed prior to the effective date of the bill.

Currently, only Summit County operates a motor fuel quality testing program in Ohio. Summit County is a charter county, meaning it may exercise certain home rule powers in the same manner as a municipal corporation.<sup>11</sup> There are only two charter counties in Ohio, Summit and Cuyahoga. All other counties are not charter counties, do not have independent home rule powers, and are not authorized under Ohio law to implement a motor fuel testing quality program.

---

## HISTORY

Action	Date
Introduced	02-10-20

---

H0499-I-133/ts

---

<sup>11</sup> See Ohio Constitution, Article X, Section 3.