

55-527. Limitation of MTBE in motor vehicle fuel; contingent on EPA waiver. (a) As used in this section, terms have the meanings provided by K.S.A. 79-3401, and amendments thereto.

(b) Subject to the provisions of subsection (h), on and after July 1, 2004, no person shall sell or deliver to any distributor within Kansas or import into Kansas for sale in this state any motor-vehicle fuel containing methyl tertiary-butyl ether (MTBE) in quantities greater than 0.5% by volume.

(c) On and after July 1, 2003, the distributor shall be provided, at the time of delivery of motor-vehicle fuel, on an invoice, bill of lading, shipping paper or other documentation, a declaration of the MTBE content, by volume percent, in the motor-vehicle fuel delivered.

(d) Determination of the volume percentage of MTBE in motor-vehicle fuel shall be by one or more test methods approved by the secretary of agriculture.

(e) In no event shall the provisions of this section be interpreted to authorize quantities of MTBE in motor-vehicle fuels to exceed those specified in any applicable Kansas or federal statute.

(f) The secretary of health and environment or the director of the division of environment, upon a finding that a person knowingly and willfully has violated this section, may impose a penalty not to exceed \$10,000 which shall constitute an actual and substantial economic deterrent to the violation for which it is assessed. In the case of a continuing violation, every day such violation continues shall be deemed a separate violation. No such penalty shall be imposed except after notice of violation and opportunity for hearing upon the written order of the secretary or the director of the division of environment issued to the person who committed the violation. The order shall state the violation, the penalty to be imposed and the right to request a hearing thereon. The request for hearing shall be in writing, directed to the secretary and filed with the secretary within 15 days after service of the order. The hearings shall be conducted in accordance with the Kansas administrative procedure act.

(g) Nothing in this section shall be construed to abridge, limit or otherwise impair the right of any person to damages or other relief on account of injury to persons or property and to maintain any action or other appropriate proceeding therefor.

(h) The provisions of this section shall not take effect until the United States environmental protection agency grants a waiver allowing the state of Kansas to control or prohibit the use of MTBE in motor-vehicle fuels. The secretary of health and environment shall apply for such waiver in a timely manner in order to obtain such waiver prior to July 1, 2004.

History: L. 2001, ch. 137, § 1; July 1.