A BILL

To amend section 1327.70 of the Revised Code to authorize a county to implement a motor fuel quality testing program.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 1327.70 of the Revised Code be amended to read as follows:

Sec. 1327.70. (A) As used in this section:

(1) "Biodiesel” and "blended biodiesel” have the same meanings as in section 125.831 of the Revised Code.

"Conventional fuel” means gasoline and diesel fuel.

"Diesel fuel” has the same meaning as in section 5735.01 of the Revised Code.

(2) "Ethanol extended fuel” means a mixture of gasoline and ethanol.

"Fuel inspector” means a county auditor or any person who is designated by the county auditor to perform motor fuel quality testing under this section.
"Motor fuel" means gasoline or diesel any of the following types of fuel that is sold by a retailer retail dealer:

(1) Conventional fuel;

(2) Biodiesel or blended biodiesel fuel;

(3) Ethanol extended fuel.

"Retail dealer" has the same meaning as in section 5735.01 of the Revised Code.

"Retail service station" has the same meaning as in section 5735.01 of the Revised Code.

(B) The director of agriculture may adopt rules in accordance with Chapter 119. of the Revised Code establishing a motor fuel quality testing program that is uniform throughout the state.

(C)(1) Unless a motor fuel quality testing program is established in rules under division (B) of this section 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 whereby a fuel inspector may test motor fuel quality for octane level, sediment, and water in the fuel. No fuel inspector shall charge any inspection or registration fees to perform motor fuel quality testing.

(2) A county auditor who implements a motor fuel quality testing program under this section shall acquire testing equipment or ensure that testing equipment is available for the county's program. The county auditor shall ensure that the testing equipment meets the most recent standards established by the American society for testing and materials (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 from the county that owns the testing equipment. A county auditor shall not allow 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.

(D) If a county auditor implements a fuel quality testing program under this section, a retail dealer in the applicable county shall 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.

(E) A fuel inspector shall do all of the following when performing motor fuel quality testing:

(1) Use testing equipment that meets the most recent standards established by the American society for testing and materials (ASTM) international;

(2) Adhere to any standard or guideline set forth by the director of agriculture, in accordance with division (F)(3) of this section, relating to petroleum product quality and sampling and testing methods that are consistent with the ASTM;
(3) Except as otherwise provided in division (E)(2) of this section, adhere to the following motor fuel quality testing compliance standards:

(a) Fuel storage tanks shall not exceed one-quarter inch of water for ethanol extended fuel and shall not exceed two inches of water for conventional fuel.

(b) Gasoline and ethanol extended fuel octane levels tested at the pump shall 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, shall be visually free of undissolved water, sediment, and suspended matter and shall be clear and bright at either an ambient temperature or seventy degrees Fahrenheit, whichever is higher.

(d) Diesel fuel tested at the pump shall meet the standards defined by the ASTM.

(F)(1) For a first violation of a motor fuel quality standard detected at a retail service station, a fuel inspector shall issue to the applicable retail dealer an order to stop selling fuel until the fuel is in compliance with this section as determined by the fuel inspector, a written citation, or both an order to stop selling and written citation.

(2) A retail dealer shall correct any violation described in an order or citation issued under division (F)(1) of this section within seven days after the order or citation is issued. Failure to do so constitutes a subsequent offense.

(3) A fuel inspector, when issuing a written citation under division (F)(1) of this section, may impose a civil penalty on the retail dealer in accordance with rules adopted by
the director of agriculture under division (F)(4) of this section. If the director does not adopt such rules, the county auditor may adopt civil penalties for that county until such time that the director adopts the rules. All civil penalties collected under division (F)(3) of this section shall be deposited into the applicable county general fund.

(4) For purposes of a county auditor-implemented motor fuel quality testing program, the director of agriculture may adopt rules in accordance with Chapter 119. of the Revised Code establishing civil penalties for violations of motor fuel quality standards. Not later than ninety days after the effective date of this section, the director shall adopt rules in accordance with Chapter 119. of the Revised Code that establish procedures by which a retail dealer may appeal an order or citation issued under division (F) of this section.

(G) A fuel inspector shall transmit data collected from motor fuel quality testing to the director of agriculture. The director shall compile such 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.

(H) Any county that lawfully implemented a motor fuel quality testing program prior to the effective date of this section is exempt from divisions (C) to (G) of this section. Such a county may continue to implement the motor fuel quality testing program as that program existed prior to the effective date of this section.

Section 2. That existing section 1327.70 of the Revised Code is hereby repealed.