

As Introduced

134th General Assembly  
Regular Session  
2021-2022

S. B. No. 71

Senators Lang, Thomas  
Cosponsor: Senator Fedor

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A BILL

To amend section 1327.70 of the Revised Code to 1  
authorize a county to implement a motor fuel 2  
quality testing program. 3

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

**Section 1.** That section 1327.70 of the Revised Code be 4  
amended to read as follows: 5

**Sec. 1327.70.** (A) As used in this section: 6

~~(1) "Biodiesel" and "blended biodiesel" have the same 7  
meanings as in section 125.831 of the Revised Code. 8~~

"Conventional fuel" means gasoline and diesel fuel. 9

"Diesel fuel" has the same meaning as in section 5735.01 10  
of the Revised Code. 11

~~(2) "Ethanol extended fuel" means a mixture of gasoline 12  
and ethanol. 13~~

"Fuel inspector" means a county auditor or any person who 14  
is designated by the county auditor to perform motor fuel 15  
quality testing under this section. 16

"Motor fuel" means ~~gasoline or diesel~~ any of the following 17  
types of fuel that is sold by a ~~retailer~~ retail dealer: 18

(1) Conventional fuel; 19

(2) Biodiesel or blended biodiesel fuel; 20

(3) Ethanol extended fuel. 21

"Retail dealer" has the same meaning as in section 5735.01 22  
of the Revised Code. 23

"Retail service station" has the same meaning as in 24  
section 5735.01 of the Revised Code. 25

(B) The director of agriculture may adopt rules in 26  
accordance with Chapter 119. of the Revised Code establishing a 27  
motor fuel quality testing program that is uniform throughout 28  
the state. 29

(C) (1) Unless a motor fuel quality testing program is 30  
established in rules under division (B) of this section and is 31  
funded and implemented by the department of agriculture, a 32  
county auditor may implement a motor fuel quality testing 33  
program in the auditor's county whereby a fuel inspector may 34  
test motor fuel quality for octane level, sediment, and water in 35  
the fuel. No fuel inspector shall charge any inspection or 36  
registration fees to perform motor fuel quality testing. 37

(2) A county auditor who implements a motor fuel quality 38  
testing program under this section shall acquire testing 39  
equipment or ensure that testing equipment is available for the 40  
county's program. The county auditor shall ensure that the 41  
testing equipment meets the most recent standards established by 42  
the American society for testing and materials (ASTM) 43  
international. A county auditor may contract with another county 44

to use that county's testing equipment so long as the contract 45  
provides that the testing is performed by a fuel inspector from 46  
the county that owns the testing equipment. A county auditor 47  
shall not allow the county's testing equipment to be used in any 48  
other county for fuel quality testing purposes unless a fuel 49  
inspector for the county that owns the equipment is conducting 50  
the testing. 51

(D) If a county auditor implements a fuel quality testing 52  
program under this section, a retail dealer in the applicable 53  
county shall do all of the following when requested by a fuel 54  
inspector: 55

(1) Allow the fuel inspector to test the octane level and 56  
sediment from the retail dealer's motor fuel pumps; 57

(2) Allow the fuel inspector to test the water and 58  
sediment in the retail dealer's motor fuel storage tanks; 59

(3) Allow the fuel inspector to pump a sample of motor 60  
fuel, free of charge and in containers provided by the fuel 61  
inspector, in an amount required by the fuel inspector for 62  
testing. 63

(E) A fuel inspector shall do all of the following when 64  
performing motor fuel quality testing: 65

(1) Use testing equipment that meets the most recent 66  
standards established by the American society for testing and 67  
materials (ASTM) international; 68

(2) Adhere to any standard or guideline set forth by the 69  
director of agriculture, in accordance with division (F) (3) of 70  
this section, relating to petroleum product quality and sampling 71  
and testing methods that are consistent with the ASTM; 72

(3) Except as otherwise provided in division (E) (2) of 73  
this section, adhere to the following motor fuel quality testing 74  
compliance standards: 75

(a) Fuel storage tanks shall not exceed one-quarter inch 76  
of water for ethanol extended fuel and shall not exceed two 77  
inches of water for conventional fuel. 78

(b) Gasoline and ethanol extended fuel octane levels 79  
tested at the pump shall be within one octane point of the 80  
octane level listed on the pump. 81

(c) Gasoline and ethanol extended fuel tested at the pump, 82  
per ASTM requirements, shall be visually free of undissolved 83  
water, sediment, and suspended matter and shall be clear and 84  
bright at either an ambient temperature or seventy degrees 85  
Fahrenheit, whichever is higher. 86

(d) Diesel fuel tested at the pump shall meet the 87  
standards defined by the ASTM. 88

(F) (1) For a violation of a motor fuel quality standard 89  
detected at a retail service station, a fuel inspector shall 90  
issue to the applicable retail dealer an order to stop selling 91  
fuel until the fuel is in compliance with this section as 92  
determined by the fuel inspector. 93

(2) A fuel inspector, when issuing an order to stop 94  
selling fuel under division (F) (1) of this section, may impose a 95  
civil penalty on the retail dealer in accordance with rules 96  
adopted by the director of agriculture under division (F) (3) of 97  
this section. If the director does not adopt such rules, the 98  
county auditor shall not adopt civil penalties for that county. 99  
All civil penalties collected under division (F) (2) of this 100  
section shall be deposited into the applicable county general 101

fund. 102

(3) For purposes of a county auditor-implemented motor 103  
fuel quality testing program, the director of agriculture may 104  
adopt rules in accordance with Chapter 119. of the Revised Code 105  
establishing civil penalties for violations of motor fuel 106  
quality standards. The rules shall include procedures by which a 107  
retail dealer may appeal a civil penalty. Not later than ninety 108  
days after the effective date of this section, the director 109  
shall adopt rules in accordance with Chapter 119. of the Revised 110  
Code that establish procedures by which a retail dealer may 111  
appeal an order issued under division (F) of this section. 112

(G) A fuel inspector shall transmit data collected from 113  
motor fuel quality testing to the director of agriculture. The 114  
director shall compile such data, including dates, locations, 115  
and results received from fuel inspectors, and make the data 116  
accessible to the public via the department of agriculture's web 117  
site. 118

(H) Any county that lawfully implemented a motor fuel 119  
quality testing program prior to the effective date of this 120  
section is exempt from divisions (C) to (G) of this section. 121  
Such a county may continue to implement the motor fuel quality 122  
testing program as that program existed prior to the effective 123  
date of this section. 124

(I) Whenever the department of agriculture is notified of 125  
a United States environmental protection agency waiver of 126  
standards that applies to federal fuel standards, the department 127  
shall notify every county auditor's office. Any auditor 128  
participating in a fuel quality testing program under this 129  
section, or a fuel quality testing program implemented prior to 130  
the effective date of this section, shall only test for water 131

and sediment during the waiver period. 132

**Section 2.** That existing section 1327.70 of the Revised 133  
Code is hereby repealed. 134