



California
Air Resources Board
Compliance Division

Advisory

to: MOTOR FUEL DISTRIBUTORS,
CARRIERS, AND
RETAILERS

Number 71

July 21, 1991

Senate Bill 2521 was signed into law on September 22, 1990, adding Sections 43020 and 43021 to the California Health and Safety Code. The text of the new sections is reproduced below. Since the new law, which became effective January 1, 1991, materially affects most members of the motor vehicle fuel manufacturing and distribution industry, this advisory has been prepared to notify you of its provisions. Please read it carefully and be sure you understand it.

43020. (a) Any person who knowingly violates any regulation adopted pursuant to this part by the state board pertaining to motor vehicle fuels is guilty of a misdemeanor and is subject to a fine of not more than one thousand dollars (\$1,000) or imprisonment in the county jail for not more than six months, or both, for each violation.

(b) The recovery of civil penalties pursuant to Section 43016 precludes prosecution pursuant to this section for the same offense. When the executive officer refers a violation to a prosecuting attorney, the filing of a criminal complaint is grounds requiring the dismissal of any civil action brought pursuant to section 43016 for the same offense.

43021. (a) For purposes of this section, "motor vehicle fuel distributor" means any person who (1) refines, blends, or otherwise produces motor vehicle fuel, or (2) with an ownership interest in the fuel, transports or causes the transport of motor vehicle fuel at any point between a production or import facility and a retail outlet, or sells, offers for sale, or supplies motor vehicle fuel to motor vehicle fuel retailers.

(b) Any motor vehicle fuel distributor who conducts business within the state shall, not later than January 1, 1992, and annually thereafter on that date, inform the state board in writing of the distributor's principal place of business which shall be a physical address and not a post office box, and any other place of business at which company records are maintained or refining activities are conducted.

(c) The state board shall supply each complying motor vehicle fuel distributor with a certificate of compliance with this section not later than June 30. The certificate shall be effective from July 1 of the year of issuance through June 30 of the following year.

(d) All motor vehicle fuel distributors shall maintain complete records of each purchase, delivery, or supply of motor vehicle fuel for a period of not less than two years in the physical locations reported pursuant to subdivision (b) and shall not move the records to another physical location without notifying the state board of the new location. All such records are subject to physical inspection and photocopying by the state board. A complete record for each delivery shall consist of not less than a copy of the bills of lading from the refinery or bulk terminal from which the fuel is received, a copy of the delivery ticket or receipt showing the final destination of the fuel, and a copy of the invoice showing the purchaser of the fuel.

(e) Any motor vehicle fuel distributor who intentionally fails to comply with subdivision (b) or (d) is liable for a civil penalty not to exceed one thousand dollars (\$1,000) for each day of noncompliance.

(f) No person shall knowingly transport motor vehicle fuel for any motor vehicle fuel distributor who is not in possession of a current certificate of compliance as described in subdivision (c).

(c). Any person who transports or provides vehicles to transport motor vehicle fuel for a

noncomplying distributor is liable for a civil penalty not exceeding thousand dollars (\$10,000) per day as well as any penalties prescribed by Section 41963. However, any person who transports or provides vehicles to transport, motor vehicle fuel for a distributor who is in possession of a current certificate of compliance shall not be liable for any penalties under this subdivision or Section 41963 unless that person has specific knowledge of noncompliance.

(g) Any retailer who knowingly sells or supplies motor vehicle fuel which was delivered to the retailer by, or on behalf of, a noncomplying motor vehicle fuel distributor is liable for a civil penalty not to exceed ten thousand dollars (\$10,000) for each transaction.

(h) Any retailer who sells motor vehicle fuel that does not comply with regulations of the state board, after both oral and written notice to cease have been delivered to the owner, manager, or attendant on duty at the facility, and upon failure to comply with that notice, is subject to the issuance of a cease and desist order by the state board and a penalty of ten thousand dollars (\$10,000) for each day of noncompliance with the cease and desist order.

(i) The state board shall annually compile and publish a complete listing of all certified wholesale petroleum distributors, and shall mail a copy to every licensed transporter of petroleum products.

CRIMINAL PROSECUTION OF VIOLATING COMPANIES

SECTION 43020 applies to violations of any regulation adopted pursuant to Part 5 of the Health and Safety Code, which governs vehicular air pollution control, including the specification of vehicular fuel composition (Sections 43013 and 43018). The regulations of primary concern to motor vehicle fuel distributors are those governing the sale, transfer, and supply of motor vehicle fuel — particularly those concerned with the volatility (Reid vapor pressure), unsaturation (bromine number), sulfur content, and lead content of gasoline, and the sulfur content of diesel fuel.

CERTIFICATION OF MOTOR VEHICLE FUEL DISTRIBUTORS

SECTION 43021 adds to State law a program for the certification of motor vehicle fuel distributors who conduct business in California.

A REGISTRATION FORM IS ATTACHED. IF YOU ARE A MOTOR VEHICLE FUEL DISTRIBUTOR ACCORDING TO THE DEFINITION IN THE STATUTE, PLEASE COMPLETE IT AND RETURN IT TO THE FOLLOWING ADDRESS NO LATER THAN JANUARY 1, 1992:

James J. Morgester, Chief
Compliance Division
Air Resources Board
Post Office Box 2815
Sacramento, CA 95812

IF YOU ARE NOT SURE WHETHER YOU SHOULD REGISTER AS A DISTRIBUTOR OR YOU ARE NOT SURE WHICH PARTS OF THE NEW LAW AFFECT YOUR BUSINESS, PLEASE TELEPHONE JANICE ROSS AT (916) 327-1526.