

## CHAPTER 525

## GASOLINE AND OIL INSPECTION

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**525.01 Gasoline and oil to be inspected.—**

- (1) For the purpose of this chapter:  
 (a) "Department" means the Department of Agriculture and Consumer Services.  
 (b) "Petroleum fuel" means all gasoline, kerosene (except when used as aviation turbine fuel), diesel fuel benzine, or other like products of petroleum under whatever name designated, used for illuminating, heating, cooking, or power purposes, sold, offered, or exposed for sale in this state.  
 (2) All petroleum fuels shall be subject to inspection and analysis by the department. Before selling or offering for sale in this state any petroleum fuel, all manufacturers, wholesalers, and jobbers shall file with the department:  
 (a) An affidavit that they desire to do business in this state, and the name and address of the manufacturer of the petroleum fuel.  
 (b) An affidavit stating that the petroleum fuel is in conformity with the standards prescribed by department rule.

**History.**—s. 1, ch. 7905, 1919; CGL 3956; ss. 14, 35, ch. 69-106; s. 67, ch. 92-291; s. 1, ch. 94-335.

**525.02 Analyses of petroleum fuel.—**The department shall collect samples of any petroleum fuel sold, offered, or exposed for sale in this state. Collected samples will be analyzed by the department. The certificate of analysis by the department shall be prima facie evidence in any court of law or equity in this state.

**History.**—s. 2, ch. 7905, 1919; CGL 3957; ss. 14, 35, ch. 69-106; s. 68, ch. 92-291.

**525.035 Mislabeled petroleum fuel.—**

- (1) It shall be unlawful for any petroleum fuel to be mislabeled in any way.  
 (2) Petroleum fuel is deemed to be mislabeled:  
 (a) If the measuring device is labeled so as to misrepresent the product as to quality, content, or performance; or  
 (b) If the labeling on the measuring device is false or misleading in any particular.  
 (3) The mislabeled product shall be placed under a stop-sale order by the department and the measuring

devices and storage tanks of said product shall be sealed by the department to prohibit sale of said product.

- (4) The department shall issue a release order upon correction of the label or removal of said product from the premises in a manner approved by the department.

**History.**—s. 70, ch. 92-291; s. 2, ch. 94-335.

**525.037 Petroleum fuel standards.—**

- (1) It is unlawful to sell or distribute, or offer for sale or distribution, any petroleum fuel which fails to meet any standard adopted by rule of the department.  
 (2) The substandard product shall be placed under a stop-sale order by the department and the measuring devices and storage tanks of said product shall be sealed by the department to prohibit sale of said product.  
 (3) If the product is made to conform to standard or removed from the premises in a manner approved by the department, the department shall issue a release order.

**History.**—s. 71, ch. 92-291; s. 4, ch. 93-142.

**525.07 Powers and duties of department; inspections; unlawful acts.—**

- (1) The department shall inspect all measuring devices used in selling or distributing petroleum fuel at wholesale and retail.  
 (2) The department shall define, by rule, the tolerances to be allowed, in excess or deficiency, on all measuring devices.  
 (3) All persons who own or operate a petroleum fuel measuring device shall be responsible for ensuring accurate measure by the device within the tolerances defined by the rule. An appropriate security seal shall be placed on all measuring devices found to be giving accurate measure within the tolerances defined by the department in such a way that the metering adjustment cannot be changed without breaking the seal.  
 (4) Any measuring device that is found to be operating outside the tolerances defined by the department shall be deemed inaccurate and the department, at its discretion, shall either:  
 (a) Give, in writing, the operator or owner of the measuring device a reasonable time to repair the measuring device; or  
 (b) Condemn or prohibit the further use of the measuring device by using an appropriate security seal to obstruct the mechanism so that it cannot be operated without breaking the seal. The measuring device shall not be operated in this state again without the written consent of the department.  
 (5) It shall be unlawful for any person to operate any measuring device that has been condemned or prohibited from further use by the department, without the written consent of the department.  
 (6) It shall be unlawful for any person to install or operate a petroleum fuel measuring device in this state which gives short measure.

(7) It shall be unlawful for any person to break, cut, or remove any seal applied by the department to a petroleum fuel measuring device or container.

(8)(a) All persons and service agencies that repair or install petroleum fuel measuring devices must register with the department on forms provided by the department. Any registered person or agency that has installed a petroleum fuel measuring device must report the existence of the petroleum fuel measuring device to the department.

(b) If a vendor has a petroleum fuel measuring device installed by any person or agency that is not registered by the department, that owner must report the existence of the newly installed petroleum fuel measuring device to the department.

(9) All persons and service agencies that adjust the accuracy of a petroleum fuel measuring device must use test measures that have been calibrated with standards traceable to the National Institute of Standards and Technology within 1 year prior to the date of the adjustment.

**History.**—s. 7, ch. 7905, 1919; s. 2, ch. 10134, 1925; CGL 3963, 8119, 8120, 8121, 8122; s. 1, ch. 21883, 1943; s. 10, ch. 26484, 1951; ss. 14, 35, ch. 69-106; s. 1, ch. 70-439; s. 505, ch. 71-136; s. 1, ch. 71-152; s. 72, ch. 92-291; s. 3, ch. 94-335.

#### **525.08 Department to have access to all stores, warehouses, factories, petroleum terminals, storage houses, and railroad depots.—**

(1) In the performance of its duties, the department shall have free access during all reasonable hours to any store, warehouse, factory, petroleum terminal, storage house, or railway depot, where petroleum fuels are kept or otherwise stored, for the purpose of:

(a) Examination or inspection of petroleum measuring devices.

(b) Examination, inspection, and collection of samples of petroleum fuel.

(c) Examination or inspection of records and documents pertaining to distribution and sales of petroleum products.

(2) If access to the premises is refused by the owner, agent, or manufacturer, the department may apply for an inspection warrant as provided for in chapter 933, which shall be obtained in the same manner as provided for obtaining inspection warrants in other cases.

(3) The refusal to admit the department to any of the above-mentioned premises during reasonable hours shall be construed as prima facie evidence of a violation of this chapter.

**History.**—s. 8, ch. 7905, 1919; CGL 3964; ss. 14, 35, ch. 69-106; s. 73, ch. 92-291; s. 4, ch. 94-335.

#### **1525.09 Inspection fee.—**

(1) For the purpose of defraying the expenses incident to inspecting, testing, and analyzing petroleum fuels in this state, there shall be paid to the department a charge of one-eighth cent per gallon on all gasoline, kerosene (except when used as aviation turbine fuel), and #1 fuel oil sold within this state. Payment shall be made on or before the 25th day of each month.

(2) If any company fails to make the payment herein provided on or before the 25th day of each month, the department may add 10 percent to the amount of such

taxes already due as a penalty for failure of the company to make the report and payment by the 25th day of each month. The department shall proceed to collect the tax, together with all costs incident to collection by the same methods as other delinquent taxes are collected by law.

(3) All remittances to the department for the inspection tax herein provided shall be accompanied by a detailed report under oath showing the number of gallons of gasoline, kerosene, or fuel oil sold and delivered in each county.

(4) No inspection fee shall be charged on petroleum fuels unloaded in any of the Florida ports for shipment into other states.

**History.**—s. 9, ch. 7905, 1919; s. 3, ch. 10134, 1925; CGL 3965; s. 1, ch. 24176, 1947; ss. 14, 35, ch. 69-106; s. 74, ch. 92-291; s. 135, ch. 95-147.

**Note.**—Section 135, ch. 95-417, amended s. 525.09, effective July 1, 1996, to read:

#### **525.09 Inspection fee.—**

(1) For the purpose of defraying the expenses incident to inspecting, testing, and analyzing petroleum fuels in this state, there shall be paid to the department a charge of one-eighth cent per gallon on all gasoline, kerosene (except when used as aviation turbine fuel), and #1 fuel oil for sale or use in this state. This inspection fee shall be imposed in the same manner as the motor fuel tax pursuant to s. 206.41. Payment shall be made on or before the 25th day of each month.

(2) If any company fails to make the payment herein provided on or before the 25th day of each month, the department may add 10 percent to the amount of such taxes already due as a penalty for failure of the company to make the report and payment by the 25th day of each month. The department shall proceed to collect the tax, together with all costs incident to collection by the same methods as other delinquent taxes are collected by law.

(3) All remittances to the department for the inspection tax herein provided shall be accompanied by a detailed report under oath showing the number of gallons of gasoline, kerosene, or fuel oil sold and delivered in each county.

(4) No inspection fee shall be charged on petroleum fuels unloaded in any of the Florida ports for shipment into other states.

**Note.**—The word "oils" preceding the word "oil" was deleted by the editors.

#### **525.10 Moneys to be paid into State Treasury; payment of expenses.—**

All moneys payable under this chapter shall be payable to the department and shall be paid by it into the State Treasury monthly to be deposited into the General Inspection Trust Fund. All expenses incurred in the enforcement of this chapter and other inspection laws of this state for which fees are collected, including acquiring equipment and other property, shall be paid from the General Inspection Trust Fund. No money shall be paid to any inspector or employee created under this chapter except from the funds collected from the administration of this chapter.

**History.**—s. 10, ch. 7905, 1919; s. 1, ch. 15615, 1931; CGL 3966; s. 2, ch. 61-119; ss. 14, 35, ch. 69-106; s. 75, ch. 92-291.

**525.14 Rules.**—The department shall adopt rules not inconsistent with the provisions of this chapter as in its judgment may be necessary to the proper enforcement of this chapter; and define the standards and specifications for all petroleum fuels. The standards and specifications shall be defined before the petroleum fuel may be sold or otherwise dispensed in this state.

**History.**—s. 14, ch. 7905, 1919; CGL 3970; ss. 14, 35, ch. 69-106; s. 76, ch. 92-291.

**525.15 Inspectors not to be interested in sales.—**It is unlawful for any inspector to be interested, directly or indirectly, in the manufacturing or sale of any petroleum fuel regulated by this chapter.

**History.**—s. 15, ch. 7905, 1919; CGL 3971; s. 77, ch. 92-291.

#### **525.16 Administrative fine; penalties; prosecution of cases by state attorney.—**

(1)(a) The department may enter an order imposing one or more of the following penalties against any per-

son who violates any of the provisions of this chapter or the rules adopted under this chapter or impedes, obstructs, or hinders the department in the performance of its duty in connection with the provisions of this chapter:

1. Issuance of a warning letter.
2. Imposition of an administrative fine of not more than \$1,000 per violation for a first-time offender. For a second-time or repeat offender, or any person who is shown to have willfully and intentionally violated any provision of this chapter, the administrative fine shall not exceed \$5,000 per violation. When imposing any fine under this section, the department shall consider the degree and extent of harm caused by the violation, the cost of rectifying the damage, the amount of money the violator benefited from by noncompliance, whether the violation was committed willfully, and the compliance record of the violator.
3. Revocation or suspension of any registration issued by the department.

(b) If, 3 years after the day of issuance of the last stop-sale order for a violation under this chapter, no new violation has occurred at the same location during the proprietorship of the same person, all previous fines shall be disregarded when administering a fine for the

next violation.

(2) Any person who knowingly violates any provision of this chapter or any rule adopted by the department commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) The state attorney, or other prosecuting officer within the jurisdiction of whose court the case may come, shall prosecute all cases certified to him for prosecution by the department immediately upon receipt of the evidence transmitted by the department, or as soon thereafter as practicable.

(4) In addition to the remedies provided in this chapter, and notwithstanding the existence of any adequate remedy at law, the department may bring an action to enjoin the violation of any provision of this chapter, or rules adopted under this chapter, in the circuit court of the county in which the violation occurs or is about to occur. Upon demonstration of competent and substantial evidence by the department to the court of the violation or threatened violation, the court shall immediately issue the temporary or permanent injunction sought by the department. The injunction shall be issued without bond.

**History.**—s. 17, ch. 7905, 1919; CGL 3972; ss. 14, 35, ch. 69-106; s. 78, ch. 92-291; s. 5, ch. 94-335.