

111TH CONGRESS
1ST SESSION

S. 1476

To require all new and upgraded fuel pumps to be equipped with automatic temperature compensation equipment, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 21, 2009

Mrs. MCCASKILL introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To require all new and upgraded fuel pumps to be equipped with automatic temperature compensation equipment, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Future Accountability
5 in Retail Fuel Act” or the “FAIR Fuel Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **AUTOMATIC TEMPERATURE COMPENSATION**
9 **EQUIPMENT.**—The term “automatic temperature
10 compensation equipment” has the meaning given the

1 term in the National Institute of Standards and
2 Technology Handbook 44.

3 (2) EQUIVALENT STANDARD.—The term
4 “equivalent standard” means any standard that pro-
5 hibits the retail sale of gasoline with energy content
6 per gallon that is different than the energy content
7 of 1 gallon of gasoline stored at 60 degrees Fahr-
8 enheit.

9 (3) RURAL AREA.—The term “rural area”
10 means any area other than—

11 (A) a city, town, or unincorporated area
12 that has a population of greater than 50,000
13 inhabitants; or

14 (B) the urbanized area that is contiguous
15 and adjacent to such a city, town, or unincor-
16 porated area.

17 (4) SMALL-VOLUME STATION.—The term
18 “small-volume station” means any retail fuel estab-
19 lishment that dispenses fewer than 360,000 gallons
20 of gasoline and diesel fuel per year.

21 **SEC. 3. AUTOMATIC TEMPERATURE COMPENSATION**
22 **EQUIPMENT.**

23 (a) IN GENERAL.—

24 (1) NEW MOTOR FUEL DISPENSERS.—Begin-
25 ning 180 days after the issuance of final regulations

1 under subsection (c), all motor fuel dispensers that
2 are newly installed or upgraded at any retail fuel es-
3 tablishment in the United States shall be equipped
4 with automatic temperature compensation equipment
5 to ensure that any volume of gasoline or diesel fuel
6 measured by such dispenser for retail sale is equal
7 to the volume that such quantity of fuel would equal
8 at the time of such sale if the temperature of the
9 fuel was 60 degrees Fahrenheit.

10 (2) EXISTING MOTOR FUEL DISPENSERS.—

11 (A) IN GENERAL.—Except as provided in
12 subparagraph (B), not later than 5 years after
13 the issuance of final regulations under sub-
14 section (c), all motor fuel dispensers at any re-
15 tail fuel establishment in the United States
16 shall be equipped with the automatic tempera-
17 ture compensation equipment described in para-
18 graph (1).

19 (B) SMALL-VOLUME STATIONS.—Small-vol-
20 ume stations located in rural areas shall not be
21 subject to the requirement under subparagraph
22 (A).

23 (b) INSPECTIONS.—

24 (1) ANNUAL INSPECTION.—Beginning on the
25 date described in subsection (a), State inspectors

1 conducting an initial or annual inspection of motor
2 fuel dispensers are authorized to determine if such
3 dispensers are equipped with the automatic tempera-
4 ture compensation equipment required under sub-
5 section (a).

6 (2) NOTIFICATION.—If the State inspector de-
7 termines that a motor fuel dispenser does not com-
8 ply with the requirement under subsection (a), the
9 State inspector is authorized to notify the Federal
10 Trade Commission, through an electronic notifica-
11 tion system developed by the Commission, of such
12 noncompliance.

13 (3) FOLLOW-UP INSPECTION.—Not earlier than
14 180 days after a motor fuel dispenser is found to be
15 out of compliance with the requirement under sub-
16 section (a), the Federal Trade Commission shall co-
17 ordinate a follow-up inspection of such motor fuel
18 dispenser.

19 (4) FINE.—

20 (A) IN GENERAL.—The owner or operator
21 of any retail fuel establishment with a motor
22 fuel dispenser subject to the requirement under
23 subsection (a) that is determined to be out of
24 compliance with such requirement shall be sub-

1 ject to a fine equal to \$5,000 for each non-
2 compliant motor fuel dispenser.

3 (B) ADDITIONAL FINE.—If a motor fuel
4 dispenser is determined to be out of compliance
5 during a follow-up inspection, the owner or op-
6 erator of the retail fuel establishment at which
7 such motor fuel dispenser is located shall be
8 subject to an additional fine equal to \$5,000.

9 (5) USE OF FINES.—Any amounts collected
10 under paragraph (4) shall be deposited into the trust
11 fund established under section 4.

12 (c) RULEMAKING.—

13 (1) COMMENCEMENT.—Not later than 90 days
14 after the date of the enactment of this Act, the Fed-
15 eral Trade Commission, in consultation with the Na-
16 tional Institute of Standards and Technology, shall
17 commence a rulemaking procedure to implement the
18 requirement under subsection (a).

19 (2) FINAL REGULATIONS.—Not later than 1
20 year after the date of the enactment of this Act, the
21 Federal Trade Commission shall issue final regula-
22 tions to implement the requirement under subsection
23 (a), including specifying which volume correction
24 factor tables shall be used for the range of gasoline

1 and diesel fuel products that are sold to retail cus-
2 tomers in the United States.

3 **SEC. 4. AUTOMATIC TEMPERATURE COMPENSATION**
4 **EQUIPMENT GRANT PROGRAM.**

5 (a) ESTABLISHMENT OF TRUST FUND.—

6 (1) IN GENERAL.—There is established in the
7 Treasury of the United States a trust fund to be
8 known as the “Automatic Temperature Compensa-
9 tion Equipment Trust Fund” (referred to in this
10 section as the “Trust Fund”).

11 (2) TRANSFERS.—The Secretary of the Treas-
12 ury shall transfer to the Trust Fund out of the gen-
13 eral fund of the Treasury an amount equal to the
14 amount collected as fines under section 3(b)(4).

15 (3) INVESTMENT.—The Secretary of the Treas-
16 ury shall invest such portion of the Trust Fund as
17 is not required to meet current withdrawals. Such
18 investments may be made only in interest-bearing
19 obligations of the United States.

20 (b) GRANTS AUTHORIZED.—

21 (1) IN GENERAL.—The Secretary of Commerce
22 is authorized to use amounts in the Trust Fund for
23 grants to owners and operators of retail fuel estab-
24 lishments to offset the costs associated with the in-

1 stallation of automatic temperature compensation
2 equipment on motor fuel dispensers.

3 (2) MAXIMUM AMOUNT.—The Secretary may
4 not award a grant under this subsection in excess
5 of—

6 (A) \$1,000 per motor fuel dispenser; or

7 (B) \$10,000 per grant recipient.

8 (3) ELIGIBLE RECIPIENTS.—An owner or oper-
9 ator of not more than 5 retail fuel establishments is
10 eligible to receive a grant under this subsection.

11 (4) USE OF GRANT FUNDS.—Grant funds re-
12 ceived under this subsection may be used to offset
13 the costs incurred by owners and operators of retail
14 establishments to acquire and install automatic tem-
15 perature compensation equipment in accordance with
16 the requirement under section 3(a).

17 (5) AUTHORIZATION OF APPROPRIATIONS.—
18 There are authorized to be appropriated such sums
19 as may be necessary to carry out this subsection.

20 (c) REIMBURSEMENT OF STATE INSPECTION
21 COSTS.—The Secretary of Commerce is authorized to use
22 amounts in the Trust Fund to reimburse States for the
23 costs incurred by the States to—

24 (1) inspect motor fuel dispensers for compliance
25 with the requirement under section 3(a); and

1 (2) notify the Secretary of Commerce of any
2 noncompliance with such requirement.

3 **SEC. 5. SAVINGS PROVISION.**

4 Nothing in this Act may be construed to preempt a
5 State from enacting a law that imposes an equivalent
6 standard or a more stringent standard concerning the re-
7 tail sale of gasoline at certain temperatures.

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