



Ohio Legislative Service Commission

Bill Analysis

Bethany Boyd

H.B. 186

131st General Assembly
(As Introduced)

Reps. Burkley, Becker, Buchy, Reineke, Scherer

BILL SUMMARY

- Establishes, for any person engaged in the design, refining, manufacture, sale, storage, or distribution of motor fuel, a qualified immunity from civil liability for the use of incompatible motor fuel in an engine or motor.
- Provides that, under the Product Liability Law, a product that is a motor fuel or a fuel additive is not defective in design or formulation solely because it is, or contains, a renewable fuel.
- Prohibits an insurer from denying payment for a claim because an underground storage tank, tank system, or associated dispensing equipment that stores or dispenses motor fuel is not compatible with that motor fuel, if the State Fire Marshal has determined that the tank, system, or equipment and motor fuel are compatible.

CONTENT AND OPERATION

Qualified immunity from liability for use of incompatible motor fuel

The bill provides to a "covered person," meaning any person¹ engaged in the design, refining, manufacture, sale, storage, or distribution of motor fuel, qualified immunity from civil liability for the use of incompatible motor fuel in an engine or motor. A covered person is not liable in damages and is not subject to any other remedy in a civil action for the use of incompatible motor fuel in an engine or motor, unless the plaintiff can demonstrate by clear and convincing evidence that the incompatible motor fuel was dispensed (1) at a retail service station and (2) from a motor fuel pump that

¹ "Person" includes the state and any of its political subdivisions. R.C. 2305.52(A).

was not properly maintained or did not correctly identify the type of fuel dispensed from the pump.²

Definitions

For purposes of the entire bill, "motor fuel" is gasoline, diesel fuel, K-1 kerosene, ethanol, gasoline-ethanol blends, or any other liquid motor fuel, including liquid petroleum gas, liquid natural gas, or compressed natural gas, but excluding substances prepackaged and sold in containers of five gallons or less.³

For purposes of the bill's qualified immunity provision:⁴

➤ "Incompatible motor fuel" means motor fuel that is not authorized to be used with an engine or a motor according to the manufacturer of the engine or motor.

➤ "Retail dealer" means any person that sells or distributes motor fuel at a retail service station in Ohio. (This term is not used in the immunity provision, so perhaps it should be removed.)

➤ "Retail service station" means a location from which motor fuel is sold and is dispensed or pumped directly into motor vehicle fuel tanks or containers for ultimate consumption.

Product liability – motor fuel

In a product liability civil action, a product is defective in design or formulation if, at the time it left the control of its manufacturer, the foreseeable risks associated with its design or formulation exceeded the benefits associated with that design or formulation. The foreseeable risks and benefits are determined by considering certain factors specified in law.⁵ The bill provides that a product that is a motor fuel, as defined above, or a fuel additive, is not defective in design or formulation solely because it is, or contains, a renewable fuel, as defined in the federal Clean Air Act.⁶ Under that Act, "renewable fuel" is fuel that is produced from renewable biomass and that is used to replace or reduce the quantity of fossil fuel present in a transportation fuel. Renewable

² R.C. 2305.52.

³ R.C. 2305.52(A).

⁴ R.C. 2305.52(A).

⁵ See R.C. 2307.75(A) to (C).

⁶ R.C. 2307.75(G).

biomass includes crops, trees, algae, and animal waste, among other organic substances.⁷

Underground storage tanks – insurer prohibited from denying payment

The State Fire Marshal is responsible for implementation of the Underground Storage Tank Program and Corrective Action Program for releases of petroleum from underground storage tanks. The State Fire Marshal is authorized to adopt rules to implement the programs. The bill prohibits an insurer authorized to conduct business in Ohio from denying payment for a claim on the basis that an underground storage tank, underground storage tank system, or associated dispensing equipment that stores or dispenses motor fuel is not compatible with that motor fuel if, in accordance with the rules, the State Fire Marshal has determined that the tank, system, or equipment is compatible with that motor fuel.⁸

HISTORY

ACTION	DATE
Introduced	05-05-15

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⁷ 42 U.S.C. 7545(o)(1)(J).

⁸ R.C. 3737.88(G).

