

No. 2004-134

AN ACT

HB 1238

Amending the act of February 11, 1998 (P.L.58, No.15), entitled "An act providing for the regulation of combustible and flammable liquids; allocating functions of the Department of Labor and Industry and the Pennsylvania State Police; imposing penalties; and making repeals," further providing for self-service dispensing stations, for prohibition and for penalties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 7 of the act of February 11, 1998 (P.L.58, No.15), known as the Combustible and Flammable Liquids Act, amended October 18, 2000 (P.L.574, No.74), is amended to read:

Section 7. Retail service stations.

(a) Kerosene.—At a retail service station, the intake or receiving pipe opening for a kerosene storage tank shall be smaller than the nozzle on the hose used to deliver gasoline or diesel fuel into the storage tank.

(b) Self-service.—An attended self-service gasoline station may use a hold-open gasoline-dispensing *or hold-open diesel fuel-dispensing* nozzle if all of the following are met:

(1) The nozzle meets safety standards adopted by regulation of the department.

(2) A sign is posted indicating that *Pennsylvania law requires that* any person, other than the attendant, who uses a hold-open gasoline-dispensing *or hold-open diesel fuel-dispensing* nozzle shall remain **[at] within ten feet and within plain sight of** the refueling point during the refueling operation.

(c) Portable container specifications.—In addition to established container construction requirements under 37 Pa. Code § 11.7 (relating to container construction), portable containers used for the storage and handling of flammable and combustible liquids shall be color-coded to properly identify the contents of the container as follows:

(1) Blue shall represent kerosene.

(2) Red shall represent gasoline.

(3) *Yellow shall represent diesel.*

No other color may be used for portable containers as provided for in this section which are used for the storage and handling of flammable and combustible liquids. At least 75% of the surface area of the container shall be of the required color.

(d) Attended self-service station operator facilities.—It is the responsibility of the operator of the attended self-service station to familiarize attendant employees with the location and operation of the station's emergency fuel shut-off switch.

Section 2. Section 10 of the act is amended to read:

Section 10. Prohibitions.

A person may not do any of the following:

(1) Hinder, delay or interfere with the department's enforcement of this act or regulations promulgated under this act.

(2) Fail to place out of service, in accordance with an order of the department, a tank, pump or drawing-off device for the possession, use, storage or sale of combustible liquids or flammable liquids.

(3) Cause or permit a delivery or acceptance of fuel into a kerosene storage tank in violation of section 7(a). Each delivery or acceptance constitutes a separate offense.

(4) Fail to remain at a location no more than ten feet from the nozzle being utilized and within plain sight of the nozzle during the use of hold-open gasoline-dispensing or hold-open diesel fuel-dispensing nozzles if the sign required under section 7(b)(2) is posted. Responsibility for compliance with this paragraph shall reside exclusively with the person utilizing a hold-open device.

Section 3. Section 11 of the act, amended October 18, 2000 (P.L.574, No.74), is amended to read:

Section 11. Penalties *and remedies*.

(a) Initial offense.—Except as provided for in subsection (c), a person that violates this act or a regulation under this act commits a summary offense and shall, upon conviction, be sentenced to pay a fine of \$500.

(b) Subsequent offenses.—A person that, after being sentenced under subsection (a), violates this act or a regulation under this act commits a summary offense and shall, upon conviction, be sentenced to pay a fine of \$1,000.

(c) Improper container.—A person who violates section 7(c) relating to portable container specifications commits a summary offense and, upon conviction thereof, shall be sentenced to pay a fine of not more than \$100. The responsibility for compliance with section 7(c) shall reside exclusively with persons who use portable containers to store or handle flammable combustible liquids. The filling of such containers in connection with the sale or distribution of gasoline or kerosene shall not constitute an act of storage or handling for purposes of this section, and no seller shall incur any civil liability for failure to properly identify the contents of such containers.

(d) Restitution.—If the sign required under section 7(b)(2) is posted, a person that violates section 10(4) shall be liable for payment of all environmental cleanup costs associated with a fuel spill resulting from the person's violation of section 10(4).

Section 4. This act shall take effect in 60 days.

APPROVED—The 23rd day of November, A.D. 2004.

EDWARD G. RENDELL