

PUBLIC HEARING AND

WORK SESSION ON SB 414 TAPES 093 - 094 A/B

**SENATE REVENUE COMMITTEE**

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**MARCH 27, 1997 - 9:00 A.M. - HEARING ROOM B - STATE CAPITOL BUILDING**

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Members Present: Sen. Ken Baker, Chair

Sen. Neil Bryant, Vice Chair (arrived 9:30 a.m.)

Sen. Joan Dukes

Sen. Verne Duncan

Sen. Tom Hartung

Sen. Randy Leonard (arrived 9:21 a.m.)

Witnesses: George Shefcheck, Field Operations Manager, Measurement Standards

Division, Oregon Department of Agriculture

Staff: Jim Scherzinger, Legislative Revenue Officer

Carol Phillips, Committee Assistant

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**TAPE 093, SIDE A**

005 Chair Baker Opened meeting at 9:10 a.m.

OPENED PUBLIC HEARING ON SB 414

- 021 Jim Scherzinger Exhibit A - SB 414 (-2) Amendments, which replaces the (-1). The (-2) is the same as the (-1) in most part. The main addition is the change in the civil penalty plus an adjustment to accommodate question if whether or not the quality of the gas as tested was known by the dealer.
- 040 Scherzinger Section 1 of the bill explains definitions. Defines different kinds of dealers. Testing would take place at both wholesalers and retailers. Amendments add octane rating and octane rating certification documentation.
- 074 Scherzinger Section 2 of the bill. Unlawful for dealer to sell any fuel using procedures which violate any rule or standard adopted in Section 8 of the act or to sell product that does not have an accurate sign identifying it. Amendments on line 4 specify sign must be on both sides of dispensing device and must identify octane rating of the fuel.
- 092 George Shefcheck On stand-alone pumps which can serve from either side there is a label on each side. On multi-product dispensers, where each island is served from each side, there are two sides to those devices also, and must be labeled on each side.
- 105 Scherzinger Third subsection added to section of things unlawful. Unlawful to deliver fuel to a dealer without giving octane rating certification documentation.
- 110 Chair Baker Added that that requirement is a protection for the retailer so that if they have documentation showing 92 octane and product is tested showing something below that, then they have recourse saying they accepted product in good faith as certain octane, but not their fault if it tests below indicated octane.
- 118 Sen. Duncan Does not understand how a dealer, who receives a certificate showing certain octane, could tamper with the product to alter octane rating.
- 125 Shefcheck Stated that was a good question. What the current law requires is simply a certificate stating premium gas was delivered to a particular service station. However, at different locations premium could be 90, 91, or 92 octane. The new documentation would be on delivery receipt, or could be a letter delivered to the dealer, which shows what the octane rating of the product was which was delivered to him or her.
- 135 Sen. Duncan Asked where tampering could occur to alter integrity of product.
- 140 Shefcheck Answered there are a number of ways: Along the hose from one 87 unleaded pump into storage tank of a 92 octane. Or buying a load of product from someone other than the regular person they buy from, i.e. bulk dealer or major oil company. Fuel can be contaminated in many ways.
- 148 Sen. Duncan Assuming one has delivered product to a dealer and provided a certificate and is held accountable at that point, how would Department of Agriculture inspectors know if

dealer tampered with fuel and then claimed that a distributor gave him the wrong octane?

- 153 Shefcheck This could be monitored in two ways. Most tanks have monitoring devices to tell how much is in tank. Delivery tickets show date and time when product is delivered. If inspector went in on morning of delivery and found fuel to be below the posted octane, inspector could look at receipt for that tankful. If receipt says 92 octane, but it tested at 87, then inspector could go up chain to see what was delivered.
- 164 Chair Baker Suggested checking other dealers' receipts for deliveries on same date to see if maybe they all got 92, except for the one dealer. Regarding (-2) Amendments, when this issue was discussed at last session, this was a fairly contentious issue. Asked Shefcheck if this has been negotiated between Department of Agriculture and industry as to acceptable definitions?
- 176 Shefcheck Replied Department of Agriculture met with industry representatives recently on definitions and did not receive any negative comments.
- 177 Scherzinger Section 3 of the bill requires proper signage.
- 191 Scherzinger Section 4 gives power of the Department of Agriculture to test the fuel.
- 206 Sen. Dukes Regarding farms who have gas tanks on their property for their equipment, would they have to comply?
- 215 Shefcheck Farm fuel is not inspected for quantity or quality because it is non-commercial in nature.
- 233 Scherzinger Continued discussion of Subsection 3 which says samples must be tested in accordance with ASTM standards and procedures.
- 236 Scherzinger Section 5 allows the Director to issue stop use orders, hold orders, or removal orders on any fuel found not to be in compliance with standards. Questions and discussion interspersed.
- 282 Scherzinger Section 6 is requirement that any operators of bulk facility and each person importing fuels into state shall keep accurate records of fuel sales and purchases. Amendments refer to additional requirement that each retail and non-retail dealer shall keep octane rating certification documentation for fuel they receive. Similar to Bills of Lading. Questions and discussion.
- 305 Scherzinger Section 7 of bill replaced by Amendments. Imposes civil penalties on anyone who violates provisions of act. Questions and discussion regarding penalty scale and circumstances under which penalties should be exacted.

**TAPE 094, SIDE A**

- 002 Various Questions and discussion.
- 077 Chair  
Baker Comments on proper shipping and handling of any product on Oregon roads. Responsibility is imposed on shippers to make sure transportation is done right, including proper labeling of product being transported. Comments, questions, and discussion.
- 105 Shefcheck There are many ways fuel can get contaminated. Even from a branded station, one could go off in the middle of the night and buy cheap gas somewhere. Even if one is a good dealer, they may be tempted if someone offers gas 10 cents cheaper than it could be had elsewhere.
- 113 Chair  
Baker Asked Shefcheck if he had any information how other states have viewed bulk facilities and product delivery history. Have they identified where main source of problems tends to be?
- 120 Shefcheck Not sure how other states handle situation. Had some experience years ago as an inspector in California, and responsibility was on dealer at that time. However, things have changed since then. Questions and discussion.
- 138 Chair  
Baker Asked if civil penalties will be imposed if inspectors find inaccurate meters.
- 139 Shefcheck If fraud is determined, it would be turned over to the Financial Fraud area of the Department of Justice.
- 148 Scherzinger Section 8 of the bill is the power of the Department to adopt rules.
- 155 Scherzinger Section 9 sets up account for revenues generated.
- 157 Scherzinger Balance of sections in bill are deleted and replaced with Amendments. New Section 10 imposes \$6.50 fee on each meter, but not on remote terminal. Fee goes into account set up in Section 9.
- 174 Scherzinger Section 11 act takes effect 7-1-97 and would be permanent program with no sunset.
- 179 Shefcheck Current program expires 6-30-97.
- 187 Sen.  
Duncan MOVES (-2) AMENDMENTS TO SB 414 BE ADOPTED.
- Chair Asked for friendly amendment to (-2) to clarify in page 3 not going to charge fee on remote terminals. Chair's intention if this passes to ask Scherzinger to have staff put

190 Baker whole bill on one page and not bring bill back for at least two weeks so it can be inspected in the industry. Also friendly amendment to include change in penalty program.

208 Chair Baker HEARING NO OBJECTION, THE CHAIR SO ORDERED.

214 Chair Baker Adjourned meeting at 9:52 a.m.

Carol Phillips

Committee Assistant

Kim James

Office Manager

Exhibit Summary:

A. SB 414, Scherzinger, (-2) Amendments, (CW/ps) 3/26/97, 3 pages

B. SB 414, Scherzinger, Revenue Impact Statement, 1 page