

1 Senate BILL NO. 24  
 2 INTRODUCED BY Four  
 3 BY REQUEST OF THE DEPARTMENT OF BUSINESS REGULATION  
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE  
 6 STANDARDS AND THE REGULATION OF MANUFACTURE AND DISTRIBUTION  
 7 OF PETROLEUM PRODUCTS; REPEALING CHAPTER 2 OF TITLE 60,  
 8 R.C.M. 1947, IN ITS ENTIRETY."  
 9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Definitions. As used in this act the  
 12 following definitions apply:

13 (1) "Department" means the department of business  
 14 regulation provided for in Title 82A, chapter 4.

15 (2) "Person" means an individual, trust, estate,  
 16 partnership, corporation, joint-stock company, firm, agency,  
 17 association, or any receiver appointed by law.

18 (3) "Dealer" means any person engaged in the petroleum  
 19 business and includes petroleum dealers and liquefied  
 20 petroleum dealers.

21 (4) "Petroleum dealer" means a dealer engaged,  
 22 directly or indirectly, in the business of delivering or  
 23 distributing to a consumer or offering or advertising for  
 24 sale, refining, manufacturing, or keeping for sale in this  
 25 state any gasoline, kerosene, distillate, road oil, fuel

1 oil, lubricating oil, or greases or any oil or gas or oil  
 2 and gas product, except prepackaged petroleum products and  
 3 except as otherwise defined as a liquefied petroleum dealer  
 4 in subsection (5).

5 (5) "Liquefied petroleum dealer" means a dealer  
 6 engaged, directly or indirectly, in the business of  
 7 delivering or distributing to a consumer or of selling or  
 8 offering or advertising for sale or refining or  
 9 manufacturing or keeping for sale in this state any  
 10 petroleum product composed predominately of any of the  
 11 following hydrocarbons, or mixtures thereof: propane,  
 12 propylene, butanes (normal butane or isobutane), and  
 13 butylenes but excluding prepackaged liquefied petroleum  
 14 products.

15 (6) "Sell" and "sale" includes barter and exchange.

16 (7) "Misleading" means a package label or dispensing  
 17 device of a product which bears any statement, design, or  
 18 device regarding the same or regarding ingredients or  
 19 substances therein or regarding the properties, quality, or  
 20 kind of such products, which is false or misleading in any  
 21 manner.

22 Section 2. Enforcement of act — rules. This act  
 23 shall be enforced by the department. It may adopt necessary  
 24 and reasonable rules for the implementation of the  
 25 provisions and intent of this act, and those rules have the

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1 effect of law.

2 Section 3. Standards for petroleum products. The  
3 standards and specifications for petroleum products,  
4 including but not limited to gasoline, fuel oils, diesel  
5 fuel, kerosene, and liquefied petroleum gases, shall be  
6 determined by the department and shall be based upon  
7 nationally recognized standards and specifications such as  
8 are published from time to time by the American society for  
9 testing materials. When so determined by the department and  
10 adopted as rules, such standards and specifications are the  
11 standards and specifications for such products sold in this  
12 state and official tests of such products shall be based  
13 upon them.

14 Section 4. Department authorized to employ laboratory  
15 for testing. The department may employ a laboratory having  
16 sufficient facilities to make tests of petroleum products as  
17 required and pay reasonable compensation for the analyses  
18 and tests made by it.

19 Section 5. Licenses and fees. (1) A petroleum  
20 dealer or liquefied petroleum dealer may not do business in  
21 this state until a license has been issued to him by the  
22 department. The license shall be obtained by the dealer by  
23 making application to the department upon blank forms  
24 provided by the department. A dealer who has not been  
25 issued a license and who is found selling, offering for

1 sale, delivering, or distributing petroleum products to a  
2 consumer shall upon conviction be punished as provided by  
3 this act.

4 (2) The fee for this license shall be determined as  
5 follows and depends upon the number of devices utilized by  
6 the dealer:

7 (a) each gasoline pump, diesel pump, or fuel oil pump  
8 measuring device — \$3;

9 (b) each petroleum vehicle tank meter or bulk  
10 petroleum meter of 2 inches (5.08 centimeters) and under —  
11 \$15;

12 (c) each bulk petroleum meter over 2 inches (5.08  
13 centimeters) — \$15;

14 (d) each liquefied petroleum liquid meter — \$15;

15 (e) each vapor meter — \$3;

16 (f) each petroleum and liquefied petroleum vehicle  
17 tank up to and including 2,000 gallons (7,570 liters) —  
18 \$20;

19 (g) each petroleum and liquefied petroleum vehicle  
20 tank over 2,000 gallons (7,570 liters) — \$20 plus \$4 for  
21 each additional 1,000 gallons (3,785 liters).

22 (3) All licenses are annual and nontransferable as to  
23 person or location and expire on December 31 of each year.  
24 There is an additional charge of 50% on all license fees  
25 that are not paid before March 1 of each year in which the

1 vehicle tank, meter, or measuring device is in use. If the  
 2 fee is not paid, the equipment shall be sealed and removed  
 3 from service by the department. It is unlawful for anyone  
 4 to use a device so removed from service or to break the seal  
 5 until all fees have been paid.

6 Section 6. Refusing, suspending, and revoking licenses  
 7 — hearing required. The department may refuse to grant a  
 8 license or may suspend or revoke a license already granted  
 9 for due cause after hearing noticed for not less than 10  
 10 days. Violation of any provision of this act or any lawful  
 11 order or rule of the department are causes for which the  
 12 department may suspend, revoke, or refuse to issue a  
 13 license. The suspension, revocation, or refusal may be  
 14 conditioned on those terms which the department considers  
 15 just and proper.

16 Section 7. Inspections, sampling, and tests by  
 17 department to insure compliance with act. (1) For the  
 18 purpose of obtaining information regarding suspected  
 19 violation of this act, the department has access to all  
 20 places where the commodities subject to regulation under  
 21 this act are sold, offered for sale or kept for sale,  
 22 manufactured, transported, or stored or where the books,  
 23 papers, records, or documents relative to those transactions  
 24 are kept and may inspect and copy them at any place in this  
 25 state.

1 (2) The department may sample, inspect, and test any  
 2 of the commodities subject to this act, upon tendering  
 3 payment for them, whether they originate at points outside  
 4 the state or otherwise and whether they are in transport or  
 5 at rest in places where they are to be sold.

6 Section 8. Approved measure required for past  
 7 delivery. Part of a compartment delivery may be made only  
 8 by an approved, calibrated, and sealed meter or an approved  
 9 measure. Gauge stick measurement is not permitted. All  
 10 tank markers must be positioned and sealed as provided by  
 11 the department. The department shall fix by rule fees for  
 12 retesting meters or measuring devices or vehicle tanks used  
 13 for distribution to a consumer by petroleum or liquefied  
 14 petroleum dealers and for any other special service  
 15 rendered.

16 Section 9. Full compartment sales — approval of  
 17 meter. Full compartment sales or deliveries may only be  
 18 made in a manner that shall be provided by the department by  
 19 rule. All other sales or deliveries may only be made  
 20 through a meter which has been approved, calibrated, and  
 21 sealed by the department or by weight, unless otherwise  
 22 provided by the department.

23 Section 10. Temperature correction. Temperature  
 24 correction may be made only by means of an automatic  
 25 compensating device which has been approved, calibrated, and

1 sealed by the department or by weight.

2 Section 11. Dispensation and sale of petroleum  
3 products. It is unlawful to:

4 (1) use any meter or mechanical device for the  
5 measurement of gasoline or liquid fuels unless the same has  
6 been approved by the department and sealed as correct;

7 (2) change or in any way tamper with the department's  
8 seal without written consent from the department;

9 (3) make hose delivery from petroleum vehicle tanks  
10 unless the tanks have been calibrated by the department  
11 under [section 8];

12 (4) sell or deliver liquefied petroleum to a consumer,  
13 as a liquid or vapor, except as provided by [section 9];

14 (5) sell or offer for sale or deliver liquefied  
15 petroleum to a consumer, as a liquid or vapor the  
16 measurement of which has not been temperature corrected to  
17 60° F, unless otherwise provided by the department;

18 (6) sell, offer, or expose for sale any petroleum  
19 product for which standards or minimum specifications have  
20 been set by the department unless the commodities in all  
21 respects meet the tests and standards prescribed;

22 (7) sell, offer, or expose for sale any petroleum  
23 product which is adulterated, mislabeled, or misrepresented  
24 with respect to the use for which it is reasonably intended.

25 Section 12. Penalty for violations. A person who

1 violates any of the provisions of this act or any rule  
2 promulgated by the department is guilty of a misdemeanor and  
3 upon conviction shall, for the first offense, be punished by  
4 a fine of not less than \$10 or more than \$1,000 and shall be  
5 punished for any subsequent offense by a fine of not less  
6 than \$50 or more than \$5,000, by imprisonment in the county  
7 jail for a term not exceeding 1 year, or by both fine and  
8 imprisonment.

9 Section 13. Injunction against violations. The  
10 department may apply to any court of competent jurisdiction  
11 for a temporary or permanent injunction, or both,  
12 restraining any person for violating any provision of this  
13 act or any rule promulgated by the department pursuant to  
14 this act.

15 Section 14. Repealer. Chapter 2 of Title 60, R.C.M.  
16 1947, is repealed in its entirety.

-End-

Approved by Committee  
on Business and Industry

1                   SENATE BILL NO. 84  
2                   INTRODUCED BY LOWE  
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17   association, or any receiver appointed by law.  
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19   business and includes petroleum dealers and liquefied  
20   petroleum dealers.  
21       (4) "Petroleum dealer" means a dealer engaged,  
22   directly or indirectly, in the business of delivering or  
23   distributing to a consumer or offering or advertising for  
24   sale, refining, manufacturing, or keeping for sale in this  
25   state any gasoline, kerosene, distillate, road oil, fuel

1   oil, lubricating oil, or greases or any oil or gas or oil  
2   and gas product, except prepackaged petroleum products and  
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5       (5) "Liquefied petroleum dealer" means a dealer  
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9   manufacturing or keeping for sale in this state any  
10   petroleum product composed predominately of any of the  
11   following hydrocarbons, or mixtures thereof: propane,  
12   propylene, butanes (normal butane or isobutane), and  
13   butylenes but excluding prepackaged liquefied petroleum  
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15       (6) "Sell" and "sale" includes barter and exchange.  
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21   manner.  
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11 ~~\$15~~ \$10;

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10 unless the tanks have been calibrated by the department  
11 under [section 8];

12 (4) sell or deliver liquefied petroleum to a consumer,  
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16 measurement of which has not been temperature corrected to  
17 60° F, BY MEANS OF AN AUTOMATIC COMPENSATING DEVICE WHICH  
18 HAS BEEN APPROVED, CALIBRATED AND SEALED BY THE DEPARTMENT,  
19 unless otherwise provided by the department;

20 (6) sell, offer, or expose for sale any petroleum  
21 product for which standards or minimum specifications have  
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25 product which is adulterated, mislabeled, or misrepresented

1 with respect to the use for which it is reasonably intended.

2 Section 11. Penalty for violations. A person who  
3 violates any of the provisions of this act or any rule  
4 promulgated by the department is guilty of a misdemeanor and  
5 upon conviction shall, for the first offense, be punished by  
6 a fine of not less than \$10 or more than \$1,000 and shall be  
7 punished for any subsequent offense by a fine of not less  
8 than \$50 or more than \$5,000, by imprisonment in the county  
9 jail for a term not exceeding 1 year, or by both fine and  
10 imprisonment.

11 Section 12. Injunction against violations. The  
12 department may apply to any court of competent jurisdiction  
13 for a temporary or permanent injunction, or both,  
14 restraining any person for violating any provision of this  
15 act or any rule promulgated by the department pursuant to  
16 this act.

17 Section 13. Repealer. Chapter 2 of Title 60, B.C.B.  
18 1947, is repealed in its entirety.

-End-

1 SENATE BILL NO. 84

2 INTRODUCED BY LOWE

3 BY REQUEST OF THE DEPARTMENT OF BUSINESS REGULATION

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE  
6 STANDARDS AND THE REGULATION OF MANUFACTURE AND DISTRIBUTION  
7 OF PETROLEUM PRODUCTS; REPEALING CHAPTER 2 OF TITLE 60,  
8 R.C.M. 1947, IN ITS ENTIRETY."

9  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Definitions. As used in this act the  
12 following definitions apply:

13 (1) "Department" means the department of business  
14 regulation provided for in Title 82A, chapter 4.

15 (2) "Person" means an individual, trust, estate,  
16 partnership, corporation, joint-stock company, firm, agency,  
17 association, or any receiver appointed by law.

18 (3) "Dealer" means any person engaged in the petroleum  
19 business and includes petroleum dealers and liquefied  
20 petroleum dealers.

21 (4) "Petroleum dealer" means a dealer engaged,  
22 directly or indirectly, in the business of delivering or  
23 distributing to a consumer or offering or advertising for  
24 sale, refining, manufacturing, or keeping for sale in this  
25 state any gasoline, kerosene, distillate, road oil, fuel

1 oil, lubricating oil, or greases or any oil or gas or oil  
2 and gas product, except prepackaged petroleum products and  
3 except as otherwise defined as a liquefied petroleum dealer  
4 in subsection (5).

5 (5) "Liquefied petroleum dealer" means a dealer  
6 engaged, directly or indirectly, in the business of  
7 delivering or distributing to a consumer or of selling or  
8 offering or advertising for sale or refining or  
9 manufacturing or keeping for sale in this state any  
10 petroleum product composed predominately of any of the  
11 following hydrocarbons, or mixtures thereof: propane,  
12 propylene, butanes (normal butane or isobutane), and  
13 butylenes but excluding prepackaged liquefied petroleum  
14 products.

15 (6) "Sell" and "sale" includes barter and exchange.

16 (7) "Mislabelled" means a package label or dispensing  
17 device of a product which bears any statement, design, or  
18 device regarding the same or regarding ingredients or  
19 substances therein or regarding the properties, quality, or  
20 kind of such products, which is false or misleading in any  
21 manner.

22 Section 2. Enforcement of act — rules. This act  
23 shall be enforced by the department. It may adopt necessary  
24 and reasonable rules for the implementation of the  
25 provisions and intent of this act, and those rules have the

REFERENCE BILL

petroleum gases, shall be determined by the department and shall be based upon nationally recognized standards and specifications such as are published from time to time by the American society for testing materials. When so determined by the department and adopted as rules, such standards and specifications are the standards and specifications for such products sold in this state and official tests of such products shall be based upon them.

Section 4. There is a new R.C.M. section numbered 60-237 that reads as follows:

60-237. Department authorized to employ laboratory for testing. The department may employ a laboratory having sufficient facilities to make tests of petroleum products as required and pay reasonable compensation for the analyses and tests made by it.

Section 5. There is a new R.C.M. section numbered 60-238 that reads as follows:

60-238. Licenses and fees. (1) A petroleum dealer or liquefied petroleum dealer may not do business in this state until a license has been issued to him by the department. The license shall be obtained by the dealer by making application to the department upon blank forms provided by the department. A dealer who has not been issued a license and who is found selling, offering for sale, delivering, or distributing petroleum products shall upon conviction be punished as provided by this act.

(2) The fee for this license shall be determined as follows and depends upon the number of devices utilized by the dealer:

(a) each gasoline pump, diesel pump, or fuel oil pump measuring device -- \$3;

(b) each petroleum vehicle tank meter or bulk petroleum meter of 2 inches (5.08 centimeters) and under -- \$10;

(c) each bulk petroleum meter over 2 inches (5.08 centimeters) -- \$15;

(d) each liquefied petroleum liquid meter -- \$15;

(e) each vapor meter -- \$3;

(f) each petroleum and liquefied petroleum vehicle tank up to and including 2,000 gallons (7,570 liters) -- \$20;

(g) each petroleum and liquefied petroleum vehicle tank over 2,000 gallons (7,570 liters) -- \$20 plus \$4 for each additional 1,000 gallons (3,785 liters).

(3) All licenses are annual and nontransferable as to person or location and expire on December 31 of each year. There is an additional charge of 50% on all license fees that are not paid before March 1 of each year in which the vehicle tank, meter, or measuring device is in use. If the fee is not paid, the equipment shall be sealed and removed from service by the department. It is unlawful for anyone to use a device so removed from service or to break the seal until all fees have been paid.

Section 6. There is a new R.C.M. section numbered 66-239 that reads as follows:

66-239. Refusing, suspending, and revoking licenses -- hearing required. The department may refuse to grant a license or

1 vehicle tank, meter, or measuring device is in use. If the  
 2 fee is not paid, the equipment shall be sealed and removed  
 3 from service by the department. It is unlawful for anyone  
 4 to use a device so removed from service or to break the seal  
 5 until all fees have been paid.

6 Section 6. Refusing, suspending, and revoking licenses  
 7 — hearing required. The department may refuse to grant a  
 8 license or may suspend or revoke a license already granted  
 9 for due cause after hearing noticed for not less than 10  
 10 days. Violation of any provision of this act or any lawful  
 11 order or rule of the department are causes for which the  
 12 department may suspend, revoke, or refuse to issue a  
 13 license. The suspension, revocation, or refusal may be  
 14 conditioned on those terms which the department considers  
 15 just and proper.

16 Section 7. Inspections, sampling, and tests by  
 17 department to insure compliance with act. (1) For the  
 18 purpose of obtaining information regarding suspected  
 19 violation of this act, the department has access to all  
 20 places where the commodities subject to regulation under  
 21 this act are sold, offered for sale or kept for sale,  
 22 manufactured, transported, or stored or where the books,  
 23 papers, records, or documents relative to those transactions  
 24 are kept and may inspect and copy them at any place in this  
 25 State.

1 (2) The department may sample, inspect, and test any  
 2 of the commodities subject to this act, upon tendering  
 3 payment for them, whether they originate at points outside  
 4 the state or otherwise and whether they are in transport or  
 5 at rest in places where they are to be sold.

6 Section 8. Approved measure required for ~~part~~ PART  
 7 delivery. Part of a compartment delivery may be made only  
 8 by an approved, calibrated, and sealed meter or an approved  
 9 measure. Gauge stick measurement is not permitted. All  
 10 tank markers must be positioned and sealed as provided by  
 11 the department. The department shall fix by rule fees for  
 12 retesting meters or measuring devices or vehicle tanks used  
 13 for distribution ~~to a consumer~~ by petroleum or liquefied  
 14 petroleum dealers and for any other special service  
 15 rendered.

16 Section 9. Full compartment sales — approval of  
 17 meter. Full compartment sales or deliveries may only be  
 18 made in a manner that shall be provided by the department by  
 19 rule. All other sales or deliveries may only be made  
 20 through a meter which has been approved, calibrated, and  
 21 sealed by the department or by weight, unless otherwise  
 22 provided by the department.

23 ~~Section 10. Temperature correction. Temperature~~  
 24 ~~correction may be made only by means of an automatic~~  
 25 ~~compensating device which has been approved, calibrated, and~~

1 ~~sealed by the department or by weight.~~

2 Section 10. Dispensation and sale of petroleum  
3 products. It is unlawful to:

4 (1) use any meter or mechanical device for the  
5 measurement of gasoline or liquid fuels unless the same has  
6 been approved by the department and sealed as correct;

7 (2) change or in any way tamper with the department's  
8 seal without written consent from the department;

9 (3) make hose delivery from petroleum vehicle tanks  
10 unless the tanks have been calibrated by the department  
11 under [section 8];

12 (4) sell or deliver liquefied petroleum to a consumer,  
13 as a liquid or vapor, except as provided by [section 9];

14 (5) sell or offer for sale or deliver liquefied  
15 petroleum to a consumer, as a liquid or vapor the  
16 measurement of which has not been temperature corrected to  
17 60° F, BY MEANS OF AN AUTOMATIC COMPENSATING DEVICE WHICH  
18 HAS BEEN APPROVED, CALIBRATED AND SEALED BY THE DEPARTMENT.  
19 unless otherwise provided by the department;

20 (6) sell, offer, or expose for sale any petroleum  
21 product for which standards or minimum specifications have  
22 been set by the department unless the commodities in all  
23 respects meet the tests and standards prescribed;

24 (7) sell, offer, or expose for sale any petroleum  
25 product which is adulterated, mislabeled, or misrepresented

1 with respect to the use for which it is reasonably intended.

2 Section 11. Penalty for violations. A person who  
3 violates any of the provisions of this act or any rule  
4 promulgated by the department is guilty of a misdemeanor and  
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