

LEGISLATIVE COUNCIL

Read 1° 29 February 1984

(Brought in by the Honourable Evan Walker)

A BILL

To amend the *Environment Protection Act 1970*.

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

1. This Act may be cited as the *Environment Protection (Unleaded Petrol) Act 1984*. Short title.
2. This Act shall come into operation on the day on which it receives the Royal Assent. Commencement.
- 10 3. In this Act the *Environment Protection Act 1970* is called the Principal Act. Principal Act No. 8056.
Reprinted to No. 9803.
Subsequently amended by No. 9988.
4. After section 42 (2) of the Principal Act there shall be inserted the following sub-sections: Amendment of No. 8056 s. 42.
 - 15 "(2A) A person who constructs, manufactures, assembles, sells or offers to sell a vehicle which—
 - (a) is not constructed; or
 - (b) is not labelled—in the prescribed manner shall be guilty of an offence. Construction and sale of vehicles &c.

(2B) A person who sells or offers to sell a vehicle which has not been kept, maintained and adjusted in the prescribed manner shall be guilty of an offence.”

Amendment of
No. 8056.
New s. 42B.

5. After section 42A of the Principal Act there shall be inserted the following section: 5

Unleaded petrol.

‘42B. (1) In this section—

“Petrol” has the same meaning as it has in section 42A.

“Petrol supplier” means a person who, in the course of a business, supplies petrol, but does not include a retail petrol seller.

“Retail petrol seller” means a person who sells petrol by retail. 10

“Unleaded petrol” means petrol which does not contain more than the prescribed amounts of lead, sulphur and phosphorus per litre and which complies with the prescribed specifications for motor octane number and research octane number. 15

(2) Subject to sub-sections (3) and (7), on and after 1 July 1985 a retail petrol seller who fails or refuses to comply with a request from a person to be sold unleaded petrol shall be guilty of an offence.

(3) Sub-section (2) does not apply in respect of a retail petrol seller where there is in force an exemption granted under sub-section (4) by the Authority in respect of that seller. 20

(4) The Authority, on application in the prescribed form, may grant to a retail petrol seller an exemption from sub-section (2) in respect of a site if it is satisfied that—

(a) at the site— 25

(i) there is not more than one underground tank available for use for storage of petrol; or

(ii) there is not more than one petrol pump designed for dispensing petrol and, if there is such a pump, that pump is not designed for dispensing petrol through more than one filling nozzle; and 30

(b) either—

(i) the amount of petrol sold from the site during the preceding calendar year was less than 240 kilolitres; or

(ii) where a person did not sell petrol from the site during the whole of the preceding calendar year, the person reasonably expects that the amount of petrol sold from the site during the current calendar year will not exceed 240 kilolitres. 35

(5) For the purposes of sub-section (4) a tank is not available for storage of petrol if it is ordinarily used for storage of substances other than petrol. 40

(6) The Authority may at any time, by notice in writing to a retail petrol seller, revoke that retail petrol seller's exemption under sub-section (4) if it is satisfied that the requirements set out in paragraphs (a) and (b) of sub-section (4) are not at that time met in respect of the site.

(7) If in proceedings for an offence under sub-section (2) it is proved to the satisfaction of the court—

- (a) that the defendant was unable to obtain supplies of unleaded petrol because of—
 - (i) an industrial dispute; or
 - (ii) the breakdown of a petrol delivery vehicle;
- (b) that not less than 48 hours before the alleged offence the defendant had ordered the supply of unleaded petrol and—
 - (i) at the time of the order the defendant had a reasonable expectation that delivery would be made;
 - (ii) if the petrol ordered had been supplied within 48 hours of the making of the order the defendant would, in the usual course of events, have been able to comply with the request; and
 - (iii) delivery was not made;
- (c) that a malfunction in the petrol pump or petrol storage system prevented the defendant from complying with the request, and that the defendant had taken all reasonable steps to ensure the malfunction was repaired;
- (d) that the defendant had taken all reasonable steps to comply with the request, but was prevented, by circumstances over which the defendant had no control, from doing so; or
- (e) that due to—
 - (i) the nature of the request; or
 - (ii) the nature, character or actions of the person making the request—

it was reasonable in all the circumstances for the defendant to refuse or fail to comply with the request—

the defendant shall be discharged from the prosecution.

(8) Subject to sub-section (10), on and after 1 July 1985 a petrol supplier who fails or refuses to comply with a request from another person to be supplied with unleaded petrol shall be guilty of an offence.

(9) It is sufficient compliance with a request referred to in sub-section (8) if a petrol supplier arranges for the supply, by another person, of unleaded petrol in accordance with the request.

(10) If in proceedings for an offence under sub-section (8) it is proved to the satisfaction of the court—

- (a) that the defendant had taken all reasonable steps to comply with the request, but was prevented, by circumstances over which the defendant had no control, from doing so; or
- (b) that due to—
- (i) the nature of the request; or 5
 - (ii) the nature, character or actions of the person making the request—
- it was reasonable in all the circumstances for the defendant to refuse or fail to comply with the request—
- the defendant shall be discharged from the prosecution. 10
- (11) Subject to sub-section (14), a person who offers for sale as unleaded petrol, or who sells as unleaded petrol, any substance which is not unleaded petrol shall be guilty of an offence.
- (12) A person who purchases for resale a substance which the vendor represents to be unleaded petrol may request from the vendor a warranty in writing that the substance is unleaded petrol. 15
- (13) A vendor who fails or refuses to comply with a request under sub-section (12) shall be guilty of an offence.
- (14) If in proceedings for an offence under sub-section (11) it is proved to the satisfaction of the court— 20
- (a) that the defendant purchased the substance with a warranty from the vendor that the substance was unleaded petrol; and
 - (b) that at the time of the alleged offence the substance was in the same state as when the defendant purchased it— 25
- the defendant shall be discharged from the prosecution.
- (15) The provisions of sub-sections (8) to (15) of section 42A apply, with any necessary modifications, in relation to sub-section (11) of this section.

Amendment of
No. 8056 s. 71
(1).
Regulations.

6. Section 71 (1) of the Principal Act is amended as follows: 30
- (a) After paragraph (e) there shall be inserted the following paragraphs:
 - “(ea) for the purposes of section 42B and the regulations, prescribing the maximum amounts of lead, sulphur and phosphorus which may be present in unleaded petrol, and prescribing specifications for motor octane number and research octane number in unleaded petrol; 35
 - (eb) regulating the construction, installation and operation of equipment and fittings used for or in connexion with the dispensing of petrol, including prohibiting or regulating modifications to such equipment;” 40

(b) After paragraph (fc) there shall be inserted the following paragraph:

“(fca) requiring the display in or upon, or the affixing to—

(i) vehicles; or

5 (ii) equipment and fittings used for or in connexion with the dispensing of fuel—

10 of plates, labels or markings to indicate that a vehicle, equipment or machinery is required to operate with, or to use, specified fuels, or to indicate that a vehicle, equipment or machinery complies with this Act or provisions of this Act, including prescribing the design, construction, size and information to be included on and method of affixing such plates, labels or markings;” and

15 (c) After paragraph (fe) there shall be inserted the following paragraphs:

20 “(fea) prohibiting or regulating the use of equipment, machinery, fittings, facilities or vehicles where the design, construction or labelling does not comply with this Act;

(feb) prohibiting the use of equipment for dispensing fuel where the fuel dispensed does not accord with the labels on the equipment;

25 (fec) prohibiting the use in prescribed vehicles of fuel other than unleaded petrol within the meaning of section 42B;”.