

2018 -- S 2363

=====
LC004517
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

—————
A N A C T

RELATING TO MOTOR AND OTHER VEHICLES -- RETAIL SALE OF GASOLINE

Introduced By: Senators Ciccone, Gallo, Felag, DiPalma, and Archambault

Date Introduced: February 15, 2018

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 31-37-7 of the General Laws in Chapter 31-37 entitled "Retail Sale
2 of Gasoline" is hereby amended to read as follows:

3 **31-37-7. Minimum standard for gasoline -- Weights and measures.**

4 ~~No person shall sell, offer for sale, deliver, or have in his possession for the purpose of~~
5 ~~sale, any article or product represented as gasoline for use in internal combustion engines used in~~
6 ~~motor vehicles that does not equal the most recent version of the "American Society for Testing~~
7 ~~and Materials Standard Specification for Automotive Gasoline D-4814".~~ It shall be unlawful for
8 any person, firm, or corporation to give false or insufficient weight or measure in the sale of fuels
9 or lubricating oils.

10 SECTION 2. Section 31-37-7.1 of the General Laws in Chapter 31-37 entitled "Retail
11 Sale of Gasoline" is hereby amended to read as follows:

12 **31-37-7.1. Minimum standards for gasoline.**

13 (a) Beginning June 1, 2007, no person shall sell, deliver for sale, import, or cause to be
14 imported into the state for sale any gasoline containing methyl tertiary- butyl ether (MTBE) or
15 other ether oxygenates in quantities greater than one half of one percent (0.5%) by volume. For
16 the purpose of this section, "other ether oxygenates" shall include the following gasoline
17 additives: Methanol; Isopropanol; n-Propanol; N-Butonal; sec-Butanol; tert- Butanol; Tert-
18 pentanol (tert-amylalcohol); Ethyl tert-butyl ether (ETBE); Diisopropylether (DIPE); Tertiary
19 Butyl alcohol (TBA); Iso-butanol; and Tert-amymethylether (TAME). Nothing in this section

1 shall prohibit the transshipment of gasoline containing the oxygenates within the state for
2 disposition outside the state, including storage coincident to the transshipment.

3 (b) No person shall sell, offer for sale, deliver, or have in their possession for the purpose
4 of sale, any article or product represented as gasoline for use in internal combustion engines used
5 in motor vehicles that does not equal the most recent version of the "American Society for
6 Testing and Materials Standard Specification for Automotive Gasoline D-4814."

7 ~~(b)~~(c) Notwithstanding any other provision of this chapter, it shall be the responsibility of
8 the director of the department of environmental management to administer and enforce this
9 section.

10 ~~(c)~~(d) Notwithstanding the provisions of § 31-37-17, penalties for violations of this
11 section shall be assessed pursuant to § 23-23-14 as administered by the department of
12 environmental management. In addition, the department is hereby authorized to administer this
13 section according to the provisions of chapter 12.1 of title 46 in conjunction with its authority
14 relating to underground storage tanks.

15 (e) The director of the department of environmental management shall have the authority
16 to temporarily waive a control or prohibition respecting the use of a fuel or fuel additive required
17 under this section to avoid a disruption in the supply of fuel to the state or to other states as a
18 result of a natural disaster, or other emergency. The director shall provide, in writing, the notice
19 of waiver, the nature of the emergency and the time frame for which the waiver shall remain in
20 effect.

21 SECTION 3. Section 42-17.1-2 of the General Laws in Chapter 42-17.1 entitled
22 "Department of Environmental Management" is hereby amended to read as follows:

23 **42-17.1-2. Powers and duties.**

24 The director of environmental management shall have the following powers and duties:

25 (1) To supervise and control the protection, development, planning, and utilization of the
26 natural resources of the state, such resources, including, but not limited to: water, plants, trees,
27 soil, clay, sand, gravel, rocks and other minerals, air, mammals, birds, reptiles, amphibians, fish,
28 shellfish, and other forms of aquatic, insect, and animal life;

29 (2) To exercise all functions, powers, and duties heretofore vested in the department of
30 agriculture and conservation, and in each of the divisions of the department, such as the
31 promotion of agriculture and animal husbandry in their several branches, including the inspection
32 and suppression of contagious diseases among animals; the regulation of the marketing of farm
33 products; the inspection of orchards and nurseries; the protection of trees and shrubs from
34 injurious insects and diseases; protection from forest fires; the inspection of apiaries and the

1 suppression of contagious diseases among bees; the prevention of the sale of adulterated or
2 misbranded agricultural seeds; promotion and encouragement of the work of farm bureaus, in
3 cooperation with the University of Rhode Island, farmers' institutes, and the various organizations
4 established for the purpose of developing an interest in agriculture; together with such other
5 agencies and activities as the governor and the general assembly may, from time to time, place
6 under the control of the department; and as heretofore vested by such of the following chapters
7 and sections of the general laws as are presently applicable to the department of environmental
8 management and that were previously applicable to the department of natural resources and the
9 department of agriculture and conservation or to any of its divisions: chapters 1 through 22,
10 inclusive, as amended, in title 2 entitled "Agriculture and Forestry"; chapters 1 through 17,
11 inclusive, as amended, in title 4 entitled "Animals and Animal Husbandry"; chapters 1 through
12 19, inclusive, as amended, in title 20 entitled "Fish and Wildlife"; chapters 1 through 32,
13 inclusive, as amended, in title 21 entitled "Food and Drugs"; chapter 7 of title 23, as amended,
14 entitled "Mosquito Abatement"; and by any other general or public law relating to the department
15 of agriculture and conservation or to any of its divisions or bureaus;

16 (3) To exercise all the functions, powers, and duties heretofore vested in the division of
17 parks and recreation of the department of public works by chapters 1, 2, and 5 in title 32 entitled
18 "Parks and Recreational Areas"; by chapter 22.5 of title 23, as amended, entitled "Drowning
19 Prevention and Lifesaving"; and by any other general or public law relating to the division of
20 parks and recreation;

21 (4) To exercise all the functions, powers, and duties heretofore vested in the division of
22 harbors and rivers of the department of public works, or in the department itself by such as were
23 previously applicable to the division or the department, of chapters 1 through 22 and sections
24 thereof, as amended, in title 46 entitled "Waters and Navigation"; and by any other general or
25 public law relating to the division of harbors and rivers;

26 (5) To exercise all the functions, powers, and duties heretofore vested in the department
27 of health by chapters 25, 18.9, and 19.5 of title 23, as amended, entitled "Health and Safety"; and
28 by chapters 12 and 16 of title 46, as amended, entitled "Waters and Navigation"; by chapters 3, 4,
29 5, 6, 7, 9, 11, 13, 18, and 19 of title 4, as amended, entitled "Animals and Animal Husbandry";
30 and those functions, powers, and duties specifically vested in the director of environmental
31 management by the provisions of § 21-2-22, as amended, entitled "Inspection of Animals and
32 Milk"; together with other powers and duties of the director of the department of health as are
33 incidental to, or necessary for, the performance of the functions transferred by this section;

34 (6) To cooperate with the Rhode Island commerce corporation in its planning and

1 promotional functions, particularly in regard to those resources relating to agriculture, fisheries,
2 and recreation;

3 (7) To cooperate with, advise, and guide conservation commissions of cities and towns
4 created under chapter 35 of title 45 entitled "Conservation Commissions", as enacted by chapter
5 203 of the Public Laws, 1960;

6 (8) To assign or reassign, with the approval of the governor, any functions, duties, or
7 powers established by this chapter to any agency within the department, except as hereinafter
8 limited;

9 (9) To cooperate with the water resources board and to provide to the board facilities,
10 administrative support, staff services, and such other services as the board shall reasonably
11 require for its operation and, in cooperation with the board and the statewide planning program,
12 to formulate and maintain a long-range guide plan and implementing program for development of
13 major water-sources transmission systems needed to furnish water to regional- and local-
14 distribution systems;

15 (10) To cooperate with the solid waste management corporation and to provide to the
16 corporation such facilities, administrative support, staff services, and such other services within
17 the department as the corporation shall reasonably require for its operation;

18 (11) To provide for the maintenance of waterways and boating facilities, consistent with
19 chapter 6.1 of title 46, by: (i) Establishing minimum standards for upland beneficial use and
20 disposal of dredged material; (ii) Promulgating and enforcing rules for water quality, ground
21 water protection, and fish and wildlife protection pursuant to § 42-17.1-24; (iii) Planning for the
22 upland beneficial use and/or disposal of dredged material in areas not under the jurisdiction of the
23 council pursuant to § 46-23-6(2); and (iv) Cooperating with the coastal resources management
24 council in the development and implementation of comprehensive programs for dredging as
25 provided for in §§ 46-23-6(1)(ii)(H) and 46-23-18.3; and (v) Monitoring dredge material
26 management and disposal sites in accordance with the protocols established pursuant to § 46-6.1-
27 5(3) and the comprehensive program provided for in § 46-23-6(1)(ii)(H); no powers or duties
28 granted herein shall be construed to abrogate the powers or duties granted to the coastal resources
29 management council under chapter 23 of title 46, as amended;

30 (12) To establish minimum standards, subject to the approval of the environmental
31 standards board, relating to the location, design, construction, and maintenance of all sewage-
32 disposal systems;

33 (13) To enforce, by such means as provided by law, the standards for the quality of air,
34 and water, and the design, construction, and operation of all sewage-disposal systems; any order

1 or notice issued by the director relating to the location, design, construction, or maintenance of a
2 sewage-disposal system shall be eligible for recordation under chapter 13 of title 34. The director
3 shall forward the order or notice to the city or town wherein the subject property is located and
4 the order or notice shall be recorded in the general index by the appropriate municipal official in
5 the land evidence records in the city or town wherein the subject property is located. Any
6 subsequent transferee of that property shall be responsible for complying with the requirements of
7 the order or notice. Upon satisfactory completion of the requirements of the order or notice, the
8 director shall provide written notice of the same, which notice shall be similarly eligible for
9 recordation. The original written notice shall be forwarded to the city or town wherein the subject
10 property is located and the notice of satisfactory completion shall be recorded in the general index
11 by the appropriate municipal official in the land evidence records in the city or town wherein the
12 subject property is located. A copy of the written notice shall be forwarded to the owner of the
13 subject property within five (5) days of a request for it, and, in any event, shall be forwarded to
14 the owner of the subject property within thirty (30) days after correction;

15 (14) To establish minimum standards for the establishment and maintenance of salutary
16 environmental conditions, including standards and methods for the assessment and the
17 consideration of the cumulative effects on the environment of regulatory actions and decisions,
18 which standards for consideration of cumulative effects shall provide for: (i) Evaluation of
19 potential cumulative effects that could adversely effect public health and/or impair ecological
20 functioning; (ii) Analysis of such other matters relative to cumulative effects as the department
21 may deem appropriate in fulfilling its duties, functions and powers; which standards and methods
22 shall only be applicable to ISDS systems in the town of Jamestown in areas that are dependent for
23 water supply on private and public wells, unless broader use is approved by the general assembly.
24 The department shall report to the general assembly not later than March 15, 2008, with regard to
25 the development and application of such standards and methods in Jamestown;

26 (15) To establish and enforce minimum standards for permissible types of septage,
27 industrial-waste disposal sites, and waste-oil disposal sites;

28 (16) To establish minimum standards, subject to the approval of the environmental
29 standards board, for permissible types of refuse disposal facilities; the design, construction,
30 operation, and maintenance of disposal facilities; and the location of various types of facilities;

31 (17) To exercise all functions, powers, and duties necessary for the administration of
32 chapter 19.1 of title 23 entitled "Rhode Island Hazardous Waste Management Act";

33 (18) To designate, in writing, any person in any department of the state government or
34 any official of a district, county, city, town, or other governmental unit, with that official's

1 consent, to enforce any rule, regulation, or order promulgated and adopted by the director under
2 any provision of law; provided, however, that enforcement of powers of the coastal resources
3 management council shall be assigned only to employees of the department of environmental
4 management, except by mutual agreement or as otherwise provided in chapter 23 of title 46;

5 (19) To issue and enforce such rules, regulations, and orders as may be necessary to carry
6 out the duties assigned to the director and the department by any provision of law; and to conduct
7 such investigations and hearings and to issue, suspend, and revoke such licenses as may be
8 necessary to enforce those rules, regulations, and orders. Any license suspended under such rules,
9 regulations, and/or orders shall be terminated and revoked if the conditions that led to the
10 suspension are not corrected to the satisfaction of the director within two (2) years; provided that
11 written notice is given by certified mail, return receipt requested, no less than sixty (60) days
12 prior to the date of termination.

13 Notwithstanding the provisions of § 42-35-9 to the contrary, no informal disposition of a
14 contested licensing matter shall occur where resolution substantially deviates from the original
15 application unless all interested parties shall be notified of said proposed resolution and provided
16 with opportunity to comment upon said resolution pursuant to applicable law and any rules and
17 regulations established by the director;

18 (20) To enter, examine, or survey, at any reasonable time, such places as the director
19 deems necessary to carry out his or her responsibilities under any provision of law subject to the
20 following provisions:

21 (i) For criminal investigations, the director shall, pursuant to chapter 5 of title 12, seek a
22 search warrant from an official of a court authorized to issue warrants, unless a search without a
23 warrant is otherwise allowed or provided by law;

24 (ii) (A) All administrative inspections shall be conducted pursuant to administrative
25 guidelines promulgated by the department in accordance with chapter 35 of title 42;

26 (B) A warrant shall not be required for administrative inspections if conducted under the
27 following circumstances, in accordance with the applicable constitutional standards:

28 (I) For closely regulated industries;

29 (II) In situations involving open fields or conditions that are in plain view;

30 (III) In emergency situations;

31 (IV) In situations presenting an imminent threat to the environment or public health,
32 safety, or welfare;

33 (V) If the owner, operator, or agent in charge of the facility, property, site, or location
34 consents; or

1 (VI) In other situations in which a warrant is not constitutionally required.

2 (C) Whenever it shall be constitutionally or otherwise required by law, or whenever the
3 director in his or her discretion deems it advisable, an administrative search warrant, or its
4 functional equivalent, may be obtained by the director from a neutral magistrate for the purpose
5 of conducting an administrative inspection. The warrant shall be issued in accordance with the
6 applicable constitutional standards for the issuance of administrative search warrants. The
7 administrative standard of probable cause, not the criminal standard of probable cause, shall
8 apply to applications for administrative search warrants;

9 (I) The need for, or reliance upon, an administrative warrant shall not be construed as
10 requiring the department to forfeit the element of surprise in its inspection efforts;

11 (II) An administrative warrant issued pursuant to this subsection must be executed and
12 returned within ten (10) days of its issuance date unless, upon a showing of need for additional
13 time, the court orders otherwise;

14 (III) An administrative warrant may authorize the review and copying of documents that
15 are relevant to the purpose of the inspection. If documents must be seized for the purpose of
16 copying, and the warrant authorizes such seizure, the person executing the warrant shall prepare
17 an inventory of the documents taken. The time, place, and manner regarding the making of the
18 inventory shall be set forth in the terms of the warrant itself, as dictated by the court. A copy of
19 the inventory shall be delivered to the person from whose possession or facility the documents
20 were taken. The seized documents shall be copied as soon as feasible under circumstances
21 preserving their authenticity, then returned to the person from whose possession or facility the
22 documents were taken;

23 (IV) An administrative warrant may authorize the taking of samples of air, water, or soil
24 or of materials generated, stored, or treated at the facility, property, site, or location. Upon
25 request, the department shall make split samples available to the person whose facility, property,
26 site, or location is being inspected;

27 (V) Service of an administrative warrant may be required only to the extent provided for
28 in the terms of the warrant itself, by the issuing court.

29 (D) Penalties. Any willful and unjustified refusal of right of entry and inspection to
30 department personnel pursuant to an administrative warrant shall constitute a contempt of court
31 and shall subject the refusing party to sanctions, which in the court's discretion may result in up to
32 six (6) months imprisonment and/or a monetary fine of up to ten thousand dollars (\$10,000) per
33 refusal.

34 (21) To give notice of an alleged violation of law to the person responsible therefor

1 whenever the director determines that there are reasonable grounds to believe that there is a
2 violation of any provision of law within his or her jurisdiction or of any rule or regulation adopted
3 pursuant to authority granted to him or her, unless other notice and hearing procedure is
4 specifically provided by that law. Nothing in this chapter shall limit the authority of the attorney
5 general to prosecute offenders as required by law;

6 (i) The notice shall provide for a time within which the alleged violation shall be
7 remedied, and shall inform the person to whom it is directed that a written request for a hearing
8 on the alleged violation may be filed with the director within ten (10) days after service of the
9 notice. The notice will be deemed properly served upon a person if a copy thereof is served him
10 or her personally; or sent by registered or certified mail to his or her last known address; or if he
11 or she is served with notice by any other method of service now or hereafter authorized in a civil
12 action under the laws of this state. If no written request for a hearing is made to the director
13 within ten (10) days of the service of notice, the notice shall automatically become a compliance
14 order;

15 (ii) (A) Whenever the director determines that there exists a violation of any law, rule, or
16 regulation within his or her jurisdiction that requires immediate action to protect the environment,
17 he or she may, without prior notice of violation or hearing, issue an immediate-compliance order
18 stating the existence of the violation and the action he or she deems necessary. The compliance
19 order shall become effective immediately upon service or within such time as is specified by the
20 director in such order. No request for a hearing on an immediate-compliance order may be made;

21 (B) Any immediate-compliance order issued under this section without notice and prior
22 hearing shall be effective for no longer than forty-five (45) days; provided, however, that for
23 good cause shown, the order may be extended one additional period not exceeding forty-five (45)
24 days.

25 (iii) The director may, at his or her discretion and for the purposes of timely and effective
26 resolution and return to compliance, cite a person for alleged noncompliance through the issuance
27 of an expedited citation in accordance with subsection 42-17.6-3(c);

28 (iv) If a person upon whom a notice of violation has been served under the provisions of
29 this section or if a person aggrieved by any such notice of violation requests a hearing before the
30 director within ten (10) days of the service of notice of violation, the director shall set a time and
31 place for the hearing, and shall give the person requesting that hearing at least five (5) days
32 written notice thereof. After the hearing, the director may make findings of fact and shall sustain,
33 modify, or withdraw the notice of violation. If the director sustains or modifies the notice, that
34 decision shall be deemed a compliance order and shall be served upon the person responsible in

1 any manner provided for the service of the notice in this section;

2 (v) The compliance order shall state a time within which the violation shall be remedied,
3 and the original time specified in the notice of violation shall be extended to the time set in the
4 order;

5 (vi) Whenever a compliance order has become effective, whether automatically where no
6 hearing has been requested, where an immediate compliance order has been issued, or upon
7 decision following a hearing, the director may institute injunction proceedings in the superior
8 court of the state for enforcement of the compliance order and for appropriate temporary relief,
9 and in that proceeding, the correctness of a compliance order shall be presumed and the person
10 attacking the order shall bear the burden of proving error in the compliance order, except that the
11 director shall bear the burden of proving in the proceeding the correctness of an immediate
12 compliance order. The remedy provided for in this section shall be cumulative and not exclusive
13 and shall be in addition to remedies relating to the removal or abatement of nuisances or any
14 other remedies provided by law;

15 (vii) Any party aggrieved by a final judgment of the superior court may, within thirty (30)
16 days from the date of entry of such judgment, petition the supreme court for a writ of certiorari to
17 review any questions of law. The petition shall set forth the errors claimed. Upon the filing of the
18 petition with the clerk of the supreme court, the supreme court may, if it sees fit, issue its writ of
19 certiorari.

20 (22) To impose administrative penalties in accordance with the provisions of chapter 17.6
21 of this title and to direct that such penalties be paid into the account established by subdivision
22 (26);

23 (23) The following definitions shall apply in the interpretation of the provisions of this
24 chapter:

25 (i) Director: The term "director" shall mean the director of environmental management of
26 the state of Rhode Island or his or her duly authorized agent;

27 (ii) Person: The term "person" shall include any individual, group of individuals, firm,
28 corporation, association, partnership, or private or public entity, including a district, county, city,
29 town, or other governmental unit or agent thereof, and in the case of a corporation, any individual
30 having active and general supervision of the properties of such corporation;

31 (iii) Service: (A) Service upon a corporation under this section shall be deemed to include
32 service upon both the corporation and upon the person having active and general supervision of
33 the properties of such corporation;

34 (B) For purposes of calculating the time within which a claim for a hearing is made

1 pursuant to subdivision (21)(i), service shall be deemed to be the date of receipt of such notice or
2 three (3) days from the date of mailing of said notice, whichever shall first occur.

3 (24) (i) To conduct surveys of the present private and public camping and other
4 recreational areas available and to determine the need for and location of such other camping and
5 recreational areas as may be deemed necessary and in the public interest of the state of Rhode
6 Island and to report back its findings on an annual basis to the general assembly on or before
7 March 1 of every year;

8 (ii) Additionally, the director of the department of environmental management shall take
9 such additional steps, including, but not limited to, matters related to funding as may be necessary
10 to establish such other additional recreational facilities and areas as are deemed to be in the public
11 interest.

12 (25) (i) To apply for and accept grants and bequests of funds, with the approval of the
13 director of administration, from other states, interstate agencies, and independent authorities, and
14 private firms, individuals, and foundations, for the purpose of carrying out his or her lawful
15 responsibilities. The funds shall be deposited with the general treasurer in a restricted receipt
16 account created in the natural resources program for funds made available for that program's
17 purposes or in a restricted receipt account created in the environmental protection program for
18 funds made available for that program's purposes. All expenditures from the accounts shall be
19 subject to appropriation by the general assembly, and shall be expended in accordance with the
20 provisions of the grant or bequest. In the event that a donation or bequest is unspecified, or in the
21 event that the trust account balance shows a surplus after the project as provided for in the grant
22 or bequest has been completed, the director may utilize said appropriated unspecified or
23 appropriated surplus funds for enhanced management of the department's forest and outdoor
24 public recreation areas, or other projects or programs that promote the accessibility of recreational
25 opportunities for Rhode Island residents and visitors;

26 (ii) The director shall submit to the house fiscal advisor and the senate fiscal advisor, by
27 October 1 of each year, a detailed report on the amount of funds received and the uses made of
28 such funds.

29 (26) To establish fee schedules by regulation, with the approval of the governor, for the
30 processing of applications and the performing of related activities in connection with the
31 department's responsibilities pursuant to subsection (12); chapter 19.1 of title 23, as it relates to
32 inspections performed by the department to determine compliance with chapter 19.1 and rules
33 and regulations promulgated in accordance therewith; chapter 18.9 of title 23, as it relates to
34 inspections performed by the department to determine compliance with chapter 18.9 and the rules

1 and regulations promulgated in accordance therewith; chapters 19.5 and 23 of title 23; chapter 12
2 of title 46, insofar as it relates to water-quality certifications and related reviews performed
3 pursuant to provisions of the federal Clean Water Act; the regulation and administration of
4 underground storage tanks and all other programs administered under chapter 12 of title 46 and §
5 2-1-18 et seq., and chapter 13.1 of title 46 and chapter 13.2 of title 46, insofar as they relate to
6 any reviews and related activities performed under the provisions of the Groundwater Protection
7 Act; chapter 24.9 of title 23 as it relates to the regulation and administration of mercury-added
8 products; and chapter 17.7 of this title, insofar as it relates to administrative appeals of all
9 enforcement, permitting and licensing matters to the administrative adjudication division for
10 environmental matters. Two (2) fee ranges shall be required: for "Appeal of enforcement
11 actions", a range of fifty dollars (\$50) to one hundred dollars (\$100), and for "Appeal of
12 application decisions", a range of five hundred dollars (\$500) to ten thousand dollars (\$10,000).
13 The monies from the administrative adjudication fees will be deposited as general revenues and
14 the amounts appropriated shall be used for the costs associated with operating the administrative
15 adjudication division.

16 There is hereby established an account within the general fund to be called the water and
17 air protection program. The account shall consist of sums appropriated for water and air pollution
18 control and waste-monitoring programs and the state controller is hereby authorized and directed
19 to draw his or her orders upon the general treasurer for the payment of such sums, or such
20 portions thereof, as may be required, from time to time, upon receipt by him or her of properly
21 authenticated vouchers. All amounts collected under the authority of this subdivision for the
22 sewage-disposal-system program and fresh-waters wetlands program will be deposited as general
23 revenues and the amounts appropriated shall be used for the purposes of administering and
24 operating the programs. The director shall submit to the house fiscal advisor and the senate fiscal
25 advisor by January 15 of each year a detailed report on the amount of funds obtained from fines
26 and fees and the uses made of such funds.

27 (27) To establish and maintain a list or inventory of areas within the state worthy of
28 special designation as "scenic" to include, but not be limited to, certain state roads or highways,
29 scenic vistas, and scenic areas, and to make the list available to the public;

30 (28) To establish and maintain an inventory of all interests in land held by public and
31 private land trust and to exercise all powers vested herein to insure the preservation of all
32 identified lands;

33 (i) The director may promulgate and enforce rules and regulations to provide for the
34 orderly and consistent protection, management, continuity of ownership and purpose, and

1 centralized records-keeping for lands, water, and open spaces owned in fee or controlled in full or
2 in part through other interests, rights, or devices such as conservation easements or restrictions,
3 by private and public land trusts in Rhode Island. The director may charge a reasonable fee for
4 filing of each document submitted by a land trust;

5 (ii) The term "public land trust" means any public instrumentality created by a Rhode
6 Island municipality for the purposes stated herein and financed by means of public funds
7 collected and appropriated by the municipality. The term "private land trust" means any group of
8 five (5) or more private citizens of Rhode Island who shall incorporate under the laws of Rhode
9 Island as a nonbusiness corporation for the purposes stated herein, or a national organization such
10 as the nature conservancy. The main purpose of either a public or a private land trust shall be the
11 protection, acquisition, or control of land, water, wildlife, wildlife habitat, plants, and/or other
12 natural features, areas, or open space for the purpose of managing or maintaining, or causing to
13 be managed or maintained by others, the land, water, and other natural amenities in any
14 undeveloped and relatively natural state in perpetuity. A private land trust must be granted
15 exemption from federal income tax under Internal Revenue Code 501c(3) [26 U.S.C. § 501(c)(3)]
16 within two (2) years of its incorporation in Rhode Island or it may not continue to function as a
17 land trust in Rhode Island. A private land trust may not be incorporated for the exclusive purpose
18 of acquiring or accepting property or rights in property from a single individual, family,
19 corporation, business, partnership, or other entity. Membership in any private land trust must be
20 open to any individual subscribing to the purposes of the land trust and agreeing to abide by its
21 rules and regulations including payment of reasonable dues;

22 (iii) (A) Private land trusts will, in their articles of association or their bylaws, as
23 appropriate, provide for the transfer to an organization, created for the same or similar purposes,
24 the assets, lands and land rights and interests held by the land trust in the event of termination or
25 dissolution of the land trust.

26 (B) All land trusts, public and private, will record in the public records, of the appropriate
27 towns and cities in Rhode Island, all deeds, conservation easements, or restrictions or other
28 interests and rights acquired in land and will also file copies of all such documents and current
29 copies of their articles of association, their bylaws, and their annual reports with the secretary of
30 state and with the director of the Rhode Island department of environmental management. The
31 director is hereby directed to establish and maintain permanently a system for keeping records of
32 all private and public land trust land holdings in Rhode Island.

33 (29) The director will contact in writing, not less often than once every two (2) years,
34 each public or private land trust to ascertain: that all lands held by the land trust are recorded with

1 the director; the current status and condition of each land holding; that any funds or other assets
2 of the land trust held as endowment for specific lands have been properly audited at least once
3 within the two-year (2) period; the name of the successor organization named in the public or
4 private land trust's bylaws or articles of association; and any other information the director deems
5 essential to the proper and continuous protection and management of land and interests or rights
6 in land held by the land trust. In the event that the director determines that a public or private land
7 trust holding land or interest in land appears to have become inactive, he or she shall initiate
8 proceedings to effect the termination of the land trust and the transfer of its lands, assets, land
9 rights, and land interests to the successor organization named in the defaulting trust's bylaws or
10 articles of association or to another organization created for the same or similar purposes. Should
11 such a transfer not be possible, then the land trust, assets, and interest and rights in land will be
12 held in trust by the state of Rhode Island and managed by the director for the purposes stated at
13 the time of original acquisition by the trust. Any trust assets or interests other than land or rights
14 in land accruing to the state under such circumstances will be held and managed as a separate
15 fund for the benefit of the designated trust lands;

16 (30) Consistent with federal standards, issue and enforce such rules, regulations, and
17 orders as may be necessary to establish requirements for maintaining evidence of financial
18 responsibility for taking corrective action and compensating third parties for bodily injury and
19 property damage caused by sudden and non-sudden accidental releases arising from operating
20 underground storage tanks;

21 (31) To enforce, by such means as provided by law, the standards for the quality of air,
22 and water, and the location, design, construction, and operation of all underground storage
23 facilities used for storing petroleum products or hazardous materials; any order or notice issued
24 by the director relating to the location, design construction, operation, or maintenance of an
25 underground storage facility used for storing petroleum products or hazardous materials shall be
26 eligible for recordation under chapter 13 of title 34. The director shall forward the order or notice
27 to the city or town wherein the subject facility is located, and the order or notice shall be recorded
28 in the general index by the appropriate municipal officer in the land-evidence records in the city
29 or town wherein the subject facility is located. Any subsequent transferee of that facility shall be
30 responsible for complying with the requirements of the order or notice. Upon satisfactory
31 completion of the requirements of the order or notice, the director shall provide written notice of
32 the same, which notice shall be eligible for recordation. The original, written notice shall be
33 forwarded to the city or town wherein the subject facility is located, and the notice of satisfactory
34 completion shall be recorded in the general index by the appropriate municipal official in the

1 land-evidence records in the city or town wherein the subject facility is located. A copy of the
2 written notice shall be forwarded to the owner of the subject facility within five (5) days of a
3 request for it, and, in any event, shall be forwarded to the owner of the subject facility within
4 thirty (30) days after correction;

5 (32) To manage and disburse any and all funds collected pursuant to § 46-12.9-4, in
6 accordance with § 46-12.9-5, and other provisions of the Rhode Island Underground Storage
7 Tank Financial Responsibility Act, as amended;

8 (33) To support, facilitate, and assist the Rhode Island Natural History Survey, as
9 appropriate and/or as necessary, in order to accomplish the important public purposes of the
10 survey in gathering and maintaining data on Rhode Island natural history; making public
11 presentations and reports on natural history topics; ranking species and natural communities;
12 monitoring rare species and communities; consulting on open-space acquisitions and management
13 plans; reviewing proposed federal and state actions and regulations with regard to their potential
14 impact on natural communities; and seeking outside funding for wildlife management, land
15 management, and research;

16 (34) To promote the effective stewardship of lakes, ponds, rivers and streams including,
17 but not limited to, collaboration with watershed organizations and associations of lakefront
18 property owners on planning and management actions that will prevent and mitigate water quality
19 degradation, reduce the loss of native habitat due to infestation of non-native species, abate
20 nuisance conditions that result from excessive growth of algal or non-native plant species as well
21 as promote healthy freshwater riverine ecosystems;

22 (35) In implementing the programs established pursuant to this chapter, to identify
23 critical areas for improving service to customers doing business with the department, and to
24 develop and implement strategies to improve performance and effectiveness in those areas. Key
25 aspects of a customer-service program shall include, but not necessarily be limited to, the
26 following components:

27 (a) Maintenance of an organizational unit within the department with the express purpose
28 of providing technical assistance to customers and helping customers comply with environmental
29 regulations and requirements;

30 (b) Maintenance of an employee-training program to promote customer service across the
31 department;

32 (c) Implementation of a continuous business process evaluation and improvement effort,
33 including process reviews to encourage development of quality proposals; ensure timely and
34 predictable reviews; and result in effective decisions and consistent follow up and implementation

1 throughout the department; and publish an annual report on such efforts;

2 (d) Creation of a centralized location for the acceptance of permit applications and other
3 submissions to the department;

4 (e) Maintenance of a process to promote, organize, and facilitate meetings prior to the
5 submission of applications or other proposals in order to inform the applicant on options and
6 opportunities to minimize environmental impact; improve the potential for sustainable
7 environmental compliance; and support an effective and efficient review and decision-making
8 process on permit applications related to the proposed project;

9 (f) Development of single permits under multiple authorities otherwise provided in state
10 law to support comprehensive and coordinated reviews of proposed projects. The director may
11 address and resolve conflicting or redundant process requirements in order to achieve an effective
12 and efficient review process that meets environmental objectives; and

13 (g) Exploration of the use of performance-based regulations coupled with adequate
14 inspection and oversight, as an alternative to requiring applications or submissions for approval
15 prior to initiation of projects. The department shall work with the office of regulatory reform to
16 evaluate the potential for adopting alternative compliance approaches and provide a report to the
17 governor and the general assembly by May 1, 2015; and

18 (36) To formulate and promulgate regulations requiring any dock or pier longer than
19 twenty feet (20') and located on a freshwater lake or pond to be equipped with reflective
20 materials, on all sides facing the water, of an appropriate width and luminosity such that it can be
21 seen by operators of watercraft.

22 (37) To temporarily waive any control or prohibition respecting the use of a fuel or fuel
23 additive required or regulated by the department if the director finds that:

24 (i) Extreme or unusual fuel or fuel additive supply circumstances exist in the state or the
25 New England region which prevent the distribution of an adequate supply of the fuel or fuel
26 additive to consumers;

27 (ii) Extreme or unusual fuel or fuel additive supply circumstance are the result of a
28 natural disaster, an act of god, a pipeline or refinery equipment failure, or another event that could
29 not reasonably have been foreseen; and

30 (iii) It is in the public interest to grant the waiver.

31 Any such temporary waiver shall be made in writing and shall be effective for twenty
32 (20) calendar days; provided, that the director may renew the temporary waiver, in writing, if it is
33 deemed necessary.

1 SECTION 4. This act shall take effect upon passage.

=====
LC004517
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO MOTOR AND OTHER VEHICLES -- RETAIL SALE OF GASOLINE

1 This act would eliminate the requirement that a waiver for fuel content standards be
2 obtained from both weights and measures, in the department of labor and training (DLT), and the
3 department of environmental management (DEM) and authorizes the director of DEM to grant
4 waivers in the event of shortages or emergencies.

5 This act would take effect upon passage.

=====
LC004517
=====