

tion, or other trademark violations by the franchisee.

**(2) Effect of provision**

Nothing in this section shall be construed to preclude a franchisor from requiring the franchisee to obtain reasonable indemnification and insurance policies.

**(c) Exception to 3-grade requirement**

No franchise-related document that requires that 3 grades of gasoline be sold by the applicable franchisee shall prevent the franchisee from selling a renewable fuel in lieu of 1, and only 1, grade of gasoline.

(Pub. L. 95-297, title I, §107, as added Pub. L. 110-140, title II, §241(a), Dec. 19, 2007, 121 Stat. 1538.)

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as a note under section 1824 of Title 2, The Congress.

SUBCHAPTER II—OCTANE DISCLOSURE

**§ 2821. Definitions**

As used in this subchapter:

(1) The term “octane rating” means the rating of the antiknock characteristics of a grade or type of automotive fuel as determined by dividing by 2 the sum of the research octane number plus the motor octane number, unless another procedure is prescribed under section 2823(c)(3) of this title, in which case such term means the rating of such characteristics as determined under the procedure so prescribed.

(2) The terms “research octane number” and “motor octane number” have the meanings given such terms in the specifications of the American Society for Testing and Materials (ASTM) entitled “Standard Specification for Automotive Spark-Ignition Engine Fuel” designated D4814 (as in effect on June 19, 1978) and, with respect to any grade or type of automotive gasoline, are determined in accordance with test methods set forth in ASTM standard test methods designated D 2699 and D 2700 (as in effect on such date).

(3) The term “knock” means the combustion of a fuel spontaneously in localized areas of a cylinder of a spark-ignition engine, instead of the combustion of such fuel progressing from the spark.

(4) The term “automotive fuel retailer” means any person who markets automotive fuel to the general public for ultimate consumption.

(5) The term “refiner” means any person engaged in the production or importation of automotive fuel.

(6) The term “automotive fuel” means liquid fuel of a type distributed for use as a fuel in any motor vehicle.

(7) The term “motor vehicle” means any self-propelled four-wheeled vehicle, of less than 6,000 pounds gross vehicle weight, which is designed primarily for use on public streets, roads, and highways.

(8) The term “new motor vehicle” means any motor vehicle the equitable or legal title

to which has not previously been transferred to an ultimate purchaser.

(9) The term “ultimate purchaser” means, with respect to any item, the first person who purchases such item for purposes other than resale.

(10) The term “manufacturer” means any person who imports, manufactures, or assembles motor vehicles for sale.

(11) The term “automotive fuel requirement” means, with respect to automotive fuel for use in a motor vehicle or a class thereof, imported, manufactured, or assembled by a manufacturer, the minimum automotive fuel rating of such automotive fuel which such manufacturer recommends for the efficient operation of such motor vehicle, or a substantial portion of such class, without knocking.

(12) The term “model year” means a manufacturer’s annual production period (as determined by the Federal Trade Commission) for motor vehicles or a class of motor vehicles. If a manufacturer has no annual production period, the term “model year” means the calendar year.

(13) The term “commerce” means any trade, traffic, transportation, exchange, or other commerce—

(A) between any State and any place outside of such State; or

(B) which affects any trade, transportation, exchange, or other commerce described in subparagraph (A).

(14) The term “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and any other commonwealth, territory, or possession of the United States.

(15) the<sup>1</sup> term “person”, for purposes of applying any provision of the Federal Trade Commission Act [15 U.S.C. 41 et seq.] with respect to any provision of the subchapter, includes a partnership and a corporation.

(16) The term “distributor” means any person who receives automotive fuel and distributes such automotive fuel to another person other than the ultimate purchaser.

(17) The term “automotive fuel rating” means—

(A) the octane rating of an automotive spark-ignition engine fuel; and

(B) if provided for by the Federal Trade Commission by rule, the cetane rating of diesel fuel oils; or

(C) another form of rating determined by the Federal Trade Commission, after consultation with the American Society for Testing and Materials, to be more appropriate to carry out the purposes of this subchapter with respect to the automotive fuel concerned.

(18)(A) The term “cetane rating” means a measure, as indicated by a cetane index or cetane number, of the ignition quality of diesel fuel oil and of the influence of the diesel fuel oil on combustion roughness.

(B) The term “cetane index” and the term “cetane number” have the meanings deter-

<sup>1</sup> So in original. Probably should be capitalized.

mined in accordance with the test methods set forth in the American Society for Testing and Materials standard test methods—

- (i) designated D976 or D4737 in the case of cetane index; and
- (ii) designated D613 in the case of cetane number,

(as in effect on October 24, 1992) and shall apply to any grade or type of diesel fuel oils defined in the specification of the American Society for Testing and Materials entitled “Standard Specification for Diesel Fuel Oils” designated D975 (as in effect on October 24, 1992).

(Pub. L. 95-297, title II, §201, June 19, 1978, 92 Stat. 333; Pub. L. 102-486, title XV, §1501(a)-(c)(1), Oct. 24, 1992, 106 Stat. 2996.)

#### REFERENCES IN TEXT

The Federal Trade Commission Act, referred to in par. (15), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of this title. For complete classification of this Act to the Code, see section 58 of this title and Tables.

#### CODIFICATION

October 24, 1992, referred to in par. (18)(B), was in the original “the date of the enactment of this Act” and “such date”, which were translated as meaning the date of enactment of Pub. L. 102-486, which enacted par. (18), to reflect the probable intent of Congress.

#### AMENDMENTS

1992—Par. (1). Pub. L. 102-486, §1501(c)(1)(A), substituted “fuel” for “gasoline”.

Par. (2). Pub. L. 102-486, §1501(c)(1)(B), substituted “Standard Specification for Automotive Spark-Ignition Engine Fuel” for “Standard Specifications for Automotive Gasoline” and “D4814 for “D 439”.

Par. (4). Pub. L. 102-486, §1501(c)(1)(C), substituted “automotive fuel” for first reference to “gasoline” and “fuel” for second reference to “gasoline”.

Par. (5). Pub. L. 102-486, §1501(c)(1)(D), added par. (5) and struck out former par. (5) which read as follows: “The term ‘refiner’ means any person engaged in—

“(A) the refining of crude oil to produce automotive gasoline; or

“(B) the importation of automotive gasoline.”

Par. (6). Pub. L. 102-486, §1501(a), amended par. (6) generally. Prior to amendment, par. (6) read as follows: “The term ‘automotive gasoline’ means gasoline of a type distributed for use as a fuel in any motor vehicle.”

Par. (11). Pub. L. 102-486, §1501(c)(1)(E), substituted “automotive fuel” for “octane” before “requirement” and before “rating”, and “fuel” for “gasoline” before “for use” and before “which such”.

Par. (16). Pub. L. 102-486, §1501(c)(1)(F), substituted “automotive fuel” for “gasoline” in two places.

Pars. (17), (18). Pub. L. 102-486, §1501(b), added pars. (17) and (18).

#### EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-486, title XV, §1501(d)(1), Oct. 24, 1992, 106 Stat. 2997, provided that: “The amendments made by this section [amending this section and sections 2822 and 2823 of this title] shall become effective at the end of the one-year period beginning on the date of the enactment of this Act [Oct. 24, 1992].”

#### REGULATIONS

Pub. L. 102-486, title XV, §1501(d)(2), Oct. 24, 1992, 106 Stat. 2997, provided that: “The Federal Trade Commission shall, within 270 days after the date of the enactment of this Act [Oct. 24, 1992], prescribe rules for the

purpose of implementing the amendments made in this section [amending this section and sections 2822 and 2823 of this title].”

#### § 2822. Automotive fuel rating testing and disclosure requirements

##### (a) Determination and certification of automotive fuel rating by refiner distributing automotive fuel

Each refiner who distributes automotive fuel in commerce shall—

- (1) determine the automotive fuel rating of any such fuel; and
- (2) if such refiner distributes such fuel to any person other than the ultimate purchaser, certify, consistent with the determination made under paragraph (1), the automotive fuel rating of such fuel.

##### (b) Certification of automotive fuel rating by distributor receiving and distributing automotive fuel with certified automotive fuel rating; use of automotive fuel rating for certification by distributor

Each distributor who receives automotive fuel, the automotive fuel rating of which is certified to him under this section, and distributes such fuel in commerce to another person other than the ultimate purchaser shall certify to such other person the automotive fuel rating of such fuel consistent with—

- (1) the automotive fuel rating of such fuel certified to such distributor; or
- (2) if such distributor elects (at such time and in such manner as the Federal Trade Commission may, by rule, prescribe), the automotive fuel rating of such fuel determined by such distributor.

##### (c) Display of automotive fuel rating by automotive fuel retailer; use of automotive fuel rating for display

Each automotive fuel retailer shall display in a clear and conspicuous manner, at the point of sale to ultimate purchasers of automotive fuel, the automotive fuel rating of such automotive fuel, which automotive fuel rating shall be consistent with—

- (1) the automotive fuel rating of such automotive fuel certified to such retailer under subsection (a)(2) or (b);

(2) if such automotive fuel retailer elects (at such time and in such manner as the Federal Trade Commission may, by rule, prescribe), the automotive fuel rating of such automotive fuel determined by such retailer for such automotive fuel; or

- (3) if such automotive fuel retailer is a refiner, the automotive fuel rating of such automotive fuel determined under subsection (a)(1).

##### (d) Display or representation of automotive fuel requirements for new motor vehicles by manufacturer of such vehicles; promulgation of rules by Federal Trade Commission

The Federal Trade Commission shall, by rule, prescribe requirements, applicable to any manufacturer of new motor vehicles, with respect to the display on each such motor vehicle (or representation in connection with the sale of each such motor vehicle) of the automotive fuel requirement of such motor vehicle.