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MINISTER FOR THE ENVIRONMENT, HERITAGE AND THE ARTS

SECOND READING SPEECH FUEL QUALITY STANDARDS AMENDMENT BILL 2009

Wednesday 18 March 2009

The Fuel Quality Standards Act 2000 is designed to regulate the quality of fuel supplied in Australia to reduce harmful emissions from vehicles, facilitate the adoption of better engine and emission control technology, and allow the more effective operation of engines. The act also ensures that information on fuels is provided for consumers, where necessary.

The Fuel Quality Standards Amendment Bill 2009 will amend the act to implement recommendations from the first statutory review of the act and to address a number of issues that have arisen from the practical application of the act and its subordinate legislation. The act provides that an independent review of its operation be undertaken every five years. The first review reported in April 2005.

The bill will improve the efficiency and effectiveness of the act. In particular, these amendments are needed to improve the development and enforcement of fuel standards, which in turn benefit the public and the environment through cleaner fuels and reduced vehicle emissions. To this end, this bill contains a range of measures that will help the government stamp out unscrupulous dealers who illegally supply substandard fuels to Australian motorists, in breach of national fuel quality standards.

The act currently allows for approval for the variation of fuel standards and imposition of conditions to the approval. However, such conditions must relate to the supply of fuel. The bill will broaden the scope for imposing conditions so that, for example, the adverse impacts of the supply of substandard fuel could be offset. This means that a company that supplied petrol with a higher benzene content, under an approval, could be required to fund an air quality monitoring program that monitored benzene levels in the atmosphere in the region where the fuel was to be supplied. The bill also includes a streamlined process for certain variations of approvals. If the variation is of a minor nature, or only adds regulated persons to an approval, the minister need only notify, rather than consult, the Fuel Standards Consultative Committee. The bill also provides for the secretary to be able to initiate a variation to an approval, for example, to

correct an error in an approval. In each case a notice of the variation would still need to be published in the *Gazette*. The bill will also establish a process for granting an emergency approval to avoid a potential fuel supply shortfall in exceptional circumstances. An emergency approval will be able to be granted for a maximum of 14 days with the Fuel Standards Consultative Committee only notified of the decision, rather than needing to be consulted before a decision can be made. The bill will also allow for the period of an emergency approval to be extended but only after consultation with the committee.

The bill will allow delegation of powers to grant approvals to the secretary or an SES officer, except in relation to emergency approvals which will only be delegated to the secretary. This will allow the more routine approvals, such as those relating to racing fuels, to be handled by the department. It will also provide some flexibility for the department in those situations where an emergency approval is required to address a potential fuel supply.

The bill will also allow consideration of the circumstances in which fuel is supplied as one of the matters that constitute a fuel standard. This provision will allow the inclusion or exclusion of certain end uses, where appropriate, from the application of fuel standards and it will assist in addressing issues relating to the complexity of defining fuels used for different purposes and the management of blends—for example, diesel blended with biodiesel. Existing fuel standards will continue in effect as if they had been made under the provisions of the bill. This will clarify that the fuel standard for petrol does not cover supplies of leaded petrol for use in aircraft. This is intended but not achieved under the current law because fuel standards do not relate to end use.

The act contains criminal offences for breaches of the legislation. The bill will introduce a more comprehensive range of enforcement measures, including a civil penalties regime so that there will be, for each offence, an equivalent civil penalty provision. Other enforcement measures include the ability to issue an infringement notice and, if appropriate, accept an enforceable undertaking. These measures will ensure that appropriate action can be taken in respect of breaches of the act.

The bill also extends the type of courts that have jurisdiction for various matters under the act. For example, an application for an injunction will be able to be made to the Supreme Court of a state or territory and not just the Federal Court of Australia. This change recognises that state and territory courts already have a role in prosecutions for offences against the act and allows them to deal with other matters.

Unless a warrant is obtained, the act requires inspectors to obtain the consent of a fuel retailer before exercising monitoring powers, which are quite broad. The bill will allow inspectors to enter the public area of business premises during normal hours of operation and exercise a limited range of monitoring powers

without the consent of the retailer or without a warrant. The retailer's right to refuse to allow an inspector to enter, or remain on, the premises, as is the case with any member of the public, will not be affected. The bill will expand current information sharing powers to allow the secretary to share information obtained under the act to assist in the administration or enforcement of various laws—for example, the Energy Grants (Cleaner Fuels) Scheme Act 2004, and state and territory fair trading laws. This will facilitate communication with other regulators to increase the intelligence base on potential offenders. It will also assist in addressing gaps in the act's coverage of the industry. There is only one new offence in the bill. A new section 65D provides that the secretary can require a person, other than the person who is suspected of contravening a civil penalty provision, who may have information relevant to an application for a civil penalty order, to provide all reasonable assistance in connection with the application. An offence applies for failure to give assistance as required. While this offence is a new offence under this act, it is a procedural offence common to other Commonwealth legislation.

The act as currently written is difficult to enforce. This bill will make the legislation much more robust in ensuring that the quality of fuel supplied in Australia is of the high standard required for new advanced engine technology in vehicles. This will be important to enable us to respond to new fuels and vehicle technologies as they emerge.

In closing, let me make clear that this bill will help to stamp out dodgy dealers who supply substandard petrol to consumers and will give Australian motorists confidence that the fuel they are paying for is of the high standard they expect. I commend the bill to the House.

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