



## ND Petroleum Marketers Association ND Retail Association



Testimony- SB 2179

January 20, 2025- Senate Finance and Tax Committee

Chairman Weber and members of the Senate Finance and Tax Committee:

For the record, my name is Mike Rud. I am the President of the North Dakota Petroleum Marketers Association. Our Membership represents businesses from across the state, large and small. These retailers do an outstanding job of providing the essential service of fueling the general public. **Our Association urges a "DO PASS" recommendation on SB 2179 .**

Mr. Chairman, I will be brief in my testimony as there are marketers waiting to testify online as to the importance of this bill's passage. I have provided in my testimony information regarding the state's fuel sampling program. I'm not going to read it all to you. However, I will tell you this program plays an important role insuring both the retailer and consumer are protected when it comes to gas purchases.

NDPMA and DEQ started having discussions on the future of the gas sampling and testing program in April 2024. As you can see from the charts I have provided there has been a sharp decline in the number of gas samples being taken from retail outlets over the past 2 decades. We talked about ways to find the monies needed to get sampling and testing of gasolines back to respectable numbers.

Current statute has the marketers paying one-fortieth of one cent into the state's motor fuel inspection fee. This money has always been deposited into the state's general fund. We believe since the marketers are paying the gas inspection fee, it's only fitting the funds be used for just such work.. Inspecting and testing gasoline samples.

I will let the retailers waiting to testify online go into more detail. These folks are in the trenches every day. They will bring an added perspective to this bill's importance to industry

and consumers alike. The DEQ is here to answer questions you might have regarding how the funds will be used.

NDPMA urges a **"DO PASS" recommendation on SB 2179.**





| Labeled Octane | Minimum Requirement | Posted (labeled) May Be        |
|----------------|---------------------|--------------------------------|
| 87             | 86.3                | Unleaded                       |
| 88             | 87.3                |                                |
| 89             | 88.3                |                                |
| 89.5           | 88.8                | Super, Plus, or Midgrade       |
| 90             | 89.3                |                                |
| 91             | 90.3                | Premium, Supreme, or High Test |
| 92             | 91.3                |                                |
| 93             | 92.3                |                                |



*Dispenser without ethanol.*

## FUEL TESTING REQUIREMENTS

As part of the North Dakota Department of Environmental Quality's responsibilities, underground storage tank staff are collecting fuel samples from retail fuel facilities. The fuel samples will be tested for the advertised specifications noted on the dispenser next to the fuel nozzle for that grade (for example, octane and ethanol content) and on any advertising. We will collect one or more samples of your fuel grades in one-quart steel containers and deliver them to the State Laboratory in Bismarck for analysis. Once the testing is complete, the NDDEQ will issue a letter noting the results and whether the fuel "Passes" or "Fails" the advertised specifications. If a fuel sample fails a test, the NDDEQ will send a follow-up letter. The facility will need to specify in writing how they intend to correct the violation.

For more information on the labeling and testing requirements for the different fuel grades, see the back of this handout.

## North Dakota State Law Specifies

- Gasoline or alcohol-blended gasoline dispensed must have the octane and alcohol blend posted (labeled) on the dispenser's front panel in a type not less than one inch [2.54 centimeters] high.
- The dispenser shall bear the alcohol information for alcohol-blended gasoline dispensed that consists of one percent or more by volume of alcohol. For example, dispensers posted (labeled) with the information that the alcohol-blended gasoline is "Up to 10% Ethanol" must contain between 1% to 11% ethanol by volume or dispensers posted (labeled) with "10% Ethanol" must contain between 9% to 11% ethanol by volume. Please contact the NDDEQ for higher percentage ethanol labeling requirements.
- Octane and alcohol-blended labels must be posted (labeled) in a clear and conspicuous position from the driver's seat. Octane of all gasoline or alcohol-blended gasoline offered for retail sale must be at least eighty-seven.
- No dealer may sell alcohol-blended gasoline unless the dispensing unit and any price advertising bear the name of the alcohol blended with the gasoline.

Read more about the North Dakota Petroleum Product Testing Rules at <https://www.legis.nd.gov/information/acdata/pdf/33.1-34-01.pdf>.



## DID YOU KNOW...

...that the North Dakota Department of Environmental Quality (NDDEQ) tests fuel from gas stations and other retail fuel facilities?

The NDDEQ

uses the results of these tests to confirm that any **labels** and **advertising** at the facility show the correct fuel information and octane rating.

Once the testing is complete, the NDDEQ will notify the facility that sold the fuel whether the sampled fuel "Passes" or "Fails" the advertised specifications. Failing the test is a violation of state rules. If a fuel sample fails a test, the facility must respond in writing on how they intend to correct the violation.



*Advertisement with correct labeling.*

## How do I avoid being in violation of state labeling rules?

Label your fuel dispensers correctly (ND Admin Code 33.1-34-01-02)



*Dispenser with ethanol.*

- Gasoline or alcohol-blended gasoline dispensed must have the octane and alcohol blend posted (labeled) on the dispenser's front panel in a type not less than one inch [2.54 centimeters] high.
- Dispensers for alcohol-blended fuels (1% or more) must show the correct alcohol information for the fuel.

For example:

- Dispensers posted (labeled) with "Up to 10% Ethanol" must dispense fuel that contains between 1% to 11% ethanol by volume
- Dispensers posted (labeled) with "10% Ethanol" must contain between 9% to 11% ethanol by volume.

- Dispensers posted (labeled) with "15% Ethanol" must contain between 14% to 16% ethanol by volume.
- Octane and alcohol-blended labels must be posted (labeled) in a clear and conspicuous position from the driver's seat. Octane of all gasoline or alcohol-blended gasoline offered for retail sale must be at least eighty-seven.
- No dealer may sell alcohol-blended gasoline unless the **dispensing unit** and **any price advertising** bear the name of the alcohol blended with the gasoline.

Read more about the North Dakota Petroleum Product Testing Rules at

<https://www.legis.nd.gov/information/acdata/pdf/33.1-34-01.pdf>.

| Year | Total | Pass | Fail | Pass % |
|------|-------|------|------|--------|
| 1995 | 989   |      |      |        |
| 1996 | 441   |      |      |        |
| 1997 | 616   |      |      |        |
| 1998 | 963   |      |      |        |
| 1999 | 896   |      |      |        |
| 2000 | 829   | 783  | 46   |        |
| 2001 | 1270  | 1210 | 60   |        |
| 2002 | 852   | 826  | 26   |        |
| 2003 | 650   | 616  | 34   |        |
| 2004 | 151   | 139  | 12   |        |
| 2005 | 299   | 283  | 16   |        |
| 2006 | 459   | 425  | 34   |        |
| 2007 | 295   | 267  | 28   |        |
| 2008 | 532   | 485  | 47   |        |
| 2009 | 532   | 484  | 48   |        |
| 2010 | 427   | 406  | 21   |        |
| 2011 | 355   | 314  | 41   |        |
| 2012 | 379   | 343  | 36   |        |
| 2013 | 371   | 325  | 46   |        |
| 2014 | 207   | 190  | 17   |        |
| 2015 | 296   | 278  | 18   |        |
| 2016 | 294   | 275  | 19   |        |
| 2017 | 280   | 249  | 31   |        |
| 2018 | 227   | 191  | 36   |        |
| 2019 | 102   | 96   | 6    |        |
| 2020 | 289   | 272  | 17   |        |
| 2021 | 413   | 355  | 58   |        |
| 2022 | 246   | 226  | 20   |        |
| 2023 | 301   | 267  | 34   |        |
| 2024 |       |      |      |        |

## Fuel Sample Analysis

