

BUSINESS & PROFESSIONS CODE 13650, 13651, 13652

Air Water and Restrooms

(reproduced from State files 11/01/2003)

13650. "Service station," as used in this chapter, means any establishment which offers for sale or sells gasoline or other motor vehicle fuel to the public.

13651. (a) (1) On and after January 1, 2000, every service station in this state shall provide, during operating hours, and make available at no cost to customers who purchase motor vehicle fuel, water, compressed air, and a gauge for measuring air pressure, to the public for use in servicing any passenger vehicle, as defined in Section 465 of the Vehicle **Code**, or any commercial vehicle, as defined in Section 260 of the Vehicle **Code**, with an unladen weight of 6,000 pounds or less.

(2) Every service station in this state shall display, at a conspicuous place on, at, or near the dispensing apparatus, at least one clearly visible sign which shall read as follows: "CALIFORNIA LAW REQUIRES THIS STATION TO PROVIDE FREE AIR AND WATER FOR AUTOMOTIVE PURPOSES TO ITS CUSTOMERS WHO PURCHASE MOTOR VEHICLE FUEL.

IF YOU HAVE A COMPLAINT NOTIFY THE STATION ATTENDANT AND/OR CALL THIS TOLL-FREE TELEPHONE NUMBER: 1 (800) ____ ____." This sign shall meet the requirements of Sections 13473 and 13474 with regard to letter size and contrast. As used in this paragraph, automotive purposes does not include the washing of vehicles.

(b) (1) On and after January 1, 1990, every service station in this state located within 660 feet of an accessible right-of-way of any interstate or primary highway, as defined in Sections 5215 and 5220, shall provide, during business hours public restrooms for use by its customers. Service stations shall not charge customers separately for the use of restroom facilities.

(2) The public restroom shall not be temporary or portable but shall be permanent and shall include separate facilities for men and women, each with toilets and sinks suitable for use by disabled persons in accordance with Section 19955.5 of the Health and Safety **Code** and Title 24 of the California **Code** of Regulations. However, a service station not located along an interstate highway and in a rural area, as defined by Section 101 of Title 23 of the United States **Code**, and where the annualized average daily traffic count is 2,500 vehicles or less, is only required to provide a single restroom to be used by both men and women unless the local legislative body or, upon designation by the local legislative body, the local building official, determines and finds, based upon traffic studies and local or seasonal tourist patterns, that a single restroom would be inadequate to serve the public. In that event, the single restroom exemption shall not apply. The single restroom shall contain a toilet, urinal, and sink suitable for use by disabled persons as required by the Americans With Disabilities Act and Title 24 of the California **Code** of Regulations. The single restroom shall be equipped with a locking mechanism to be operated by the user of the restroom and the restroom shall be maintained in a clean and sanitary manner.

(3) This subdivision does not apply to service stations which are operational prior to January 1, 1990, and which would be obligated to

construct permanent restroom facilities to comply with this subdivision.

(4) For the purposes of this subdivision, "customer" means a person who purchases any product available for sale on the premises of the service station, including items not related to the repairing or servicing of a motor vehicle.

(c) Every service station in this state shall display, at a conspicuous place on, at, or near the dispensing apparatus or at or near the point of sale, at least one clearly visible sign showing a list of applicable state and federal fuel taxes per gallon of motor vehicle fuel sold from the dispensing apparatus.

(d) (1) The Division of Measurement Standards of the Department of Food and Agriculture shall, no later than January 1, 2001, establish a toll-free customer complaint telephone number. The toll-free telephone number thereby established shall be printed on the sign required pursuant to paragraph (2) of subdivision (a).

(2) Notwithstanding any other provision of law, employees of the Division of Measurement Standards, upon inspection, or upon notice of a complaint forwarded pursuant to this section, are empowered to investigate a complaint against a service station for lack of free air and water and issue a citation to the station, and to collect a fine of two hundred fifty dollars (\$250) per valid complaint, unless the citation is challenged in court. No citation shall be issued if the air and water equipment is in good working order upon initial inspection, or if they are repaired to the satisfaction of the inspecting entity within 10 working days of the initial inspection. In addition, no citation based on nonfunctional air and water equipment shall be issued if the service station can establish that the equipment has been the target of repeated vandalism, substantiated by three or more police reports within six months detailing the vandalism.

13652. (a) Any person who intentionally violates any provision of this chapter or any regulation promulgated pursuant thereto is guilty of an infraction, and, upon conviction, shall be punished by a fine not to exceed fifty dollars (\$50) for each day that the person violates the provision or regulation.

(b) The failure of an owner or manager of a service station to have adequate water and air facilities available for use by the public, or to provide permanent public restrooms for use by its customers, as required by subdivision (b) of Section **13651**, for five consecutive working days, constitutes a rebuttable presumption affecting the burden of proof that the owner or manager has intentionally violated this chapter. This subdivision does not apply to restrooms rendered inoperable as a result of vandalism or plumbing problems that may not be readily repaired.

(c) Notwithstanding any other provision of this chapter, no person shall be guilty of the infraction specified in subdivision (a) if that person, within seven days after receiving notification from the city attorney, district attorney, or Attorney General of any violation of this chapter, makes whatever changes are necessary to comply with the requirements of this chapter.