S T A T E O F N E W Y O R K

4170

2011-2012 Regular Sessions

I N S E N A T E

March 22, 2011

Introduced by Sen. ALESI -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to zone pricing of gasoline, and to amend chapter 579 of the laws of 2008, amending the general business law relating to zone pricing of gasoline, in relation to zone pricing for retail motor fuel based on geographic location

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Paragraph (a) of subdivision 1 of section 399-ee of the general business law is relettered paragraph (a-1) and a new paragraph (a) is added to read as follows:

(A) "ADDITIONAL COSTS" MEANS ALL REPLACEMENT AND TRANSPORTATION COSTS AND TAXES INCURRED.

S 2. Paragraph (g) of subdivision 1 of section 399-ee of the general business law, as added by chapter 579 of the laws of 2008, is amended to read as follows:

(g) "Relevant geographic market" means the geographic area [of effective competition] WHICH IS SUPPLIED BY THE SAME TERMINAL FACILITY.

S 3. Paragraph (m) of subdivision 1 of section 399-ee of the general business law, as added by chapter 579 of the laws of 2008, is amended to read as follows:

(m) "Zone pricing" means the ESTABLISHMENT OF arbitrary price differences BASED ON THE GEOGRAPHICAL LOCATION OF THE RETAIL OUTLET within the relevant geographic market, [based on] WITHOUT REGARD TO the posted terminal price [or] ANY ADDITIONAL COSTS where the effect is to injure competition.

S 4. Subdivision 2 of section 399-ee of the general business law, as added by chapter 579 of the laws of 2008, is amended to read as follows:

2. No wholesaler, OR DEALER shall engage in zone pricing with respect to any motor fuel of like grade or quality, WHICH IS SUPPLIED TO DEALER OPERATED RETAIL OUTLETS.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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S 5. Subdivision 3 of section 399-ee of the general business law, is amended by adding a new undesignated paragraph to read as follows:

NOTWITHSTANDING ANY RIGHT OF ACTION TO THE ATTORNEY GENERAL AS PROVIDED IN THIS SECTION, A WHOLESALER OR DEALER WHO HAS BEEN INJURED BY REASON OF A VIOLATION OF THIS SECTION MAY BRING AN ACTION IN HIS OR HER OWN NAME TO ENJOIN SUCH UNLAWFUL ACT, HOWEVER, NO DAMAGES OF ANY NATURE SHALL BE RECOVERABLE IN SUCH ACTION.

S 6. Section 2 of chapter 579 of the laws of 2008, amending the general business law relating to zone pricing of gasoline, is amended to read as follows:

S 2. Legislative findings and intent. The legislature hereby finds and declares that for the past several years motor fuel prices have greatly fluctuated. In some cases, price fluctuations are caused by natural market conditions. In other cases, fluctuations result from artificial manipulation of the market. One such artificial pricing manipulation is zone pricing. Zone pricing is the setting of different wholesale prices for retail motor fuel [that operate in different geographic areas] BASED ON GEOGRAPHIC LOCATION. Zone pricing increases the price of retail motor fuel for certain consumers, leading to inequities among consumers and regions around the state. Therefore, the legislature hereby declares that while natural market occurrences may lead to price fluctuations, artificial changes in motor fuel prices unfairly harm many consumers around the state.

S 7. This act shall take effect immediately.