

S. 2124

A. 2290

2013-2014 Regular Sessions

S E N A T E - A S S E M B L Y

January 11, 2013

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

IN ASSEMBLY -- Introduced by M. of A. THIELE, COOK, GALEF, JAFFEE, LUPARDO, LOSQUADRO, MAISEL, McKEVITT, RAIA, ROBERTS, SALADINO, ZEBROWSKI -- Multi-Sponsored by -- M. of A. BRENNAN, CUSICK, DUPREY, GABRYSZAK, HOOPER, RA, RABBITT -- read once and referred to the Committee on Economic Development

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:

1 Section 1. Paragraph (a) of subdivision 1 of section 399-ee of the
2 general business law is relettered paragraph (a-1) and a new paragraph
3 (a) is added to read as follows:
4 (A) "ADDITIONAL COSTS" MEANS ALL REPLACEMENT AND TRANSPORTATION COSTS
5 AND TAXES INCURRED.
6 S 2. Paragraph (g) of subdivision 1 of section 399-ee of the general
7 business law, as added by chapter 579 of the laws of 2008, is amended to
8 read as follows:
9 (g) "Relevant geographic market" means the geographic area [of effective
10 competition] WHICH IS SUPPLIED BY THE SAME TERMINAL FACILITY.
11 S 3. Paragraph (m) of subdivision 1 of section 399-ee of the general
12 business law, as added by chapter 579 of the laws of 2008, is amended to
13 read as follows:
14 (m) "Zone pricing" means the [arbitrary] ESTABLISHMENT OF price
15 differences BASED ON THE GEOGRAPHICAL LOCATION OF THE RETAIL OUTLET
16 within the relevant geographic market, [based on] WITHOUT REGARD TO the

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

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1 posted terminal price [or] AND ANY ADDITIONAL COSTS where the effect is
2 to injure competition.

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

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

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

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

15 S 6. Section 2 of chapter 579 of the laws of 2008, amending the gener-
16 al business law relating to zone pricing of gasoline, is amended to read
17 as follows:

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

31 S 7. This act shall take effect on the thirtieth day after it shall
32 have become a law.