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

4984

2013-2014 Regular Sessions

I N S E N A T E

May 2, 2013

Introduced by Sen. SAVINO -- 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 prohibiting more than one increase in the price of gasoline in any twenty-four hour period

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

Section 1. The general business law is amended by adding a new section 392-j to read as follows:

S 392-J. UNLAWFUL MOTOR FUEL PRICE INCREASES; EXCEPTIONS. 1. (A) IT SHALL BE UNLAWFUL FOR ANY NONREFINER ENGAGED IN COMMERCE IN THIS STATE TO INCREASE THE PRICE OF ANY GRADE OR QUALITY OF MOTOR FUEL SOLD AT A RETAIL OUTLET MORE THAN ONCE IN A TWENTY-FOUR HOUR PERIOD.

(B) IT SHALL BE UNLAWFUL FOR ANY REFINER, INCLUDING ANY AFFILIATE OR AGENT THEREOF, ENGAGED IN COMMERCE IN THIS STATE TO INCREASE THE PRICE OF ANY GRADE OR QUALITY OF MOTOR FUEL SOLD MORE THAN ONCE IN A TWENTY-FOUR HOUR PERIOD.

2. (A) ANY VIOLATION OF THIS SECTION SHALL RESULT IN A CIVIL FINE OF NOT MORE THAN FIVE HUNDRED DOLLARS TO BE COLLECTED BY THE CORPORATION COUNSEL FOR ANY CITY OR BY THE APPROPRIATE ATTORNEY OF ANY POLITICAL SUBDIVISION AS SHALL BE DESIGNATED BY THE GOVERNING BODY OF SUCH POLITICAL SUBDIVISION.

(B) AN ISOLATED, INADVERTENT INCIDENT INVOLVING ACTIVITY PROHIBITED PURSUANT TO SUBDIVISION ONE OF THIS SECTION SHALL NOT BE A VIOLATION OF THIS SECTION.

3. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "MOTOR FUEL" SHALL MEAN (I) ALL PRODUCTS COMMONLY OR COMMERCIALLY KNOWN OR SOLD AS GASOLINE (INCLUDING CASINGHEAD AND ABSORPTION OR NATURAL GASOLINE), BENZOL, BENZENE, OR NAPHTHA REGARDLESS OF THEIR CLASSIFICATION OR USES; AND (II) ANY LIQUID PREPARED, ADVERTISED, OFFERED

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

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FOR SALE OR SOLD FOR USE AS OR COMMONLY AND COMMERCIALLY USED AS A FUEL IN INTERNAL COMBUSTION ENGINES, WHICH WHEN SUBJECTED TO DISTILLATION IN ACCORDANCE WITH THE STANDARD METHOD OF TEST FOR DISTILLATION OF GASOLINE, NAPHTHA, KEROSENE AND SIMILAR PETROLEUM PRODUCTS (AMERICAN SOCIETY OF TESTING MATERIAL DESIGNATION D-86) SHOWS NOT LESS THAN TEN PER CENTUM (10%) DISTILLED RECOVERED BELOW THREE HUNDRED FORTY-SEVEN DEGREES FAHRENHEIT OR ONE HUNDRED SEVENTY-FIVE DEGREES CENTIGRADE AND NOT LESS THAN NINETY-FIVE PER CENTUM DISTILLED, RECOVERED BELOW FOUR HUNDRED SIXTY-FOUR DEGREES FAHRENHEIT OR TWO HUNDRED FORTY DEGREES CENTIGRADE; AND (III) ANY OTHER PRODUCT OR LIQUID WHEN SOLD FOR USE AS A FUEL IN ANY TYPE OF INTERNAL COMBUSTION ENGINE FURNISHING POWER TO OPERATE A MOTOR VEHICLE.

(B) "NONREFINER" MEANS ANY PERSON, OTHER THAN A REFINER, ENGAGED IN THE SALE OF MOTOR FUEL;

(C) "PERSON" MEANS ANY INDIVIDUAL, PUBLIC OR PRIVATE CORPORATIONS OR LIMITED LIABILITY CORPORATIONS, COMPANIES, ASSOCIATIONS, SOCIETIES, FIRMS, PARTNERSHIPS, LIMITED LIABILITY PARTNERSHIPS, JOINT STOCK COMPANIES, THE UNITED STATES, THE STATE OF NEW YORK AND ANY OF ITS POLITICAL SUBDIVISIONS OR AGENTS;

(D) "REFINER" MEANS ANY PERSON WHO PRODUCES AND STORES OR EXCHANGES MOTOR FUEL AT A TERMINAL FACILITY AND WHO SELLS OR TRANSFERS MOTOR FUEL THROUGH THE LOADING RACK AT SUCH TERMINAL FACILITY, AND INCLUDES AN AFFILIATE OF SUCH REFINER WITH RESPECT TO SUCH AFFILIATE'S SALE OF MOTOR FUEL;

(E) "RETAIL OUTLET" MEANS A FACILITY, INCLUDING LAND AND IMPROVEMENTS, WHERE MOTOR FUEL IS OFFERED FOR SALE AT RETAIL TO THE PUBLIC; AND

(F) "SALE" OR "SELL" MEANS ANY TRANSFER, GIFT, BARTER, SALE, OFFER FOR SALE, OR ADVERTISEMENT FOR SALE IN ANY MANNER OR BY ANY MEANS WHATSOEVER, INCLUDING ANY TRANSFER OF MOTOR FUEL FROM A PERSON TO ITSELF OR AN AFFILIATE AT ANOTHER LEVEL OF DISTRIBUTION, BUT DOES NOT INCLUDE PRODUCT EXCHANGES AT THE WHOLESALE LEVEL OF DISTRIBUTION.

S 2. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized and directed to be made and completed on or before such effective date.