

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:

1 Section 1. The general business law is amended by adding a new section
2 392-j to read as follows:
3 S 392-J. UNLAWFUL MOTOR FUEL PRICE INCREASES; EXCEPTIONS. 1. (A) IT
4 SHALL BE UNLAWFUL FOR ANY NONREFINER ENGAGED IN COMMERCE IN THIS STATE
5 TO INCREASE THE PRICE OF ANY GRADE OR QUALITY OF MOTOR FUEL SOLD AT A
6 RETAIL OUTLET MORE THAN ONCE IN A TWENTY-FOUR HOUR PERIOD.
7 (B) IT SHALL BE UNLAWFUL FOR ANY REFINER, INCLUDING ANY AFFILIATE OR
8 AGENT THEREOF, ENGAGED IN COMMERCE IN THIS STATE TO INCREASE THE PRICE
9 OF ANY GRADE OR QUALITY OF MOTOR FUEL SOLD MORE THAN ONCE IN A
10 TWENTY-FOUR HOUR PERIOD.
11 2. (A) ANY VIOLATION OF THIS SECTION SHALL RESULT IN A CIVIL FINE OF
12 NOT MORE THAN FIVE HUNDRED DOLLARS TO BE COLLECTED BY THE CORPORATION
13 COUNSEL FOR ANY CITY OR BY THE APPROPRIATE ATTORNEY OF ANY POLITICAL
14 SUBDIVISION AS SHALL BE DESIGNATED BY THE GOVERNING BODY OF SUCH POLI-
15 TICAL SUBDIVISION.
16 (B) AN ISOLATED, INADVERTENT INCIDENT INVOLVING ACTIVITY PROHIBITED
17 PURSUANT TO SUBDIVISION ONE OF THIS SECTION SHALL NOT BE A VIOLATION OF
18 THIS SECTION.
19 3. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOW-
20 ING MEANINGS:
21 (A) "MOTOR FUEL" SHALL MEAN (I) ALL PRODUCTS COMMONLY OR COMMERCIALY
22 KNOWN OR SOLD AS GASOLINE (INCLUDING CASINGHEAD AND ABSORPTION OR
23 NATURAL GASOLINE), BENZOL, BENZENE, OR NAPHTHA REGARDLESS OF THEIR CLAS-
24 SIFICATION 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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1 FOR SALE OR SOLD FOR USE AS OR COMMONLY AND COMMERCIALY USED AS A FUEL
2 IN INTERNAL COMBUSTION ENGINES, WHICH WHEN SUBJECTED TO DISTILLATION IN
3 ACCORDANCE WITH THE STANDARD METHOD OF TEST FOR DISTILLATION OF GASO-
4 LINE, NAPHTHA, KEROSENE AND SIMILAR PETROLEUM PRODUCTS (AMERICAN SOCIETY
5 OF TESTING MATERIAL DESIGNATION D-86) SHOWS NOT LESS THAN TEN PER CENTUM
6 (10%) DISTILLED RECOVERED BELOW THREE HUNDRED FORTY-SEVEN DEGREES
7 FAHRENHEIT OR ONE HUNDRED SEVENTY-FIVE DEGREES CENTIGRADE AND NOT LESS
8 THAN NINETY-FIVE PER CENTUM DISTILLED, RECOVERED BELOW FOUR HUNDRED
9 SIXTY-FOUR DEGREES FAHRENHEIT OR TWO HUNDRED FORTY DEGREES CENTIGRADE;
10 AND (III) ANY OTHER PRODUCT OR LIQUID WHEN SOLD FOR USE AS A FUEL IN ANY
11 TYPE OF INTERNAL COMBUSTION ENGINE FURNISHING POWER TO OPERATE A MOTOR
12 VEHICLE.

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

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

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

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

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

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