

3765

2009-2010 Regular Sessions

I N S E N A T E

March 31, 2009

Introduced by Sen. MONSERRATE -- 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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. The general business law is amended by adding a new arti-
2 cle 24-B to read as follows:

3 ARTICLE 24-B

4 MOTOR FUEL MARKETING PRACTICES ACT

5 SECTION 370-K. UNLAWFUL PRICE INCREASES; EXCEPTIONS.

6 S 370-K. UNLAWFUL PRICE INCREASES; EXCEPTIONS. (A) (1) IT IS UNLAWFUL
7 FOR ANY NONREFINER ENGAGED IN COMMERCE IN THIS STATE TO INCREASE THE
8 PRICE OF ANY GRADE OR QUALITY OF MOTOR FUEL SOLD AT A RETAIL OUTLET MORE
9 THAN ONCE IN A TWENTY-FOUR HOUR PERIOD.

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

14 (B) (1) ANY VIOLATION OF THIS SECTION SHALL RESULT IN A CIVIL FINE OF
15 NOT MORE THAN FIVE HUNDRED DOLLARS TO BE COLLECTED BY THE CORPORATION
16 COUNSEL FOR ANY CITY OR BY THE APPROPRIATE ATTORNEY OF ANY POLITICAL
17 SUBDIVISION AS SHALL BE DESIGNATED BY THE GOVERNING BODY OF SUCH POLI-
18 TICAL SUBDIVISION.

19 (2) AN ISOLATED, INADVERTENT INCIDENT INVOLVING ACTIVITY PROHIBITED
20 PURSUANT TO SUBDIVISION (A) OF THIS SECTION SHALL NOT BE A VIOLATION OF
21 THIS SECTION.

22 (C) AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE
23 FOLLOWING MEANINGS:

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

LBD05172-01-9

1 (1) "MOTOR FUEL" MEANS ANY PETROLEUM PRODUCT INCLUDING ANY SPECIAL
2 FUEL WHICH IS USED FOR THE PROPULSION OF ANY MOTOR VEHICLE;

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

5 (3) "PERSON" MEANS ANY INDIVIDUAL, PUBLIC OR PRIVATE CORPORATIONS OR
6 LIMITED LIABILITY CORPORATIONS, COMPANIES, ASSOCIATIONS, SOCIETIES,
7 FIRMS, PARTNERSHIPS, LIMITED LIABILITY PARTNERSHIPS, JOINT STOCK COMPA-
8 NIES, THE UNITED STATES, THE STATE OF NEW YORK AND ANY OF ITS POLITICAL
9 SUBDIVISIONS OR AGENTS;

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

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

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

22 S 2. This act shall take effect immediately.