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

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2011-2012 Regular Sessions

I N A S S E M B L Y

January 12, 2011

Introduced by M. of A. JEFFRIES, DINOWITZ, GALEF, P. RIVERA, SPANO, ROBINSON, PHEFFER, RAMOS, GUNTHER, REILLY, GABRYSZAK -- Multi-Sponsored by -- M. of A. BOYLAND, BRENNAN, DESTITO, GLICK, MAGEE, MAISEL, PEOPLES-STOKES, J. RIVERA, ROSENTHAL, TOWNS -- read once and referred to the Committee on Economic Development, Job Creation, Commerce and Industry

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 article 24-B to read as follows:

ARTICLE 24-B

MOTOR FUEL MARKETING PRACTICES ACT

SECTION 370-K. UNLAWFUL PRICE INCREASES; EXCEPTIONS.

S 370-K. UNLAWFUL PRICE INCREASES; EXCEPTIONS. (A) (1) IT IS 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.

(2) IT IS 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.

(B) (1) 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.

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

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

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

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

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

(3) "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;

(4) "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;

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

(6) "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 immediately.