

HOUSE BILL No. 5753

February 14, 2008, Introduced by Rep. Byrnes and referred to the Committee on Agriculture.

A bill to amend 1990 PA 134, entitled
"Motor fuel distribution act,"
by amending the title and section 2 (MCL 445.1802) and by adding
section 5a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

An act to regulate the termination and transfer of motor fuel
franchises; **TO PROHIBIT CERTAIN CONDUCT RELATING TO PURCHASING AND
SELLING OF ALTERNATIVE MOTOR FUELS;** and to provide for certain
remedies **AND PENALTIES.**

Sec. 2. As used in this act:

(A) "ALTERNATIVE MOTOR FUEL" MEANS ANY OF THE FOLLOWING:

1 (i) A BLEND OF ETHANOL AND GASOLINE THAT INCLUDES AT LEAST 70%
2 ETHANOL.

3 (ii) A BLEND OF METHYL-ESTER, COMMONLY REFERRED TO AS
4 "BIODIESEL", AND DIESEL MOTOR FUEL THAT INCLUDES AT LEAST 2%
5 METHYL-ESTER.

6 (iii) MOTOR FUEL COMPRISED PRIMARILY OF METHANE, STORED IN
7 EITHER A GASEOUS OR LIQUID STATE AND SUITABLE FOR USE AND
8 CONSUMPTION IN THE ENGINE OF A MOTOR VEHICLE, COMMONLY REFERRED TO
9 AS "COMPRESSED NATURAL GAS".

10 (iv) HYDROGEN.

11 (B) ~~(a)~~—"Contract" means any oral or written agreement.

12 (C) ~~(b)~~—"Franchise" means a contract between a refiner and a
13 retailer or between a distributor and a retailer, under which a
14 refiner or distributor authorizes or permits a retailer to use, in
15 connection with the sale, consignment, or distribution of gasoline,
16 diesel, gasohol, or aviation fuel, a trademark that is owned or
17 controlled by a refiner, or by a refiner that supplies fuel to the
18 distributor that authorizes or permits such use. Franchise
19 includes, but is not limited to, both of the following:

20 (i) A contract under which a retailer is authorized or
21 permitted to occupy leased marketing premises, which premises are
22 to be employed in connection with the sale, consignment, or
23 distribution of fuel under a trademark that is owned or controlled
24 by a refiner.

25 (ii) A contract pertaining to the supply of fuel that is to be
26 sold, consigned, or distributed by a retailer under a trademark
27 owned or controlled by a refiner.

1 (D) ~~(e)~~—"Distributor" means a person, including any affiliate
2 of the person, who meets either of the following requirements:

3 (i) Purchases motor fuel for sale, consignment, or distribution
4 to another.

5 (ii) Receives motor fuel on consignment for consignment or
6 distribution to his or her own motor fuel accounts or to accounts
7 of his or her supplier, but does not include a person who is an
8 employee of, or merely serves as a common carrier providing
9 transportation service for the supplier.

10 (E) ~~(d)~~—"Franchisee" means a retailer who is authorized or
11 permitted, under a franchise, to use a trademark in connection with
12 the sale, consignment, or distribution of fuel. Franchisee does not
13 include a distributor ~~which~~ **THAT** resells motor fuel to retailers,
14 to the general public, or to both retailers and the general public.

15 (F) ~~(e)~~—"Franchisor" means a refiner or distributor who
16 authorizes or permits, under a franchise, a retailer to use a
17 trademark in connection with the sale, consignment, or distribution
18 of fuel.

19 (G) ~~(f)~~—"Marketing premises" means, in the case of any
20 franchise, premises that, under the franchise, are to be employed
21 by the franchisee in connection with the sale, consignment, or
22 distribution of motor fuel.

23 (H) ~~(g)~~—"Motor fuel" means gasoline, ~~and~~ diesel fuel, **AND**
24 **ALTERNATIVE MOTOR FUELS** of a type distributed for use as a fuel in
25 **MOTOR VEHICLES OR WATERCRAFT.**

26 (I) **"MOTOR VEHICLES" MEANS** self-propelled vehicles designed
27 primarily for use on public streets, roads, and highways.

1 (J) ~~(h)~~—"Refiner" means a person engaged in the refining of
2 crude oil to produce motor fuel ~~7~~—and includes any affiliate of the
3 person.

4 (K) ~~(i)~~—"Retailer" means any person who purchases motor fuel
5 for sale to the general public for ultimate consumption.

6 (I) "WATERCRAFT" MEANS THAT TERM AS DEFINED IN SECTION 78101 OF
7 THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA
8 451, MCL 324.78101.

9 SEC. 5A. (1) BEGINNING 30 DAYS AFTER THE EFFECTIVE DATE OF THE
10 AMENDATORY ACT THAT ADDED THIS SECTION, IF A FRANCHISOR DOES NOT
11 SUPPLY OR OFFER TO SUPPLY ALTERNATIVE MOTOR FUEL TO ITS
12 FRANCHISEES, THE FRANCHISOR AND A FRANCHISEE SHALL NOT ENTER INTO A
13 CONTRACT THAT CONTAINS ANY OF THE FOLLOWING:

14 (A) A PROVISION THAT PROHIBITS THE FRANCHISEE FROM PURCHASING
15 OR SELLING ALTERNATIVE MOTOR FUEL FROM A REFINER OR DISTRIBUTOR
16 OTHER THAN THE FRANCHISOR.

17 (B) A PROVISION THAT LIMITS THE QUANTITY OF ALTERNATIVE MOTOR
18 FUEL THAT THE FRANCHISEE IS ALLOWED TO PURCHASE FROM A REFINER OR
19 DISTRIBUTOR OTHER THAN THE FRANCHISOR.

20 (C) A PROVISION THAT DIRECTLY OR INDIRECTLY DISCOURAGES THE
21 FRANCHISEE FROM PURCHASING OR SELLING ALTERNATIVE MOTOR FUEL FROM A
22 REFINER OR DISTRIBUTOR OTHER THAN THE FRANCHISOR.

23 (2) A PROVISION IN A CONTRACT BETWEEN A FRANCHISOR AND
24 FRANCHISEE THAT VIOLATES SUBSECTION (1) IS VOID AND UNENFORCEABLE.

25 (3) A FRANCHISOR OR AN OFFICER, AGENT, OR EMPLOYEE OF A
26 FRANCHISOR WHO THREATENS, HARASSES, COERCES, OR ATTEMPTS TO COERCE
27 A FRANCHISEE FOR THE PURPOSE OF COMPELLING THE FRANCHISEE TO

1 REFRAIN FROM PURCHASING OR SELLING AN ALTERNATIVE MOTOR FUEL FROM A
2 REFINER OR DISTRIBUTOR OTHER THAN THE FRANCHISOR IS GUILTY OF A
3 MISDEMEANOR PUNISHABLE BY A FINE OF NOT MORE THAN \$1,000.00 FOR
4 EACH VIOLATION.