

AMENDED IN SENATE APRIL 7, 2003  
AMENDED IN SENATE MARCH 28, 2003  
AMENDED IN SENATE MARCH 25, 2003

**SENATE BILL**

**No. 304**

---

---

**Introduced by Senator Morrow**  
*(Principal coauthor: Assembly Member Kehoe)*

February 19, 2003

---

---

~~An act relating to service stations.~~ *An act to add Article 2 (commencing with Section 21210) to Chapter 8 of Division 8 of, and to add an article heading immediately preceding Section 21200 of, the Business and Professions Code, relating to petroleum.*

LEGISLATIVE COUNSEL'S DIGEST

SB 304, as amended, Morrow. ~~Service Petroleum: refiners: service stations.~~

*Under existing law, a refiner, distributor, or transporter of motor vehicle fuels is prohibited from discriminating in price between different purchasers if the effect of the discrimination is harmful to competition, as defined.*

*This bill would prohibit a refiner, on and after January 1, 2005, from converting a service station operated by an independent service station dealer to a company operated service station. The bill would authorize a refiner to operate a service station for a period not to exceed 90 days if an independent service station dealer voluntarily decides to terminate or not renew a franchise or if the franchise is otherwise terminated or not renewed in accordance with state or federal laws.*

*This bill would also prohibit a refiner from engaging in various pricing and delivery practices.*

~~Existing law generally regulates service stations, as defined.~~

~~This bill would state the intent of the Legislature to reform all provisions governing or affecting the ownership and management of service stations, as defined, that impact the retail pricing of gasoline.~~

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 ~~SECTION 1. It is the intent of the Legislature to~~  
2 *SECTION 1. The Legislature finds and declares that the*  
3 *marketing of motor fuel in the state has become highly*  
4 *concentrated among a limited number of refiners of crude oil,*  
5 *some of which are integrated with retail operations. That*  
6 *concentration and the use of certain marketing practices by*  
7 *refiners have resulted in artificially high wholesale and retail*  
8 *prices. Additionally, under the guise of meeting California's*  
9 *mandate for cleaner burning motor fuel, refiners have utilized*  
10 *practices that encourage reduced production, low inventories, and*  
11 *the formation of import barriers, resulting in higher consumer*  
12 *prices and inflated profits for the refiners. This conduct is harmful*  
13 *to consumers and the economy in this state, and therefore should*  
14 *be prohibited. The measures in this act are intended to protect the*  
15 *interests of consumers by promoting competition in the California*  
16 *motor fuel market.*

17 *SEC. 2. An article heading is added to Chapter 8 of Division*  
18 *8 of the Business and Professions Code, immediately preceding*  
19 *Section 21200, to read:*

20  
21 *Article 1. Price Discrimination*  
22

23 *SEC. 3. Article 2 (commencing with Section 21210) is added*  
24 *to Chapter 8 of Division 8 of the Business and Professions Code,*  
25 *to read:*

26  
27 *Article 2. Competition*  
28

29 *21210. Unless the context otherwise requires, the definitions*  
30 *in this section govern this article:*



1 (a) “Affiliate” means a person who directly or indirectly  
2 controls, is controlled by, or is under common control with, any  
3 other person.

4 (b) “Control” means the direct or indirect power to direct or  
5 cause the direction of the management and policies of a person,  
6 whether through the ownership of voting securities, by contract, or  
7 otherwise.

8 (c) “Cost of doing business” means the expenses, on a per  
9 gallon sold basis, incurred by a refiner, to sell motor fuel at a  
10 company-operated retail service station. “Cost of doing business”  
11 includes, but is not limited to, the value of all goods or  
12 commodities, the costs of delivery of those goods or commodities,  
13 services, facilities, real property and improvements, labor, and  
14 overhead used, consumed, expended, or reasonably allocated by  
15 a refiner in connection with that retail activity. “Cost of doing  
16 business” does not include the cost of extracting or purchasing  
17 raw crude oil, the cost of refining crude oil into motor fuel, or the  
18 cost of delivering motor fuel to the truck-loading terminal.

19 (d) “Grade of motor fuel” means motor fuel for a particular  
20 quality or class and sold under a particular trademark, trade  
21 name, or brand.

22 (e) “Independent service station dealer” means a person, firm,  
23 or corporation that is not an affiliate of a refiner and that buys  
24 motor fuel exclusively for resale to end users and ultimate  
25 consumers at a retail service station.

26 (f) “Market retail price” means the per gallon price at which  
27 a refiner sells or offers to sell to the public a grade of motor fuel  
28 at a company-owned retail station, less the cost of doing business  
29 at that service station.

30 (g) “Motor fuel” means a liquid petroleum product used for the  
31 propulsion of motor vehicles, but does not include fuel used in  
32 airplanes, trains, or marine vessels, or propane.

33 (h) “Person” means a natural person, partnership,  
34 corporation, limited liability company, trust, or unincorporated  
35 association.

36 (i) “Price” means the price of a gallon of motor fuel paid to a  
37 refiner by an independent service station dealer, less the value, on  
38 a per gallon basis, of all rebates, discounts, credits, incentives, and  
39 other benefits extended by the refiner to the independent service  
40 station dealer.



1 (j) “Refiner” means a person or affiliate thereof that is  
2 engaged in the refining of petroleum into motor fuel, whether the  
3 refining occurs in this state or elsewhere.

4 (k) “Retail service station” or “service station” means a  
5 facility, including land and improvements, where motor fuel is sold  
6 at retail to the motoring public.

7 (l) “Company operated station” means a service station  
8 owned or controlled by a refiner and operated with company  
9 personnel, a subsidiary company, or a commissioned agent, or  
10 under contract with any person managing that outlet on a fee  
11 arrangement or on any fee-for-service arrangement with the  
12 refiner.

13 (m) “Set or attempt to set” includes, but is not limited to,  
14 actions that place an independent service station dealer at an  
15 economic disadvantage if the dealer fails to comply with a  
16 suggested price or margin.

17 21211. (a) On and after January 1, 2005, no refiner may  
18 convert a service station operated by an independent service  
19 station dealer to a company operated station.

20 (b) A refiner may open and temporarily operate a retail service  
21 station for a period not to exceed 90 days in circumstances in which  
22 an independent service station dealer voluntarily decides to  
23 terminate or not renew the motor fuel franchise, or in which the  
24 franchise is terminated or not renewed by the refiner in accordance  
25 with applicable state and federal laws.

26 21212. No refiner may do any of the following:

27 (a) Offer to sell motor fuel to an independent service station  
28 dealer at a price that exceeds the then-current market retail price  
29 of motor fuel of the same grade being sold at any company  
30 operated station that is supplied from the same truck loading  
31 terminal.

32 (b) Set, or attempt to set, control, or economically influence,  
33 either directly or indirectly, the retail process or margins of profit  
34 of motor fuel at any retail service station other than a  
35 company-operated service station.

36 (c) Deliver motor fuel from different truck loading terminals to  
37 company-operated service stations and independent service  
38 stations, or restrict the truck loading terminals from which  
39 independent service station dealers may purchase motor fuel, if the



1 *effect of that action is to circumvent subdivision (a), unless that*  
2 *delivery or restriction serves a legitimate business purpose.*

3 *SEC. 4. If any provision of this act or its application to any*  
4 *person or circumstance is held invalid, the remainder of the act or*  
5 *application of the provision to other persons or circumstances*  
6 *shall not be affected.*

7 ~~reform all provisions governing or affecting the ownership and~~  
8 ~~management of service stations, as defined in Section 13650 of the~~  
9 ~~Business and Professions Code, that impact the retail pricing of~~  
10 ~~gasoline.~~

