AMENDED IN SENATE MARCH 18, 1999

SENATE BILL No. 123

Introduced by Senator Peace

December 21, 1998

An act to add Sections 21200.1 and 21200.2 to the Business and Professions Code, relating to petroleum.

LEGISLATIVE COUNSEL'S DIGEST

SB 123, as amended, Peace. Petroleum: unfair practices.

Under existing law, a refiner, distributor, manufacturer, 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 specified.

This bill would provide that a refiner, distributor, manufacturer, or transporter of petroleum products may not prevent a branded gasoline franchisee from purchasing the franchisor's branded petroleum products from any location or through any vendor in the franchisor's wholesale network. In addition, the bill would also prohibit a refiner, distributor, manufacturer, or transporter of petroleum products from discriminating in price between different franchisee purchasers of the franchisor's branded petroleum products if the price discrimination effectively prevents a franchisee from taking advantage of price differences at different locations or between different vendors. *The bill would also provide that eligible branded franchise service station operators may only secure branded gasoline from refiner owned or operated terminals. It would clarify that these* *provisions shall not prevent refiners from charging different terminal prices to different wholesale customers if those differences are not based upon the location of the wholesale customer's retail facility, and would also enact related provisions.*

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

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

SECTION 1. Section 21200.1 is added to the Business and Professions Code, to read:

21200.1. The Legislature finds and declares that gasoline is an essential fuel that facilitates California residents' access to necessary goods and services. A well-functioning gasoline market has gasoline prices that accurately reflect the value of gasoline to its users. A well-functioning gasoline market is free from commercial arrangements that distort the pricing of gasoline, causing consumers to pay more than they otherwise would. The current branded wholesale gasoline market structure in California distorts the price of gasoline by preventing franchise operators of branded retail service stations from seeking the least expensive branded gasoline available at any location and transporting it to their stations.

SEC. 2. Section 21200.2 is added to the Business and Professions Code, to read:

21200.2. (a) A refiner, distributor, manufacturer, or transporter of petroleum products may not prevent a branded gasoline franchisee from purchasing the franchisor's branded petroleum product from any location or through any vendor in the franchisor's wholesale petroleum product network.

(b) A refiner, distributor, manufacturer, or transporter of petroleum products may not discriminate in price between different franchisee purchasers of the franchisor's branded petroleum products if the price discrimination effectively prevents a franchisee from taking advantage of price differences at different locations or between different vendors.

(c) This section does not apply to jobbers or their branded franchise service station operators.

(d) Eligible branded franchise service station operators may only secure branded gasoline from refiner owned or operated terminals.

(e) In order to ensure that refiners can reliably serve their local customers, refiner terminals may reserve up to 110 percent of the previous month's volumes to supply those contractual customers.

(f) Contracts in force prior to January 1, 2000, are not affected by this section. All contracts, including renewals, entered into after January 1, 2000, shall conform to the provisions of this section.

(g) This section shall not prevent refiners from charging different terminal prices to different wholesale customers if those differences are not based upon the location of the wholesale customer's retail facility.

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