

AMENDED IN SENATE MAY 18, 1999

AMENDED IN SENATE MAY 3, 1999

AMENDED IN SENATE APRIL 19, 1999

AMENDED IN SENATE MARCH 18, 1999

## **SENATE BILL**

**No. 123**

### **Introduced by Senator Peace**

December 21, 1998

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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. 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:*

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

3 21200.1. The Legislature finds and declares that  
4 gasoline is an essential fuel that facilitates California  
5 residents' access to necessary goods and services. A  
6 well-functioning gasoline market has gasoline prices that  
7 accurately reflect the value of gasoline to its users. A  
8 well-functioning gasoline market is free from commercial  
9 arrangements that distort the pricing of gasoline, causing  
10 consumers to pay more than they otherwise would. The  
11 current branded wholesale gasoline market structure in  
12 California distorts the price of gasoline by preventing  
13 franchise operators of branded retail service stations from  
14 seeking the least expensive branded gasoline available at  
15 any location and transporting it to their stations.

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

18 21200.2. (a) A refiner, distributor, manufacturer, or  
19 transporter of petroleum products may not prevent a  
20 branded gasoline franchisee from purchasing the  
21 franchisor's branded petroleum product from any  
22 location or through any vendor in the franchisor's  
23 wholesale petroleum product network.

24 (b) A refiner, distributor, manufacturer, or  
25 transporter of petroleum products may not discriminate  
26 in price between different franchisee purchasers of the  
27 franchisor's branded petroleum products if the price  
28 discrimination effectively prevents a franchisee from



1 taking advantage of price differences at different  
2 locations or between different vendors.

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

5 (d) In order to ensure that refiners can reliably serve  
6 their local customers, refiner terminals may reserve up to  
7 ~~110 percent of the previous month's volumes to supply~~  
8 *110 percent of the average of the previous month's*  
9 *volumes for the current year and the prior two years to*  
10 *supply* those contractual customers.

11 (e) Contracts in force prior to January 1, 2000, are not  
12 affected by this section, unless amended, modified, or  
13 extended after that date. All contracts, including  
14 renewals, entered into after January 1, 2000, shall conform  
15 to the provisions of this section.

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

