

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1107 Session of  
1985

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MICHLOVIC, BOOK, VEON AND BELARDI, MAY 1, 1985

REFERRED TO COMMITTEE ON BUSINESS AND COMMERCE, MAY 1, 1985

AN ACT

1 Providing for the marketing of gasoline products.

2 TABLE OF CONTENTS

3 Section 1. Short title.

4 Section 2. Legislative findings and declarations.

5 Section 3. Definitions.

6 Section 4. Assignability.

7 Section 5. Certain operations prohibited.

8 Section 6. Remedies.

9 Section 7. Unlawful restraint.

10 Section 8. Exclusions.

11 Section 9. Effective date.

12 The General Assembly of the Commonwealth of Pennsylvania  
13 hereby enacts as follows:

14 Section 1. Short title.

15 This act shall be known and may be cited as the Gasoline  
16 Market Competition Preservation Act.

17 Section 2. Legislative findings and declarations.

1       The General Assembly finds and declares that the distribution  
2 and sales of gasoline and petroleum products in this  
3 Commonwealth, including the rights and obligations of suppliers  
4 and dealers, vitally affects its general economy. It is  
5 necessary to legislate standards pursuant to the exercise of the  
6 police power of this Commonwealth governing the relationship  
7 between suppliers and distributors of gasoline and petroleum  
8 products and the dealers who sell the products to the public in  
9 order to:

10           (1) Promote the public interest and public welfare of  
11 this Commonwealth.

12           (2) Avoid undue control of the dealer by suppliers.

13           (3) Foster and keep alive vigorous and healthy  
14 competition for the benefit of the public by prohibiting  
15 practices through which fair and honest competition is  
16 destroyed or prevented.

17           (4) Promote the public safety.

18           (5) Prevent deterioration of facilities for servicing  
19 motor vehicles on the highways of this Commonwealth.

20           (6) Prevent dealers from unnecessarily going out of  
21 business, thereby resulting in unemployment with loss of tax  
22 revenue to the Commonwealth and its inevitable train of  
23 undesirable consequences.

#### 24 Section 3. Definitions.

25       The following words and phrases when used in this act shall  
26 have the meanings given to them in this section unless the  
27 context clearly indicates otherwise:

28       "Controlled outlet." An outlet which is operated by a  
29 manufacturer or refiner or by employees of a manufacturer or  
30 refiner, a subsidiary company of a manufacturer or refiner,

1 commissioned agent of a manufacturer or refiner or by any person  
2 who manages the outlet on a fee arrangement with the  
3 manufacturer or refiner.

4 "Dealer." A person engaged in the retail sale of gasoline  
5 products under a marketing agreement, at least 30% of whose  
6 gross revenue is derived from the retail sale of gasoline  
7 products.

8 "Gasoline." Gasoline, diesel, benzol, benzine, naphtha and  
9 any other liquid prepared, advertised, offered for sale, sold  
10 for use as, or used for the generation of power for the  
11 propulsion of motor vehicles, including any product obtained by  
12 blending together any one or more products of petroleum with or  
13 without other products, if the resultant product is capable of  
14 the same use.

15 "Independent jobber." A person, firm or corporation which  
16 purchases gasoline from a manufacturer, refiner or subsidiary  
17 thereof.

18 "Manufacturer" or "refiner." Any person, firm or corporation  
19 engaged in producing, blending or compounding gasoline.

20 "Person." An individual, corporation, business trust,  
21 estate, trust, partnership, association, two or more persons  
22 having a joint or common interest, or any other legal or  
23 commercial entity.

24 "Retail sale." The sale of gasoline.

25 "Retail service station dealer." Any person, firm or  
26 corporation maintaining a place of business where gasoline is  
27 sold and delivered into the tanks of motor vehicles.

28 Section 4. Assignability.

29 A manufacturer or refiner may not withhold certain consents.  
30 The manufacturer or refiner may not withhold its consent to any

1 assignment, transfer, sale or renewal of a business of a retail  
2 service station dealer.

3 Section 5. Certain operations prohibited.

4 After January 1, 1986, no manufacturer or refiner of gasoline  
5 or subsidiary thereof shall open a major brand, secondary brand  
6 or unbranded retail service station in this Commonwealth and  
7 operate it with company personnel or a commissioned agent or  
8 under a contract with any person, firm or corporation managing a  
9 service station on a fee arrangement or other basis with the  
10 manufacturer or refiner or subsidiary thereof. The station must  
11 be operated by an independent retail service station dealer.

12 Section 6. Remedies.

13 A manufacturer or refiner or subsidiary thereof who fails to  
14 comply with the provisions of this act shall be subject to a  
15 fine of \$1,000 per day per service station.

16 Section 7. Unlawful restraint.

17 (a) Purchases.--It shall be unlawful for any manufacturer or  
18 refiner or subsidiary thereof to prohibit, restrain, interfere  
19 with, or in any way prevent a dealer from purchasing gasoline  
20 from any source.

21 (b) Trademark.--No dealer shall, at a station displaying a  
22 trademark, trade name, service mark or other identifying symbol  
23 or name owned by a manufacturer or refiner or subsidiary  
24 thereof, sell gasoline which is not provided by such  
25 manufacturer or refiner or subsidiary thereof without providing  
26 reasonable notice at the point of sale to each purchaser of such  
27 gasoline that such gasoline is not produced, blended or  
28 compounded by such manufacturer or refiner or subsidiary  
29 thereof.

30 Section 8. Exclusions.

1       The provisions of section 5 shall not apply to independent  
2   jobbers, farm cooperatives and service plazas administered by  
3   the Pennsylvania Turnpike Commission.

4   Section 9.   Effective date.

5       This act shall take effect in 60 days.