
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 11

Session of
1983

INTRODUCED BY HOLL AND KRATZER, JANUARY 12, 1983

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
OCTOBER 25, 1983

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, requiring school buses to stop at all railroad
3 crossings; FURTHER PROVIDING FOR SPEED TIMING DEVICES; ~~and~~ <—
4 permitting local authorities to designate and use roads for
5 nonvehicular purposes; ~~AND~~ FURTHER PROVIDING FOR LIMITED <—
6 EXEMPTIONS FROM THE AXLE TAX AND FOR THE ISSUANCE OF <—
7 REGISTRATION AND CERTIFICATES OF TITLE; AND PROVIDING FOR THE
8 MARKETING OF GASOLINE PRODUCTS.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. ~~Section 3342~~ SECTIONS 1109, 3342 AND 3368(C) of <—
12 Title 75 of the Pennsylvania Consolidated Statutes ~~is~~ ARE <—
13 amended to read:

14 § 1109. REFUSING ISSUANCE OF CERTIFICATE OF TITLE. <—

15 THE DEPARTMENT MAY REFUSE ISSUANCE OF A CERTIFICATE OF TITLE
16 WHEN IT HAS REASONABLE GROUNDS TO BELIEVE:

17 (1) THAT ANY REQUIRED FEE HAS NOT BEEN PAID.

18 (2) THAT ANY TAXES PAYABLE UNDER THE LAWS OF THIS

19 COMMONWEALTH ON OR IN CONNECTION WITH, OR RESULTING FROM, THE

1 ACQUISITION OR USE OF THE VEHICLE HAVE NOT BEEN PAID EXCEPT
2 THAT THE DEPARTMENT SHALL NOT REFUSE TO ISSUE THE
3 REGISTRATION BUT MAY HOLD THE CERTIFICATE IF A TAX IS PAID
4 BUT IT HAS REASONABLE GROUNDS TO BELIEVE THE AMOUNT OF TAX
5 PAID IS UNDERSTATED, IN WHICH CASE IT SHALL ISSUE THE
6 REGISTRATION AND NOTIFY THE DEPARTMENT OF REVENUE OF ITS
7 FINDINGS SO THAT THE DEPARTMENT OF REVENUE CAN ASSESS THE TAX
8 DUE UNDER THE PROVISIONS OF ARTICLE II, PART VI, CHAPTER IV
9 OF THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX
10 REFORM CODE OF 1971.

11 (3) THAT THE APPLICANT IS NOT THE OWNER OF THE VEHICLE.

12 (4) THAT THE APPLICATION CONTAINS A FALSE OR FRAUDULENT
13 STATEMENT.

14 (5) THAT THE APPLICANT HAS FAILED TO FURNISH REQUIRED
15 INFORMATION OR DOCUMENTS OR ANY ADDITIONAL INFORMATION THE
16 DEPARTMENT REASONABLY REQUIRES.

17 § 3342. Vehicles required to stop at railroad crossings.

18 (a) General rule.--Except as provided in subsection [(b)]
19 (c), the driver of any vehicle described in regulations issued
20 pursuant to subsection [(c)] (d), before crossing at grade any
21 track or tracks of a railroad, shall stop the vehicle within 50
22 feet but not less than 15 feet from the nearest rail of the
23 railroad and while so stopped shall listen and look in both
24 directions along the track for any approaching train, and for
25 signals indicating the approach of a train, and shall not
26 proceed until it can be done safely. After stopping and upon
27 proceeding when it is safe to do so the driver of the vehicle
28 shall cross only in such gear of the vehicle that there will be
29 no necessity for manually changing gears while traversing the
30 crossing and the driver shall not manually shift gears while

1 crossing the track or tracks.

2 (b) School buses.--Notwithstanding the provisions of
3 paragraphs (2), (3) and (4) of subsection (c), the drivers of
4 school buses shall stop before crossing any railroad grade
5 crossing or track or tracks of a railroad.

6 [(b)] (c) Exceptions.--This section does not apply at any of
7 the following:

8 (1) Any railroad grade crossing at which traffic is
9 controlled by a police officer or flagman.

10 (2) Any railroad grade crossing at which traffic is
11 regulated by a traffic-control signal.

12 (3) Any railroad grade crossing protected by crossing
13 gates or an alternately flashing light signal intended to
14 give warning of the approach of a railroad train.

15 (4) Any railroad grade crossing at which an official
16 traffic-control device gives notice that the stopping
17 requirement imposed by this section does not apply.

18 [(c)] (d) Regulations defining vehicles subject to
19 section.--The department shall adopt such regulations as may be
20 necessary describing the vehicles which must comply with the
21 stopping requirements of this section. In formulating the
22 regulations, the department shall give consideration to the
23 hazardous nature of any substance carried by the vehicle as
24 determined by the Hazardous Substances Transportation Board and
25 to the number of passengers carried by the vehicle in
26 determining whether the vehicle shall be required to stop. These
27 regulations shall be developed in conjunction with the
28 Pennsylvania Public Utility Commission and the Urban Mass
29 Transportation Authority and shall correlate with and so far as
30 possible conform to the current regulations of the United States

1 Department of Transportation.

2 § 3368. SPEED TIMING DEVICES. <—

3 * * *

4 (C) MECHANICAL, ELECTRICAL AND ELECTRONIC DEVICES

5 AUTHORIZED.--

6 (1) THE RATE OF SPEED OF ANY VEHICLE MAY BE TIMED ON ANY
7 HIGHWAY BY A POLICE OFFICER USING A MECHANICAL OR ELECTRICAL
8 SPEED TIMING DEVICE. NO PERSON MAY BE CONVICTED UPON EVIDENCE
9 OBTAINED THROUGH THE USE OF SUCH DEVICES UNLESS THE SPEED
10 RECORDED IS TEN OR MORE MILES PER HOUR IN EXCESS OF THE LEGAL
11 SPEED LIMIT.

12 (2) ELECTRONIC DEVICES SUCH AS RADIO-MICROWAVE DEVICES
13 (COMMONLY REFERRED TO AS ELECTRONIC SPEED METERS OR RADAR)
14 MAY BE USED ONLY BY MEMBERS OF THE PENNSYLVANIA STATE POLICE.
15 NO PERSON MAY BE CONVICTED UPON EVIDENCE OBTAINED THROUGH THE
16 USE OF SUCH DEVICES UNLESS THE SPEED RECORDED IS [SIX] TEN OR
17 MORE MILES PER HOUR IN EXCESS OF THE LEGAL SPEED LIMIT.

18 * * *

19 Section 2. Section 6109 of Title 75 is amended by adding a
20 subsection to read:

21 § 6109. Specific powers of department and local authorities.

22 * * *

23 (g) Play highways.--Local authorities may designate any
24 highway or any part of a highway under their jurisdiction a
25 "play highway," and may close such designated highway to general
26 traffic where interference to traffic will not be serious. Such
27 highways or portions of highways shall be used for play purposes
28 and shall be clearly designated by appropriate signs, specifying
29 the hours between which such highways shall be closed to general
30 traffic.

1 SECTION 3. TITLE 75 IS AMENDED BY ADDING A SECTION TO READ: <—

2 § 9910. AGRICULTURAL EXEMPTION.

3 THE PROVISIONS OF THIS CHAPTER SHALL NOT APPLY TO A TRUCK,
4 TRUCK TRACTOR OR COMBINATION WHICH IS USED SOLELY FOR
5 AGRICULTURAL OR FARMING PURPOSES, CARRIES PRODUCTS PRODUCED BY
6 THE OWNER AND IS OWNED AND OPERATED BY A NONRESIDENT IN FULL
7 COMPLIANCE WITH THE REGISTRATION REQUIREMENTS OF THE PLACE OF
8 RESIDENCE OF THE OWNER.

9 SECTION 4. TITLE 75 IS AMENDED BY ADDING A CHAPTER TO READ:
10 CHAPTER

11 99-A. MARKETING OF GASOLINE PRODUCTS

12 CHAPTER 99-A

13 MARKETING OF GASOLINE PRODUCTS

14 SEC.

15 9901-A. SHORT TITLE OF CHAPTER.

16 9902-A. DEFINITIONS.

17 9903-A. ASSIGNABILITY.

18 9904-A. CERTAIN OPERATIONS PROHIBITED.

19 ~~9905-A. PRICE ZONES; EXTENSION OF VOLUNTARY ALLOWANCES.~~ <—

20 ~~9906-A. PRICING.~~

21 ~~9907-A~~ 9905-A. UNLAWFUL RESTRAINT.

22 ~~9908-A~~ 9906-A. LEASES. <—

23 ~~9909-A~~ 9907-A. POSTING REQUIREMENTS. <—

24 ~~9910-A~~ 9908-A. COMPLIANCE WITH OCTANE RATINGS. <—

25 ~~9911-A~~ 9909-A. REMEDIES. <—

26 ~~9912-A~~ 9910-A. PENALTIES. <—

27 ~~9913-A~~ 9911-A. EXCLUSIONS. <—

28 ~~9914-A~~ 9912-A. ENFORCEMENT. <—

29 ~~9915-A~~ 9913-A. CIVIL LIABILITY. <—

30 ~~9916-A~~ 9914-A. SEVERABILITY. <—

1 § 9901-A. SHORT TITLE OF CHAPTER.

2 THIS CHAPTER SHALL BE KNOWN AND MAY BE CITED AS THE GASOLINE
3 MARKETING COMPETITION PRESERVATION ACT.

4 § 9902-A. DEFINITIONS.

5 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
6 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
7 CONTEXT CLEARLY INDICATES OTHERWISE:

8 "ANNUAL RENTAL." THE TOTAL ANNUAL AMOUNT OF RENTS,
9 ASSESSMENTS, ROYALTIES AND ANY OTHER CHARGES WHICH A
10 MANUFACTURER OR REFINER OR SUBSIDIARY THEREOF IMPOSES UPON AND
11 COLLECTS FROM A RETAIL SERVICE STATION DEALER AS CONSIDERATION
12 FOR THE RIGHT TO LEASE, FRANCHISE OR OTHERWISE USE REAL OR
13 PERSONAL PROPERTY FOR THE PURPOSE OF OPERATING A RETAIL SERVICE
14 STATION.

15 "CONTROLLED OUTLET." AN OUTLET WHICH IS OPERATED BY A
16 MANUFACTURER OR REFINER OR BY PARTNERS OR EMPLOYEES OF A
17 MANUFACTURER OR REFINER, A SUBSIDIARY COMPANY OF A MANUFACTURER
18 OR REFINER, COMMISSIONED AGENT OF A MANUFACTURER OR REFINER OR
19 BY ANY PERSON WHO MANAGES THE OUTLET ON A FEE ARRANGEMENT WITH
20 THE MANUFACTURER OR REFINER.

21 "FAIR MARKET VALUE." THE VALUE OF THE PROPERTY BASED UPON
22 ITS PRESENT AND ACTUAL USE. IT IS THE VALUE THAT A WILLING BUYER
23 WOULD PAY A WILLING SELLER FOR THE PROPERTY, EACH BEING UNDER NO
24 COMPULSION TO BUY OR SELL.

25 "GASOLINE." GASOLINE, BENZOL, BENZINE, NAPHTHA AND ANY OTHER
26 LIQUID PREPARED, ADVERTISED, OFFERED FOR SALE, SOLD FOR USE AS,
27 OR USED FOR THE GENERATION OF POWER FOR THE PROPULSION OF MOTOR
28 VEHICLES INCLUDING ANY PRODUCT OBTAINED BY BLENDING TOGETHER ANY
29 ONE OR MORE PRODUCTS OF PETROLEUM WITH OR WITHOUT OTHER
30 PRODUCTS, IF THE RESULTANT PRODUCT IS CAPABLE OF THE SAME USE.

1 "INDEPENDENT JOBBER." A PERSON, FIRM OR CORPORATION, OTHER
2 THAN A RETAIL SERVICE STATION DEALER, WHICH PURCHASES GASOLINE
3 FROM A MANUFACTURER, REFINER OR SUBSIDIARY THEREOF FOR RESALE.

4 "LOW OCTANE UNLEADED GRADE OF GASOLINE." THIS TERM HAS THE
5 MEANING PROVIDED BY FEDERAL STATUTE OR REGULATION.

6 "MAJOR BRAND." THE PRIMARY TRADE NAME OR TRADEMARK MOST
7 COMMONLY ASSOCIATED WITH AND IDENTIFIED WITH A MANUFACTURER OR
8 REFINER'S RETAIL SERVICE STATION.

9 "MANUFACTURER" OR "REFINER." ANY PERSON, PARTNERSHIP, FIRM
10 OR CORPORATION ENGAGED IN PRODUCING, BLENDING OR COMPOUNDING
11 GASOLINE.

12 "PERSON." AN INDIVIDUAL, CORPORATION, BUSINESS TRUST,
13 ESTATE, TRUST, PARTNERSHIP, ASSOCIATION, TWO OR MORE PERSONS
14 HAVING A JOINT OR COMMON INTEREST OR ANY OTHER LEGAL OR
15 COMMERCIAL ENTITY.

16 "PREMIUM GRADE OF GASOLINE." THIS TERM HAS THE MEANING
17 PROVIDED BY FEDERAL STATUTE OR REGULATION.

18 "REGULAR GRADE OF GASOLINE." THIS TERM HAS THE MEANING
19 PROVIDED BY FEDERAL STATUTE OR REGULATION.

20 "RETAIL SALE." THE SALE OF GASOLINE AT RETAIL.

21 "RETAIL SERVICE STATION DEALER." ANY PERSON, FIRM OR
22 CORPORATION MAINTAINING A PLACE OF BUSINESS WHERE GASOLINE IS
23 SOLD AT RETAIL AND DELIVERED INTO THE TANKS OF MOTOR VEHICLES.

24 "SECONDARY BRAND." A TRADE NAME OR TRADEMARK, OTHER THAN A
25 MAJOR BRAND, USED TO IDENTIFY A MANUFACTURER AND REFINER'S
26 RETAIL SERVICE STATION.

27 "SUBREGULAR GRADE OF GASOLINE." THIS TERM HAS THE MEANING
28 PROVIDED BY FEDERAL STATUTE OR REGULATION.

29 "SUBSIDIARY." A COMPANY IN WHICH A MANUFACTURER OR A REFINER
30 HAS MORE THAN A 50% BENEFICIAL OR LEGAL INTEREST.

1 "TERMINAL PRICE." THE PRICE AT WHICH A REFINER OR
2 MANUFACTURER OR SUBSIDIARY THEREOF SELLS GASOLINE IN LIKE
3 QUANTITIES AND QUALITIES F.O.B. TERMINAL, BRANDED OR UNBRANDED,
4 ACCORDING TO BUYER'S TRADE CLASSIFICATION WITHIN THOSE
5 CATEGORIES.

6 "TRUCK STOP." AN OUTLET SPECIALIZING IN SALES OF DIESEL FUEL
7 AND ASSOCIATED SERVICES, PRINCIPALLY TO OVER-THE-ROAD TRUCKERS,
8 WITH GASOLINE, OTHER THAN DIESEL FUEL, ACCOUNTING FOR NO MORE
9 THAN 15% OF TOTAL REVENUE EXCLUDING TAXES.

10 "UNBRANDED." A RETAIL SERVICE STATION MARKETING GASOLINE OR
11 OTHER PETROLEUM PRODUCTS UNDER ITS OWN BRAND, TRADE NAME OR
12 TRADEMARK OTHER THAN THOSE OF A MANUFACTURER OR REFINER OR ANY
13 SUBSIDIARY THEREOF.

14 "UNLEADED PREMIUM GRADE OF GASOLINE." THIS TERM HAS THE
15 MEANING PROVIDED BY FEDERAL STATUTE OR REGULATION.

16 "UNLEADED REGULAR GRADE OF GASOLINE." THIS TERM HAS THE
17 MEANING PROVIDED BY FEDERAL STATUTE OR REGULATION.

18 § 9903-A. ASSIGNABILITY.

19 A MANUFACTURER OR REFINER MAY NOT UNREASONABLY WITHHOLD
20 CERTAIN CONSENTS. THE MANUFACTURER OR REFINER MAY NOT
21 UNREASONABLY WITHHOLD ITS CONSENT TO ANY ASSIGNMENT, TRANSFER,
22 SALE OR RENEWAL OF A BUSINESS OF A RETAIL SERVICE STATION
23 DEALER.

24 § 9904-A. CERTAIN OPERATIONS PROHIBITED.

25 (A) OPERATIONS PROHIBITED.--NO MANUFACTURER OR REFINER OF
26 GASOLINE OR SUBSIDIARY THEREOF WHOSE GASOLINE SALES FOR THE
27 PRECEDING CALENDAR YEAR EXCEED 7% OF ALL GASOLINE SALES IN THIS
28 COMMONWEALTH FOR SUCH PERIOD SHALL OPEN A MAJOR BRAND, SECONDARY
29 BRAND OR UNBRANDED RETAIL SERVICE STATION IN THIS COMMONWEALTH
30 AND OPERATE IT WITH COMPANY PERSONNEL, COMMISSIONED AGENT OR

1 UNDER A CONTRACT WITH ANY PERSON, FIRM OR CORPORATION MANAGING A
2 SERVICE STATION ON A FEE ARRANGEMENT OR OTHER BASIS WITH THE
3 MANUFACTURER, REFINER OR SUBSIDIARY THEREOF. THE STATION MUST BE
4 OPERATED BY AN INDEPENDENT RETAIL SERVICE STATION DEALER.

5 (B) REPORTS.--NO LATER THAN JANUARY 31 OF EACH YEAR, EVERY
6 MANUFACTURER OR REFINER OF GASOLINE OR SUBSIDIARY THEREOF WHO
7 SELLS GASOLINE IN THIS COMMONWEALTH SHALL FILE A REPORT WITH THE
8 GOVERNOR'S ENERGY COUNCIL SETTING FORTH ITS TOTAL SALES OF
9 GASOLINE IN GALLONS IN THIS COMMONWEALTH AS DEFINED IN
10 SUBSECTION (F). NO LATER THAN THE LAST DAY OF FEBRUARY OF EACH
11 YEAR, THE GOVERNOR'S ENERGY COUNCIL SHALL NOTIFY EACH
12 MANUFACTURER OR REFINER OR SUBSIDIARY THEREOF FILING UNDER THIS
13 SUBSECTION OF IT'S PERCENTAGE OF GASOLINE SALES IN THIS
14 COMMONWEALTH IN RELATION TO THE TOTAL GASOLINE SALES IN THIS
15 COMMONWEALTH AS DETERMINED IN ACCORDANCE WITH SUBSECTION (A).

16 (C) OPERATION OF CONTROLLED OUTLETS.--IN THE EVENT OF THE
17 CLOSING OR TERMINATION DUE TO UNFAIR COMPETITIVE PRACTICES BY A
18 MANUFACTURER OR REFINER OR SUBSIDIARY THEREOF OF THE BUSINESS
19 OPERATED BY ONE OF ITS RETAIL SERVICE STATION DEALERS WHICH IS
20 LOCATED WITHIN A ONE MILE RADIUS OF A CONTROLLED OUTLET OF THE
21 MANUFACTURER OR REFINER OR SUBSIDIARY THEREOF OF SUCH RETAIL
22 SERVICE STATION DEALER, THE MANUFACTURER, REFINER OR SUBSIDIARY
23 THEREOF SHALL, WITHIN 90 DAYS, REOPEN THE CLOSED OR TERMINATED
24 STATION TO BE OPERATED BY A RETAIL SERVICE STATION DEALER OR
25 DISCONTINUE THE OPERATION OF SUCH CONTROLLED OUTLET OR
26 THEREAFTER CHANGE THE OPERATION OF THE CONTROLLED OUTLET TO THE
27 OPERATION OF A RETAIL SERVICE STATION DEALER. ACTIONS TO ENFORCE
28 THE PROVISIONS OF THIS SUBSECTION SHALL BE COMMENCED IN THE
29 COURT OF COMMON PLEAS OF THE COUNTY WHERE THE CLOSED OR
30 TERMINATED BUSINESS OPERATED BY THE RETAIL SERVICE STATION

1 DEALER WAS LOCATED AND MAY BE COMMENCED BY THE COMMONWEALTH, THE
2 AGGRIEVED RETAIL SERVICE STATION DEALER OR ANY OTHER AGGRIEVED
3 PARTY. THE PREVAILING PARTY SHALL BE ENTITLED TO ALL FEES, COSTS
4 AND EXPENSES OF SUCH ACTION, INCLUDING REASONABLE ATTORNEY FEES.

5 (D) REPLACEMENT OF CONTROLLED OUTLETS.--IN THE EVENT OF THE
6 CLOSING OR TERMINATION OF A CONTROLLED OUTLET UNDER
7 CIRCUMSTANCES OTHER THAN THAT CONTAINED IN SUBSECTION (C), A
8 MANUFACTURER OR REFINER OR SUBSIDIARY THEREOF, WHICH OTHERWISE
9 IS PROHIBITED BY SUBSECTION (A) FROM OPERATING A CONTROLLED
10 OUTLET, MAY OPEN ONE CONTROLLED OUTLET FOR SUCH CONTROLLED
11 OUTLET SO CLOSED OR TERMINATED.

12 (E) TEMPORARY OPERATION.--THE GOVERNOR'S ENERGY COUNCIL
13 SHALL HAVE THE AUTHORITY TO AND MAY ADOPT RULES AND REGULATIONS
14 DEFINING THE CIRCUMSTANCES IN WHICH A MANUFACTURER OR REFINER
15 TEMPORARILY MAY OPERATE A RETAIL SERVICE STATION FOR A PERIOD
16 NOT EXCEEDING SIX MONTHS.

17 (F) DEFINITION.--FOR THE PURPOSE OF THIS SUBSECTION, THE
18 TERM "GASOLINE SALES" MEANS RETAIL GASOLINE SALES BY A
19 MANUFACTURER, REFINER OR SUBSIDIARY THEREOF THROUGH ITS
20 CONTROLLED OUTLETS, ITS RETAIL SERVICE STATION DEALERS AND ITS
21 BRANDED JOBBERS FOR THE PRECEDING CALENDAR YEAR.

22 ~~§ 9905 A. PRICE ZONES; EXTENSION OF VOLUNTARY ALLOWANCES.~~ <—

23 ~~A MANUFACTURER OR REFINER OF GASOLINE OR SUBSIDIARY THEREOF~~
24 ~~WHO ESTABLISHES PRICE ZONES WITHIN THIS COMMONWEALTH SHALL~~
25 ~~ESTABLISH NO MORE THAN ONE SUCH PRICE ZONE FOR EACH PRIMARY~~
26 ~~METROPOLITAN STATISTICAL AREA AND EACH METROPOLITAN STATISTICAL~~
27 ~~AREA WITHIN THIS COMMONWEALTH AS DETERMINED BY THE OFFICE OF~~
28 ~~MANAGEMENT AND BUDGET OF THE UNITED STATES. ALL AREAS WITHIN~~
29 ~~THIS COMMONWEALTH NOT WITHIN A PRIMARY METROPOLITAN STATISTICAL~~
30 ~~AREA OR A METROPOLITAN STATISTICAL AREA SHALL CONSTITUTE NO MORE~~

1 ~~THAN FIVE PRICE ZONES. EVERY MANUFACTURER OR REFINER OF GASOLINE~~
2 ~~OR SUBSIDIARY THEREOF SHALL EXTEND ALL VOLUNTARY ALLOWANCES~~
3 ~~UNIFORMLY TO ALL RETAIL SERVICE STATION DEALERS SUPPLIED WITHIN~~
4 ~~THE SAME PRICE ZONE.~~

5 ~~§ 9906 A. PRICING.~~

6 ~~WITHIN EACH PRICE ZONE, A REFINER OR MANUFACTURER OR~~
7 ~~SUBSIDIARY THEREOF SELLING GASOLINE OF ANY GRADE THROUGH~~
8 ~~CONTROLLED OUTLETS SHALL BE REQUIRED TO OFFER ANY RETAIL SERVICE~~
9 ~~STATION DEALER OF SUCH REFINER OR MANUFACTURER OR SUBSIDIARY~~
10 ~~THEREOF WITHIN THAT SAME PRICE ZONE, GASOLINE DELIVERED AT A~~
11 ~~WHOLESALE PRICE OR TANK WAGON PRICE WHICH IS 5% LESS THAN THE~~
12 ~~PRICE SUCH GRADE OF GASOLINE IS BEING OFFERED FOR SALE TO THE~~
13 ~~PUBLIC AT RETAIL AT THE CONTROLLED OUTLET OF SUCH MANUFACTURER~~
14 ~~OR REFINER OR SUBSIDIARY THEREOF WHICH IS NEAREST TO THE DEALER.~~
15 ~~THE PROVISIONS OF THIS SECTION NOTWITHSTANDING, A REFINER,~~
16 ~~MANUFACTURER OR SUBSIDIARY THEREOF SHALL, IN NO EVENT, BE~~
17 ~~REQUIRED TO SELL FOR LESS THAN ITS TERMINAL PRICE.~~

18 ~~§ 9907 A~~ § 9905-A. UNLAWFUL RESTRAINT.

19 (A) PURCHASES.--IT SHALL BE UNLAWFUL FOR ANY MANUFACTURER OR
20 REFINER OR SUBSIDIARY THEREOF TO PROHIBIT, RESTRAIN, INTERFERE
21 WITH OR IN ANY WAY PREVENT A RETAIL SERVICE STATION DEALER FROM
22 PURCHASING GASOLINE FROM ANY SOURCE.

23 (B) TRADEMARK.--NO RETAIL SERVICE STATION DEALER SHALL, AT A
24 RETAIL SERVICE STATION DISPLAYING A TRADEMARK, TRADE NAME,
25 SERVICE MARK OR OTHER IDENTIFYING SYMBOL OR NAME OWNED BY A
26 MANUFACTURER OR REFINER OR SUBSIDIARY THEREOF, SELL GASOLINE
27 WHICH IS NOT PROVIDED BY SUCH MANUFACTURER OR REFINER OR
28 SUBSIDIARY THEREOF WITHOUT PROVIDING REASONABLE NOTICE AT THE
29 POINT OF SALE TO EACH PURCHASER OF SUCH GASOLINE THAT SUCH
30 GASOLINE IS NOT PRODUCED, BLENDED OR COMPOUNDED BY SUCH

1 MANUFACTURER OR REFINER OR SUBSIDIARY THEREOF.

2 (C) REQUIREMENT TO SELL.--A MANUFACTURER OR REFINER OR
3 SUBSIDIARY THEREOF OR INDEPENDENT JOBBER SHALL NOT REFUSE TO
4 SELL GASOLINE TO ANY RETAIL SERVICE STATION DEALER, PROVIDED
5 THAT SUCH DEALER AGREES TO COMPLY WITH THE PROVISIONS OF
6 SUBSECTION (B), AND THE MANUFACTURER OR REFINER OR SUBSIDIARY
7 THEREOF OR INDEPENDENT JOBBER HAS GASOLINE AVAILABLE FOR SALE
8 AFTER FULFILLING ITS CONTRACTURAL OBLIGATIONS RELATIVE TO
9 SUPPLYING GASOLINE.

10 § ~~9908~~-A 9906-A. LEASES.

<—

11 (A) AGREEMENTS.--FOR ALL AGREEMENTS INITIALLY ENTERED INTO
12 OR RENEWED ON OR AFTER THE EFFECTIVE DATE OF THIS CHAPTER, NO
13 MANUFACTURER OR REFINER OR SUBSIDIARY THEREOF MAY REQUIRE A
14 RETAIL SERVICE STATION DEALER UNDER THE TERMS OF ANY AGREEMENT
15 TO PAY AN ANNUAL RENTAL FOR A RETAIL SERVICE STATION IN AN
16 AMOUNT WHICH EXCEEDS 12% OF THE FAIR MARKET VALUE. FAIR MARKET
17 VALUE SHALL BE AN AMOUNT DETERMINED ACCEPTABLE BY MUTUAL
18 AGREEMENT OF THE MANUFACTURER OR REFINER OR SUBSIDIARY THEREOF
19 AND THE RETAIL SERVICE STATION DEALER PRIOR TO THE DATE OF ENTRY
20 INTO THE AGREEMENT, IN THE CASE OF INITIAL ENTRY INTO AN
21 AGREEMENT, OR 90 DAYS PRIOR TO THE EXPIRATION DATE OF AN
22 AGREEMENT, IN THE CASE OF RENEWAL OF THE AGREEMENT. IN THE EVENT
23 THE PARTIES CANNOT AGREE UPON A MUTUALLY ACCEPTABLE FAIR MARKET
24 VALUE OF THE PROPERTY BY A DATE WHICH IS PRIOR TO THE DATE OF
25 ENTRY INTO AN AGREEMENT, IN THE CASE OF INITIAL ENTRY INTO AN
26 AGREEMENT, OR 90 DAYS PRIOR TO THE EXPIRATION DATE OF AN
27 AGREEMENT, IN THE CASE OF RENEWAL OF AN AGREEMENT, FAIR MARKET
28 VALUE SHALL BE DETERMINED IN ACCORDANCE WITH SUBSECTION (C).

29 (B) NOTIFICATION.--ON AND AFTER THE EFFECTIVE DATE OF THIS
30 CHAPTER, EVERY AGREEMENT ENTERED INTO OR RENEWED SHALL CONTAIN

1 AND CONSPICUOUSLY DISPLAY IN WRITING A PROVISION SPECIFYING THE
2 MAXIMUM ANNUAL RENT PERMISSIBLE UNDER SUBSECTION (A) AND
3 NOTIFYING THE RETAIL SERVICE STATION DEALER OF HIS RIGHT TO
4 PARTICIPATE IN THE DETERMINATION OF FAIR MARKET VALUE OF THE
5 LEASED RETAIL SERVICE STATION. IN ADDITION, EACH AGREEMENT SHALL
6 CLEARLY AND EXPLICITLY EXPLAIN IN WRITING THE METHOD OF FAIR
7 MARKET VALUE DETERMINATION AS REQUIRED BY THIS CHAPTER.

8 (C) DETERMINATION OF FAIR MARKET VALUE.--IN THE EVENT THAT
9 THE PARTIES CANNOT MUTUALLY AGREE ON THE PROPERTY'S FAIR MARKET
10 VALUE PRIOR TO THE DATE OF ENTRY INTO AN AGREEMENT, IN THE CASE
11 OF INITIAL ENTRY INTO AN AGREEMENT, OR 90 DAYS PRIOR TO THE
12 EXPIRATION DATE OF AN AGREEMENT, IN THE CASE OF RENEWAL OF AN
13 AGREEMENT, FAIR MARKET VALUE SHALL BE DETERMINED IN THE
14 FOLLOWING MANNER:

15 (1) THE MANUFACTURER OR REFINER OR SUBSIDIARY THEREOF
16 AND THE RETAIL SERVICE STATION DEALER SHALL EACH SELECT A
17 DULY CERTIFIED AND QUALIFIED REAL ESTATE APPRAISER WHO IS NOT
18 AN EMPLOYEE OF THE RESPECTIVE PARTY BY A DATE WHICH IS PRIOR
19 TO THE DATE OF ENTRY INTO AN AGREEMENT, IN THE CASE OF
20 INITIAL ENTRY INTO AN AGREEMENT, OR 75 DAYS PRIOR TO THE
21 EXPIRATION OF THE AGREEMENT, IN THE CASE OF RENEWAL OF AN
22 AGREEMENT. EACH APPRAISER SO SELECTED SHALL MUTUALLY AGREE
23 UPON AND SELECT A THIRD DULY CERTIFIED AND QUALIFIED
24 APPRAISER BY A DATE WHICH IS PRIOR TO THE DATE OF ENTRY INTO
25 AN AGREEMENT, IN THE CASE OF INITIAL ENTRY INTO AN AGREEMENT,
26 OR 65 DAYS PRIOR TO THE EXPIRATION DATE OF THE AGREEMENT, IN
27 THE CASE OF RENEWAL OF AN AGREEMENT. EACH PARTY SHALL BEAR
28 THE COST OF THE APPRAISER SO SELECTED AND THE COST OF THE
29 THIRD APPRAISER SHALL BE DIVIDED EQUALLY.

30 (2) THE THREE APPRAISERS SO SELECTED SHALL EACH CONDUCT

1 AND COMPLETE AN INDEPENDENT APPRAISAL BY A DATE WHICH IS
2 PRIOR TO THE DATE OF ENTRY INTO AN AGREEMENT, IN THE CASE OF
3 INITIAL ENTRY INTO AN AGREEMENT, OR 45 DAYS PRIOR TO THE
4 EXPIRATION DATE OF THE AGREEMENT, IN THE CASE OF RENEWAL OF
5 AN AGREEMENT. THE APPRAISALS SHALL BE ORDERED IN INCREASING
6 MAGNITUDE AND THAT APPRAISAL WHICH IS MOST REMOVED FROM THE
7 MIDDLE APPRAISAL SHALL BE DISCARDED. FAIR MARKET VALUE SHALL
8 THEN BE DETERMINED BY AVERAGING THE REMAINING TWO APPRAISALS.

9 (D) PETITION; COURT OF COMMON PLEAS.--IN THE EVENT OF FRAUD,
10 MISREPRESENTATION OR OTHER ALLEGATIONS OF WRONGDOING IN
11 CONNECTION WITH THE DETERMINATION OF FAIR MARKET VALUE UNDER
12 THIS SECTION, THE MANUFACTURER OR REFINER OR SUBSIDIARY THEREOF
13 OR RETAIL SERVICE STATION DEALER MAY PETITION THE COURT OF
14 COMMON PLEAS OF THE COUNTY WHEREIN THE SUBJECT PROPERTY IS
15 LOCATED FOR A HEARING ON THE ALLEGATIONS. IF THE COURT
16 DETERMINES SUCH CLAIMS TO BE SUBSTANTIATED BY A PREPONDERANCE OF
17 THE EVIDENCE, THE COURT SHALL APPOINT THREE DULY QUALIFIED AND
18 CERTIFIED APPRAISERS. UPON REPORT OF THE APPRAISERS TO THE
19 COURT, THE APPRAISALS SHALL BE ORDERED IN INCREASING MAGNITUDE
20 AND THAT APPRAISAL WHICH IS MOST REMOVED FROM THE MIDDLE SHALL
21 BE DISCARDED. FAIR MARKET VALUE SHALL THEN BE DETERMINED BY
22 AVERAGING THE REMAINING TWO APPRAISALS. IF THE COURT DETERMINES
23 THAT THE ALLEGATIONS OF FRAUD, MISREPRESENTATION OR OTHER
24 WRONGDOING ARE UNSUBSTANTIATED BY A PREPONDERANCE OF THE
25 EVIDENCE, THE DETERMINATION OF FAIR MARKET VALUE MADE UNDER THIS
26 SECTION SHALL BE FINAL. ANY PARTY PREVAILING IN AN ACTION
27 APPEALING THE DETERMINATION OF FAIR MARKET VALUE MADE UNDER THIS
28 SECTION SHALL BE ENTITLED TO COSTS OF THE ACTION, INCLUDING, BUT
29 NOT LIMITED TO, REASONABLE ATTORNEY FEES.

30 (E) REFUSAL TO RENEW.--FAILURE OF THE PARTIES, FOR WHATEVER

1 REASON, TO AGREE UPON FAIR MARKET VALUE BY THE EXPIRATION DATE
2 OF AN AGREEMENT SHALL NOT CONSTITUTE GROUNDS FOR A MANUFACTURER
3 OR REFINER OR SUBSIDIARY THEREOF TO REFUSE TO RENEW AN
4 AGREEMENT. UNLESS THE AGREEMENT HAS BEEN LAWFULLY TERMINATED OR
5 NONRENEWED PURSUANT TO THE PETROLEUM MARKETING PRACTICES ACT (15
6 U.S.C. § 2801 ET SEQ.), THE ACT OF NOVEMBER 26, 1975 (P.L.454,
7 NO.126), ENTITLED "AN ACT REGULATING THE PRACTICES OF SUPPLIERS,
8 DISTRIBUTORS AND DEALERS OF GASOLINE, PETROLEUM PRODUCTS AND
9 ACCESSORIES FOR MOTOR VEHICLES AND PROVIDING REMEDIES FOR
10 VIOLATIONS," OR ANY OTHER STATE OR FEDERAL STATUTES, THE
11 AGREEMENT SHALL BE RENEWED AT THE PREVIOUS RENTAL RATE WITH
12 ADJUSTMENTS TO BE MADE RETROACTIVELY FOLLOWING THE FINAL
13 DETERMINATION OF FAIR MARKET VALUE.

14 (F) DETERMINATION BINDING.--THE FAIR MARKET VALUE DETERMINED
15 UNDER THIS SECTION, WHETHER DETERMINED BY AGREEMENT OF THE
16 PARTIES OR BY APPRAISAL, SHALL BE BINDING ON BOTH PARTIES FOR AT
17 LEAST THREE FULL YEARS FROM THE DATE ON WHICH THE RENTALS BASED
18 UPON SUCH VALUE ARE TO TAKE EFFECT.

19 (G) SHORT TERM OPTION.--LEASE AGREEMENTS SUBJECT TO THIS
20 SECTION SHALL BE FOR A TERM OF NOT LESS THAN ONE YEAR AND SHALL
21 PROVIDE AN OPTION TO THE RETAIL SERVICE STATION DEALER TO RENEW
22 THE LEASE AGREEMENT FOR TWO SUCCESSIVE ONE-YEAR TERMS AT ANNUAL
23 RENTALS TO BE DETERMINED IN ACCORDANCE WITH THE PROVISIONS OF
24 THIS SECTION.

25 § ~~9909~~-A 9907-A. POSTING REQUIREMENTS.

<—

26 (A) PRICE PER GALLON.--THE OWNER OR OPERATOR OF A RETAIL
27 SERVICE STATION SHALL POST ON THE PROPERTY OF THE BUSINESS A
28 SIGN OR SIGNS DISPLAYING THE PRICE PER GALLON CURRENTLY BEING
29 CHARGED FOR ITS REGULAR GRADE OF GASOLINE AND UNLEADED REGULAR
30 GRADE OF GASOLINE. IF AN UNLEADED REGULAR GRADE OF GASOLINE IS

1 NOT OFFERED FOR SALE, THE PRICE FOR THE UNLEADED PREMIUM GRADE
2 OF GASOLINE SHALL BE POSTED. NOTHING IN THIS SUBSECTION SHALL
3 PRECLUDE THE POSTING OF PRICES FOR OTHER GRADES OF GASOLINE
4 OFFERED FOR SALE.

5 (B) SIZE AND DISPLAY OF NUMERALS.--THE NUMERALS ON SUCH
6 SIGNS, TOGETHER WITH THE WORDS "REGULAR," "UNLEADED REGULAR" OR
7 "UNLEADED PREMIUM" FOR EACH SUCH GRADE OF GASOLINE, SHALL BE
8 DISPLAYED IN BOLD BLOCK LETTERING AT LEAST THREE INCHES IN
9 HEIGHT ON A SIGN OR SIGNS CLEARLY VISIBLE FROM THE PRIMARY
10 ROADWAY BORDERING THE BUSINESS PROPERTY.

11 (C) SELF-SERVICE.--IF THE PRICES DISPLAYED REFER TO THE
12 PRICE CHARGED ON CONDITION THAT THE CUSTOMER OPERATE THE PUMP,
13 THEN THE SIGN OR SIGNS DISPLAYING THE PRICES SHALL BEAR THE
14 WORDS "SELF-SERVICE" IN BOLD BLOCK LETTERING AT LEAST THREE
15 INCHES IN HEIGHT.

16 (D) PRICE POSTED SHALL BE IDENTIFIED.--IF THE OWNER OR
17 OPERATOR OF A RETAIL SERVICE STATION CHOOSES TO DISPLAY THE
18 PRICE OF GRADES OF GASOLINE OTHER THAN AS REQUIRED BY SUBSECTION
19 (A) ON A SIGN VISIBLE FROM A PUBLIC HIGHWAY, THE SIGN SHALL
20 IDENTIFY THE GRADE AND PRICES OF THE GASOLINE IN BOLD BLOCK
21 LETTERING AT LEAST THREE INCHES IN HEIGHT. IF THE PRICES
22 DISPLAYED REFER TO THE PRICE CHARGED ON CONDITION THAT THE
23 CUSTOMER OPERATE THE PUMP, THEN THE SIGN SHALL ALSO BEAR THE
24 WORDS "SELF-SERVICE" IN THE SAME SIZE BOLD BLOCK LETTERING.

25 (E) PRICES TO BE POSTED WHERE NO SELF-SERVICE OFFERED.--IF
26 NO SELF-SERVICE IS OFFERED, THE PRICE OF FULL-SERVICE SHALL BE
27 POSTED IN THE MANNER PROVIDED FOR IN THIS SECTION.

28 § ~~9910-A~~ 9908-A. COMPLIANCE WITH OCTANE RATINGS.

29 NO PERSON SHALL SELL OR OFFER FOR SALE GASOLINE REPRESENTED
30 AS A PARTICULAR GRADE OF GASOLINE UNLESS SUCH GASOLINE IS IN

1 CONFORMANCE WITH THE STANDARD OCTANE RATINGS AS DEFINED IN
2 SECTION 9902-A (RELATING TO DEFINITIONS).

3 § ~~9911-A~~ 9909-A. REMEDIES. <—

4 A MANUFACTURER OR REFINER OR SUBSIDIARY THEREOF WHO FAILS TO
5 COMPLY WITH THE PROVISIONS OF THIS CHAPTER, OTHER THAN SECTIONS
6 ~~9909-A~~ 9907-A (RELATING TO POSTING REQUIREMENTS) AND ~~9910-A~~ <—
7 9908-A (RELATING TO COMPLIANCE WITH OCTANE RATINGS), SHALL BE
8 SUBJECT TO A FINE OF \$1,000 PER DAY PER SERVICE STATION. A
9 RETAIL SERVICE STATION DEALER MAY BRING AN ACTION AGAINST A
10 MANUFACTURER OR REFINER OR SUBSIDIARY THEREOF FOR VIOLATIONS OF
11 THIS CHAPTER IN THE RESPECTIVE COURT OF COMMON PLEAS OF THE
12 COUNTY WHEREIN SUCH RETAIL SERVICE STATION DEALER'S RETAIL
13 SERVICE STATION IS LOCATED TO RECOVER DAMAGES SUSTAINED BY A
14 WILLFUL AND INTENTIONAL VIOLATION OF THIS CHAPTER AND, WHERE
15 APPROPRIATE, SHALL BE ENTITLED TO INJUNCTIVE RELIEF. SUCH RETAIL
16 SERVICE STATION DEALER, IF SUCCESSFUL, SHALL ALSO BE ENTITLED TO
17 THE COSTS OF THE ACTION, INCLUDING, BUT NOT LIMITED TO,
18 REASONABLE ATTORNEY FEES.

19 § ~~9912-A~~ 9910-A. PENALTIES. <—

20 ANY OWNER OR OPERATOR OF A RETAIL SERVICE STATION WHO
21 VIOLATES THE PROVISIONS OF SECTION ~~9909-A~~ 9907-A (RELATING TO <—
22 POSTING REQUIREMENTS) OR ~~9910-A~~ 9908-A (RELATING TO COMPLIANCE <—
23 WITH OCTANE RATINGS) COMMITS A SUMMARY OFFENSE AND SHALL, UPON
24 CONVICTION, FOR THE FIRST OFFENSE BE SENTENCED TO PAY A FINE NOT
25 EXCEEDING \$150 AND FOR A SECOND AND EACH SUBSEQUENT OFFENSE BE
26 SENTENCED TO PAY A FINE NOT EXCEEDING \$300.

27 § ~~9913-A~~ 9911-A. EXCLUSIONS. <—

28 EXCEPT FOR SECTIONS ~~9907-A~~ 9905-A (RELATING TO UNLAWFUL <—
29 RESTRAINT), ~~9909-A~~ 9907-A (RELATING TO POSTING REQUIREMENTS) AND <—
30 ~~9910-A~~ 9908-A (RELATING TO COMPLIANCE WITH OCTANE RATINGS), THE <—

1 PROVISIONS OF THIS CHAPTER SHALL NOT APPLY TO TRUCK STOPS,
2 INDEPENDENT JOBBERS, FARM COOPERATIVES ~~AND~~, SERVICE PLAZAS <—
3 ADMINISTERED BY THE PENNSYLVANIA TURNPIKE COMMISSION AND ANY <—
4 PENNSYLVANIA INDEPENDENT REFINERY WHOSE DAILY CAPACITY DOES NOT
5 EXCEED 75,000 BARRELS.

6 § ~~9914-A~~ 9912-A. ENFORCEMENT. <—

7 WHEN THE ATTORNEY GENERAL HAS REASON TO BELIEVE THAT ANY
8 PERSON HAS VIOLATED THE PROVISIONS OF THIS CHAPTER, HE SHALL
9 HAVE STANDING TO BRING A CIVIL ACTION FOR INJUNCTIVE RELIEF AND
10 SUCH OTHER RELIEF AS MAY BE APPROPRIATE TO SECURE COMPLIANCE
11 WITH THIS CHAPTER.

12 § ~~9915-A~~ 9913-A. CIVIL LIABILITY. <—

13 NO MANUFACTURER OR REFINER OR SUBSIDIARY THEREOF SHALL BE
14 CIVILLY LIABLE TO ANY PERSON FOR DAMAGES RESULTING FROM THE
15 DISPENSING OF A BRAND OF GASOLINE WHICH IS DIFFERENT FROM THAT
16 OF SUCH MANUFACTURER OR REFINER OR SUBSIDIARY THEREOF ON THE
17 PREMISES OF A RETAIL SERVICE STATION LEASED FROM IT.

18 § ~~9916-A~~ 9914-A. SEVERABILITY. <—

19 IF ANY SECTION, SENTENCE, CLAUSE OR PART OF SECTION 9904-A(A)
20 (RELATING TO CERTAIN OPERATIONS PROHIBITED) IS FOR ANY REASON
21 HELD TO BE UNCONSTITUTIONAL, THE REMAINING PROVISIONS OF SECTION
22 9904-A, OTHER THAN SUBSECTION (C), SHALL BE NULL AND VOID. IT IS
23 HEREBY DECLARED TO BE THE LEGISLATIVE INTENT THAT THOSE
24 PROVISIONS WOULD NOT HAVE BEEN ADOPTED HAS SUCH UNCONSTITUTIONAL
25 SECTION, SENTENCE, CLAUSE OR PART THEREOF NOT BEEN INCLUDED
26 THEREIN.

27 Section ~~3~~ 4 5. This act shall take effect in 60 days. <—