



# HOUSE BILL No. 5923

June 21, 2000, Introduced by Reps. Frank, Cherry, Lockwood, Schauer, Gielegem, Pestka, Clarke, Basham, Bob Brown, Rivet, Spade, Bovin, Bogardus, Jamnick, Minore, Sheltrown, Callahan, Wojno, Jacobs, Quarles, Kelly, O'Neil, LaForge, Hale, Tesanovich, Neumann, Woodward, Brewer, Dennis, Garza and Thomas and referred to the Committee on Transportation.

A bill to amend 1990 PA 134, entitled  
"Motor fuel distribution act,"  
by amending the title and section 2 (MCL 445.1802) and by adding  
section 4a.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

### 1 TITLE

2 An act to regulate the termination and transfer of motor  
3 fuel franchises; TO PROHIBIT REFINERS FROM SETTING THE PRICE OF  
4 MOTOR FUEL OR REQUIRING THAT A RETAILER PURCHASE MOTOR FUEL ONLY  
5 FROM CERTAIN DISTRIBUTORS; TO PRESCRIBE PENALTIES; and to provide  
6 for certain remedies.

7 Sec. 2. As used in this act:

8 (A) "AFFILIATE" MEANS A PERSON WHO, OTHER THAN BY MEANS OF A  
9 FRANCHISE, CONTROLS, IS CONTROLLED BY, OR IS UNDER COMMON CONTROL  
10 WITH ANY OTHER PERSON.

1 (B) ~~(a)~~ "Contract" means any oral or written agreement.

2 (C) ~~(b)~~ "Franchise" means a contract between a refiner and  
3 a retailer or between a distributor and a retailer, under which a  
4 refiner or distributor authorizes or permits a retailer to use,  
5 in connection with the sale, consignment, or distribution of gas-  
6 oline, diesel, gasohol, or aviation fuel, a trademark that is  
7 owned or controlled by a refiner, or by a refiner that supplies  
8 MOTOR fuel to the distributor that authorizes or permits ~~such~~  
9 THAT use. Franchise includes, but is not limited to, both of the  
10 following:

11 (i) A contract under which a retailer is authorized or per-  
12 mitted to occupy leased marketing premises ~~, which premises are~~  
13 ~~to be employed~~ in connection with the sale, consignment, or dis-  
14 tribution of MOTOR fuel under a trademark that is owned or con-  
15 trolled by a refiner.

16 (ii) A contract pertaining to the supply of MOTOR fuel that  
17 is to be sold, consigned, or distributed by a retailer under a  
18 trademark owned or controlled by a refiner.

19 (D) ~~(c)~~ "Distributor" means a person, including any affil-  
20 iate of the person, ~~who~~ THAT meets either of the following  
21 requirements:

22 (i) Purchases motor fuel for sale, consignment, or distribu-  
23 tion to another.

24 (ii) Receives motor fuel on consignment for consignment or  
25 distribution to his or her own motor fuel accounts or to accounts  
26 of his or her supplier. ~~, but~~ DISTRIBUTOR does not include a

1 person ~~who~~ THAT is an employee of, or merely serves as a common  
2 carrier providing transportation service for, the supplier.

3 (E) ~~(d)~~ "Franchisee" means a retailer who is authorized or  
4 permitted, under a franchise, to use a trademark in connection  
5 with the sale, consignment, or distribution of MOTOR fuel.  
6 Franchisee does not include a distributor ~~which~~ THAT resells  
7 motor fuel to retailers, to the general public, or to both  
8 retailers and the general public.

9 (F) ~~(e)~~ "Franchisor" means a refiner or distributor ~~who~~  
10 THAT authorizes or permits, under a franchise, a retailer to use  
11 a trademark in connection with the sale, consignment, or distri-  
12 bution of MOTOR fuel.

13 (G) ~~(f)~~ "Marketing premises" means, in the case of any  
14 franchise, premises that ~~—~~ under the franchise ~~—~~ are to be  
15 employed by the franchisee in connection with the sale, consign-  
16 ment, or distribution of motor fuel.

17 (H) ~~(g)~~ "Motor fuel" means gasoline and diesel fuel of a  
18 type distributed for use as a fuel in self-propelled vehicles  
19 designed primarily for use on public streets, roads, and  
20 highways.

21 (I) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, ASSOCIATION,  
22 CORPORATION, LIMITED LIABILITY COMPANY, OR OTHER LEGAL ENTITY.

23 (J) ~~(h)~~ "Refiner" means a person engaged in the refining  
24 of crude oil to produce motor fuel, and includes any affiliate of  
25 the person.

26 (K) ~~(i)~~ "Retailer" means any person who purchases motor  
27 fuel for sale to the general public. ~~for ultimate consumption.~~

1        SEC. 4A. (1) NOTWITHSTANDING THE TERMS OF THE FRANCHISE, A  
2 FRANCHISOR SHALL NOT DO EITHER OF THE FOLLOWING:

3        (A) SET THE RETAIL PRICE AT WHICH A FRANCHISEE SHALL SELL  
4 MOTOR FUEL.

5        (B) EXCEPT TO LIMIT PURCHASES TO THE FRANCHISOR'S MOTOR  
6 FUEL, REQUIRE A FRANCHISEE TO PURCHASE MOTOR FUEL FROM A SPECIFIC  
7 DISTRIBUTOR OF THE FRANCHISOR'S MOTOR FUEL.

8        (2) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDE-  
9 MEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A  
10 FINE OF NOT MORE THAN \$10,000.00, OR BOTH.