

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 557

Short Title: No Gas Price Discrimination.

(Public)

Sponsors: Representative Hardaway.

Referred to: Judiciary I.

April 1, 1991

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT PRICE DISCRIMINATION IN THE SALE OF MOTOR
FUELS TO A WHOLESALE PURCHASER UNDER CONTRACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 75-82 reads as rewritten:

"§ 75-82. Unlawful below-cost selling; unlawful price discrimination; exceptions.

(a) It shall be unlawful where the intent is to injure competition for any motor fuel merchant or the affiliate of any motor fuel merchant to sell with such frequency as to indicate a general business practice of selling at a motor fuel outlet any grade, brand or blend of motor fuel for less than the cost of that grade, brand or blend of motor fuel except where (i) the price is established in good faith to meet or compete with the lower price of a competitor in the same market area on the same level of distribution selling the same or comparable product of like quality, (ii) the price remains in effect for no more than 10 days after the first sale of that grade, brand or blend by the merchant at a new retail outlet, (iii) the sale is made in good faith to dispose of a grade, brand or blend of motor fuel for the purpose of discontinuing sales of that product, or (iv) the sale is made pursuant to the order or authority of any court or governmental agency.

(a1) It shall be unlawful for any refiner, terminal supplier, or other wholesale seller of motor fuel to sell motor fuel to a distributor or to the owner or operator of a retail outlet, who is contractually obligated to purchase motor fuel from that seller and who purchases for resale at a retail outlet in the same competitive market area as a retail outlet controlled by that seller at a price, exclusive of taxes and net of any rebates, discounts, or other allowances, that is greater than the retail price, exclusive of taxes, of motor fuel of like grade, brand, or blend sold at the retail outlet controlled by that seller.

1 (a2) For purposes of subsection (a1) of this section, a retail outlet shall be deemed
2 to be controlled by a seller if that seller establishes the retail price of motor fuel sold at
3 that outlet.

4 (b) For purposes of this Article, motor fuel cost shall be computed separately for
5 each grade, brand or blend of each motor fuel at each location where said motor fuel is
6 offered for sale; however, nothing in this subsection shall prevent a motor fuel merchant
7 from using a weighted average motor fuel cost for comparable grade, brand or blend
8 when such motor fuel merchant is supplied by more than one refiner or terminal
9 supplier at one or more terminals.

10 ~~(c) This Article shall apply only to retail sales of motor fuel at motor fuel~~
11 ~~outlets."~~

12 Sec. 2. This act is effective upon ratification.