



House of Representatives

General Assembly

File No. 188

February Session, 2004

Substitute House Bill No. 5450

House of Representatives, March 23, 2004

The Committee on General Law reported through REP. FOX of the 144th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING GASOLINE FRANCHISES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (f) of section 42-133l of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2004*):

4 (f) No franchisor, directly or indirectly, through any officer, agent or
5 employee, shall do any of the following: (1) Require a franchisee at the
6 time of entering into an agreement to assent to a release, assignment,
7 novation, waiver, or estoppel which would relieve any person from
8 liability imposed by sections 42-133j to 42-133n, inclusive; (2) prohibit,
9 directly or indirectly, the right of free association among franchisees
10 for any lawful purpose; (3) prohibit the transfer by will of any
11 franchise and the rights of any franchisee under any franchise
12 agreement to a spouse or child of such franchisee; (4) require or
13 prohibit any change in management of any franchise unless such
14 requirement or prohibition of such change shall be for good cause,

15 which cause shall be stated in writing by the franchisor; (5) impose
 16 unreasonable standards of performance upon a franchisee; (6) fail to
 17 deal in good faith with a franchisee; (7) sell, rent or offer to sell to a
 18 franchisee any product or service for more than a fair and reasonable
 19 price; (8) impose on a franchisee by contract, rule or regulation,
 20 whether written or oral, any standard of conduct unless the franchisor,
 21 his agents or representatives sustain the burden of proving such to be
 22 reasonable and necessary; (9) discriminate between franchisees in the
 23 charges offered or made for royalties, goods, services, equipment,
 24 rentals, advertising services, or in any other business dealing, unless
 25 (A) any such type of discrimination between franchisees would be
 26 necessary to allow a particular franchisee to fairly meet competition in
 27 the open market, or (B) to the extent that the franchisor satisfies the
 28 burden of proving that any classification of or discrimination between
 29 franchisees is reasonable, is based on franchises granted at materially
 30 different times and such discrimination is reasonably related to such
 31 difference in time or on other proper and justifiable distinctions
 32 considering the purposes of sections 42-133j to 42-133n, inclusive, and
 33 is not arbitrary; [. Nothing shall be construed under this subsection,
 34 however, as granting to any franchisor any right which may be limited
 35 by any other state or federal statutes;] (10) notify the franchisee of a
 36 claimed breach of franchise agreement for good cause later than one
 37 hundred eighty days from the date said good cause arises or one
 38 hundred eighty days after the franchisor knew or in the exercise of
 39 reasonable care should have known of said claimed good cause; or (11)
 40 require or coerce a gasoline franchisee to sell gasoline at a specific price
 41 or in a specific price range.

This act shall take effect as follows:	
Section 1	October 1, 2004

GL *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Various State Agencies	Various - Savings	Potential Minimal	Potential Minimal

Municipal Impact:

Municipalities	Effect	FY 05 \$	FY 06 \$
Various Municipalities	Savings	Potential Minimal	Potential Minimal

Explanation

The bill restricts gasoline refiners and distributors from requiring or coercing franchisees to sell gasoline at a specific price or price range, or using the expected retail price of gasoline to determine the wholesale price. The bill reduces the possibility of gasoline franchisees inflating prices due to distributor coercion or increasing gasoline retail prices to cover wholesale costs. As ratepayers, the state and various municipalities will potentially realize minimal savings.

OLR Bill Analysis

sHB 5450

AN ACT CONCERNING GASOLINE FRANCHISES**SUMMARY:**

This bill prohibits gasoline and motor fuel refiners and distributors from requiring or coercing franchisees (which can be either distributors or retailers) from selling gasoline at a specific price or in a specific price range.

It also eliminates the provision stating that the law prohibiting gasoline and motor fuel franchisors from doing certain activities may not be construed as granting to a franchisor any right limited by other state or federal statute.

EFFECTIVE DATE: October 1, 2004

BACKGROUND***Franchisor Prohibited Activities***

The law prohibits gasoline and motor fuel franchisors, directly or indirectly, from (1) requiring a franchisee, when the agreement is made, from agreeing to a release, assignment, novation, waiver, or estoppel that would relieve anyone from liability imposed by the law on gasoline and motor fuel franchises; (2) prohibiting the right of free association among franchisees; (3) prohibiting the transfer by will of the franchise to a spouse or child; (4) requiring or prohibiting a change in franchise management unless for good cause stated in writing; (5) imposing unreasonable standards of performance; (6) failing to deal in good faith; (7) selling, renting, or offering to sell to a franchisee a product or service for more than a fair and reasonable price; (8) imposing on a franchisee, by written or oral contract, rule, or regulation, any standard of conduct unless the franchisor proves that it is reasonable and necessary; (9) discriminating among franchisees in charges offered or made for royalties, goods, services, equipment, rentals, advertising services, or other business dealings unless necessary to be fair to a particular franchisee or to the extent the

franchisor shows that the classification is reasonable on certain grounds; (10) notifying a franchisee of a claimed breach of contract for good cause later than 180 days from (a) the date the good cause arose or (b) the franchisor knew or should have known of the good cause.

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute

Yea 19 Nay 0