



General Assembly

January Session, 2005

Raised Bill No. 6653

LCO No. 3352

03352_____GL_

Referred to Committee on General Law

Introduced by:

(GL)

AN ACT CONCERNING THE RIGHTS OF GASOLINE FRANCHISE OWNERS.

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

1 Section 1. Section 42-133mm of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective October 1, 2005*):

3 (a) When a franchisor intends to sell, transfer or assign to another
4 person the franchisor's interest in a single marketing premises that is
5 not part of two or more marketing premises marketed as a package to
6 sell, transfer or assign more than a single marketing premises, that the
7 franchisee has occupied under a lease, sublease or other grant of
8 authority to occupy such premises, such franchisor shall first: (1) Make
9 a bona fide offer to sell, transfer or assign to the franchisee such
10 franchisor's interests in such single marketing premises; or (2) if
11 applicable, offer the franchisee a right of first refusal of a bona fide
12 offer made by another acceptable to the franchisor, to purchase such
13 franchisor's interest in such single marketing premises. The franchisee
14 shall have forty-five days in which to accept or reject such offer made
15 under subdivision (1) or (2) of this subsection.

16 (b) When a franchisor [sells, transfers or assigns] intends to sell,
17 transfer or assign to another person the franchisor's interest in two or
18 more marketing premises marketed as a package to a successor owner,
19 such franchisor shall first: (1) Make a bona fide offer to sell, transfer or
20 assign such franchisor's interests in such marketing premises to each
21 franchisee affected by such sale, transfer or assignment; or (2) if
22 applicable, offer each franchisee affected by such sale a right of first
23 refusal to purchase such franchisor's interest in such marketing
24 premises based upon a bona fide offer that is made by a third party
25 and that is acceptable to the franchisor. Any such franchisee may
26 accept such an offer. In the event that more than one such franchisee
27 accepts such an offer, the franchisor shall offer the marketed premises
28 to the franchisee that offers the highest price for such marketed
29 premises.

30 (c) In the event of any such sale, transfer or assignment, any change
31 in the terms and conditions of the franchise agreement in effect at the
32 time of the sale, transfer or assignment shall be by mutual agreement
33 of the franchisee and the successor owner. Such successor owner shall,
34 at the expiration of the franchise agreement in effect at the time of the
35 sale, transfer or assignment renew the franchise agreement of each
36 franchisee for the same number of years as the agreement in effect at
37 the time of the sale, transfer or assignment. [, provided such renewal
38 shall not exceed five years.] Any changes to the franchise agreement
39 shall be submitted in good faith by the successor owner and negotiated
40 in good faith by the successor owner and franchisee. The successor
41 owner shall not require the franchisee to do the following: (1) Take
42 part in promotional campaigns of the successor owner's products; (2)
43 meet sales quotas; (3) sell any product at a price suggested by the
44 successor owner or supplier; (4) keep the premises open and operating
45 during hours which are documented by the franchisee to be
46 unprofitable to the franchisee or during the hours after 10 p.m. and
47 prior to 6 a.m.; or (5) disclose to the successor owner or supplier
48 financial records of the operation of the franchise which are not related
49 or necessary to the franchisee's obligations under the franchise

50 agreement. Nothing in this subsection shall affect the successor
51 owner's ability to terminate, cancel or fail to renew a franchise
52 agreement for good cause shown.

53 [(c)] (d) If such successor owner intends to sell, transfer or assign to
54 another person such successor owner's interest in the marketing
55 premises that the franchisee has occupied under a lease, sublease or
56 other grant of authority to occupy such premises, the new owner shall
57 first (1) make a bona fide offer to sell, transfer or assign to the
58 franchisee such successor owner's interest in the marketing premises;
59 or (2) if applicable, offer the franchisee a right of first refusal of a bona
60 fide offer made by another acceptable to the successor, to purchase
61 such successor owner's interest in such marketing premises. The
62 franchisee shall have forty-five days in which to accept or reject such
63 offer made under subdivision (1) or (2) of this subsection.

64 [(d)] (e) For the purposes of this section, "marketing premises"
65 means premises which, under a franchise agreement, are to be
66 employed by a franchisee in connection with the sale, consignment or
67 distribution of motor fuel.

68 [(e)] (f) The provisions of this section shall apply to any franchise
69 agreement in effect on or after July 1, 2000.

70 Sec. 2. (NEW) (*Effective from passage*) On and after July 1, 2005, no
71 distributor of petroleum products shall open a major brand, secondary
72 brand or unbranded retail service station in the state and operate such
73 station with employees of such distributor, a subsidiary company,
74 commissioned agent or under a contract with any person, firm or
75 corporation managing such station on a fee arrangement with such
76 distributor. Any such station shall be operated only by a retail service
77 station dealer. As used in this chapter, "retail service station" means a
78 place of business where gasoline or special fuel is sold and delivered
79 into the tanks of motor vehicles for use as fuel in the operation of such
80 motor vehicles.

81 Sec. 3. (NEW) (*Effective from passage*) On and after July 1, 2006, no
82 distributor of petroleum products shall operate a major brand,
83 secondary brand or unbranded retail service station in the state with
84 employees of distributor, a subsidiary company, commissioned agent
85 or under a contract with any person, firm or corporation managing a
86 service station on a fee arrangement with such distributor. Any such
87 station shall be operated only by a retail service station dealer.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	42-133mm
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	New section

Statement of Purpose:

To prohibit petroleum distributors from operating retail gas stations, enable retail gas franchisees to continue their franchise when ownership of the retail premises changes and to provide such franchisees with a right of first refusal when the franchisor bundles the sale of the retail premises with two or more premises.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]