



General Assembly

February Session, 2006

**Raised Bill No. 5691**

LCO No. 2641

\*02641\_\_\_\_\_GL\_\*

Referred to Committee on General Law

Introduced by:  
(GL)

**AN ACT CONCERNING SOLE SOURCE GASOLINE ACQUISITION.**

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

1 Section 1. Section 42-133*l* of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2006*):

3 (a) No franchisor shall, directly, or through any officer, agent or  
4 employee, terminate, cancel or fail to renew a franchise, except for  
5 good cause shown which shall include, but not be limited to the  
6 franchisee's refusal or failure to comply substantially with any material  
7 and reasonable obligation of the franchise agreement except such  
8 obligations under subsection (e) of this section or for the reasons stated  
9 in subsection (d) of this section. The franchisor shall give the franchisee  
10 written notice of such termination, cancellation or intent not to renew,  
11 at least sixty days in advance of such termination, cancellation or  
12 failure to renew with the cause stated thereon; provided, in the event  
13 the franchisor elects not to renew a franchise pursuant to subsection  
14 (d) of this section, the franchisor shall give the franchisee written  
15 notice of such intent not to renew at least six months prior to the  
16 expiration of the current franchise agreement. The provisions of this  
17 section shall not apply (1) where the alleged grounds are voluntary

18 abandonment by the franchisee of the franchise relationship, in which  
19 event, such notice may be given fifteen days in advance of such  
20 termination, cancellation or failure to renew, or (2) where the alleged  
21 grounds are the conviction of the franchisee in a court of competent  
22 jurisdiction of an offense punishable by a term of imprisonment in  
23 excess of one year and directly related to the business conducted  
24 pursuant to the franchise, in which event, such notice may be given at  
25 any time following such conviction and shall be effective upon  
26 delivery and written receipt of such notice, subject to the requirements  
27 of subdivision (10) of subsection (f) of this section.

28 (b) Upon termination of any franchise for whatever cause or reason,  
29 except voluntary relinquishment or abandonment of the franchise by  
30 the franchisee, the franchisor shall fairly compensate the franchisee or  
31 the franchisee's estate for the fair market value, at the time of  
32 termination of the franchise, of the franchisee's inventory, supplies,  
33 equipment and furnishings purchased by the franchisee from the  
34 franchisor or its approved sources and good will, if any, exclusive of  
35 personalized items which have no value to the franchisor and  
36 inventory, supplies, equipment and furnishings not reasonably  
37 required in the conduct of the franchise business; provided that  
38 compensation need not be made to a franchisee for good will if (1) the  
39 franchisee has been given one year's notice of nonrenewal, and (2) the  
40 franchisor agrees in writing not to enforce any covenant which  
41 restrains the franchisee from competing with the franchisor, and  
42 provided further, that a franchisor may offset against amounts owed to  
43 a franchisee under this subsection any amount owed by such  
44 franchisee to the franchisor.

45 (c) Notwithstanding the provisions of section 52-550, no franchise  
46 entered into or renewed on or after October 1, 1973, whether oral or  
47 written, shall be for a term of less than three years and for successive  
48 terms of not less than three years thereafter unless cancelled,  
49 terminated or not renewed pursuant to subsections (a) and (d) of this  
50 section.

51 (d) A franchisor may elect not to renew a franchise which involves  
52 the lease by the franchisor to the franchisee of real property and  
53 improvement, in the event the franchisor (1) sells or leases such real  
54 property and improvements to other than a subsidiary or affiliate of  
55 the franchisor for any use; or (2) sells or leases such real property to a  
56 subsidiary or affiliate of the franchisor, except such subsidiary or  
57 affiliate shall not use such real property for the operation of the same  
58 business of the franchisee; or (3) converts such real property and  
59 improvements to a use not covered by the franchise agreement; or (4)  
60 has leased such real property from a person not the franchisee and  
61 such lease from such person is terminated or not renewed.

62 (e) No franchisor shall terminate, cancel or fail to renew a franchise  
63 for the failure or refusal of the franchisee to do any of the following: (1)  
64 Refusal to take part in promotional campaigns of the franchisor's  
65 products; (2) failure to meet sales quotas suggested by the franchisor;  
66 (3) refusal to sell any product at a price suggested by the franchisor or  
67 supplier; (4) refusal to keep the premises open and operating during  
68 those hours which are documented by the franchisee to be unprofitable  
69 to the franchisee or to preclude franchisee from establishing his own  
70 hours of operation beyond the hour of [10:00] ten o'clock p.m. and  
71 prior to [6:00] six o'clock a.m.; (5) refusal to give the franchisor or  
72 supplier financial records of the operation of the franchise which are  
73 not related or necessary to the franchisee's obligations under the  
74 franchise agreement. Subdivisions (1) to (5), inclusive, shall not be  
75 deemed material and reasonable obligations, substantial failure to  
76 comply with franchise terms, or good cause under subsection (a) of  
77 this section.

78 (f) No franchisor, directly or indirectly, through any officer, agent or  
79 employee, shall do any of the following: (1) Require a franchisee at the  
80 time of entering into an agreement to assent to a release, assignment,  
81 novation, waiver, or estoppel which would relieve any person from  
82 liability imposed by sections 42-133j to 42-133n, inclusive; (2) prohibit,  
83 directly or indirectly, the right of free association among franchisees

84 for any lawful purpose; (3) prohibit the transfer by will of any  
85 franchise and the rights of any franchisee under any franchise  
86 agreement to a spouse or child of such franchisee; (4) require or  
87 prohibit any change in management of any franchise unless such  
88 requirement or prohibition of such change shall be for good cause,  
89 which cause shall be stated in writing by the franchisor; (5) impose  
90 unreasonable standards of performance upon a franchisee; (6) fail to  
91 deal in good faith with a franchisee; (7) sell, rent or offer to sell to a  
92 franchisee any product or service for more than a fair and reasonable  
93 price; (8) impose on a franchisee by contract, rule or regulation,  
94 whether written or oral, any standard of conduct unless the franchisor,  
95 his agents or representatives sustain the burden of proving such to be  
96 reasonable and necessary; (9) discriminate between franchisees in the  
97 charges offered or made for royalties, goods, services, equipment,  
98 rentals, advertising services, or in any other business dealing, unless  
99 (A) any such type of discrimination between franchisees would be  
100 necessary to allow a particular franchisee to fairly meet competition in  
101 the open market, or (B) to the extent that the franchisor satisfies the  
102 burden of proving that any classification of or discrimination between  
103 franchisees is reasonable, is based on franchises granted at materially  
104 different times and such discrimination is reasonably related to such  
105 difference in time or on other proper and justifiable distinctions  
106 considering the purposes of sections 42-133j to 42-133n, inclusive, and  
107 is not arbitrary; (10) notify the franchisee of a claimed breach of  
108 franchise agreement for good cause later than one hundred eighty  
109 days from the date said good cause arises or one hundred eighty days  
110 after the franchisor knew or in the exercise of reasonable care should  
111 have known of said claimed good cause; or (11) require or coerce a  
112 gasoline franchisee to sell gasoline at a specific price or in a specific  
113 price range.

114 (g) Any franchisee or franchisor, upon request, shall have the right  
115 to have the question of good cause submitted to arbitration in  
116 accordance with the rules of the American Arbitration Association.  
117 Any franchisee or franchisor, upon the rendering of a decision in

118 arbitration, shall have the right to apply to the superior court in the  
119 county wherein such franchisee or franchisor is doing business or  
120 resides for confirmation, modification, correction or vacation of any  
121 arbitration decision.

122 (h) Every franchisor shall protect and save harmless its franchisee  
123 from financial loss and expense, including legal fees and costs, if any,  
124 arising out of any claim, demand, suit or judgment by reason of defect  
125 in merchandise or methods or procedures prescribed by the franchisor  
126 and performed by such franchisee, except for alleged negligence or  
127 wilful misconduct of such franchisee.

128 (i) Every franchisor shall reimburse its franchisee at the prevailing  
129 retail price for any services rendered or parts supplied by such  
130 franchisee in satisfaction of any warranty issued by such franchisor,  
131 and no franchisor shall restrict a franchisee from rendering services or  
132 providing parts in accordance with standards of good workmanship in  
133 satisfaction of any such warranty.

134 (j) Any waiver of the rights of a franchisee under sections 42-133m,  
135 42-133n and this section which is contained in any franchise agreement  
136 entered into or amended on or after October 1, 1977, shall be void.

137 (k) No franchisor shall, directly or indirectly, through any officer,  
138 agent or employee, prohibit a franchisee from entering into an  
139 agreement with another supplier to purchase the same trademark  
140 gasoline as offered by the franchisor.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2006</i>	42-133l

**Statement of Purpose:**

To prohibit gasoline franchisors from prohibiting franchisees from buying the same trademark gasoline from a different supplier.