



General Assembly

Amendment

February Session, 2006

LCO No. 4638

SB0050204638SD0

Offered by:

SEN. COLAPIETRO, 31st Dist.
SEN. GAFFEY, 13th Dist.
SEN. HANDLEY, 4th Dist.
SEN. MCDONALD, 27th Dist.
SEN. FINCH, 22nd Dist.
SEN. CRISCO, 17th Dist.
SEN. GOMES, 23rd Dist.
SEN. LEBEAU, 3rd Dist.

SEN. DUFF, 25th Dist.
SEN. PRAGUE, 19th Dist.
SEN. HERLIHY, 8th Dist.
SEN. FREEDMAN, 26th Dist.
SEN. COLEMAN, 2nd Dist.
SEN. CIOTTO, 9th Dist.
SEN. HARP, 10th Dist.
REP. MAZUREK, 80th Dist.

To: Senate Bill No. 502

File No. 104

Cal. No. 117

"AN ACT CONCERNING UNFAIR TRADE PRACTICES AND CASH DISCOUNTS FOR GASOLINE."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Section 16a-23 of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective July 1, 2006*):

5 (a) No person engaged in the business of refining petroleum into
6 gasoline and furnishing gasoline to retail distributors of gasoline for
7 sale to the public in this state shall fail to furnish gasoline to
8 independent retail distributors of gasoline in this state, whether or not
9 franchised by such person, at wholesale prices in reasonable quantities

10 as long as [he] such person continues to furnish gasoline to retail
11 distributors of gasoline in this state which are wholly owned by [him]
12 such person or operated under a franchise granted by [him] such
13 person.

14 (b) It shall constitute, prima facie, a violation of the provisions of
15 subsection (a) of this section for any such person (1) during any
16 calendar month beginning after July 1, 1973, to deliver to independent
17 retail distributors of gasoline in this state a percentage of the total
18 gallons of gasoline delivered by [him] such person to all retail
19 distributors of gasoline in this state during that month which is lower
20 than the percentage of the total gallons of gasoline delivered by [him]
21 such person to all retail distributors of gasoline in this state during the
22 period from July 1, 1971, to June 30, 1972, which was delivered by
23 [him] such person to independent retail distributors of gasoline in this
24 state during that period, or (2) to sell gasoline to independent retail
25 distributors of gasoline in this state at a price during any such month
26 which is greater than (A) the average price at which [he] such person
27 sold gasoline to such distributors during the period from July 1, 1971,
28 to June 30, 1972, increased by (B) a percentage equal to the percentage
29 by which the average price for gasoline sold during that month to
30 retail distributors of gasoline which are wholly owned by, or operated
31 under a franchise granted by [,] that person exceeds the average price
32 for gasoline sold to such distributors during the period from July 1,
33 1971, to June 30, 1972.

34 (c) No producer or refiner of petroleum products who is subject to
35 the provisions of section 14-344a and furnishes gasoline to a person
36 that sells gasoline at retail in this state shall use a pricing system under
37 which the wholesale price paid for such gasoline by such retail seller is
38 determined based on the geographic location of such retail seller in
39 any geographic zone in this state, or any other system that would
40 prevent retail sellers of gasoline from paying lower prices on an equal
41 basis with other retail sellers of gasoline in this state. Such producer or
42 refiner shall sell such gasoline at the posted rack price of such
43 producer or refiner. For purposes of this subsection, "posted rack

44 price" means the price of each brand and grade of gasoline offered for
45 sale by such producer and refiner. The posted rack price shall be
46 promulgated by such producer or refiner at six o'clock p.m. each day.
47 Such posted rack price shall be the controlling price for the twenty-
48 four-hour period commencing the following twelve o'clock a.m. Such
49 producer or refiner shall promulgate the posted rack price by: (1)
50 Posting a sign conspicuously listing such price at the point of sale, and
51 (2) sending notices to all franchisees and, upon request, to other retail
52 sellers, by facsimile, electronic mail or other means. Such producer and
53 refiner shall not discriminate in the price of such gasoline charged to
54 retail sellers of gasoline in this state, except to charge the actual cost of
55 transportation for gasoline delivered in this state or to offer discounts
56 or rebates that may be determined by such producer or refiner from
57 time to time. Such discounts or rebates shall be disclosed by the
58 producer or refiner to the retail sellers and shall be offered by the
59 producer or refiner to all of its retail sellers on equal terms and
60 conditions. When offered, all such discounts or rebates and the time
61 period they are offered shall be listed as a separate line item entry on
62 each invoice.

63 [(c)] (d) A violation of the provisions of subsection (a) or (c) of this
64 section or of section 502 of this act constitutes an unfair trade practice
65 [within the provisions of chapter 735a] under subsection (a) of section
66 42-110b.

67 (e) The provisions of subsection (c) of this section shall expire two
68 years from the effective date of this section.

69 Sec. 502. (NEW) (*Effective July 1, 2006*) Each retailer who sells
70 gasoline in this state shall sell such gasoline based on the actual price
71 such retailer paid for the gasoline located in underground storage
72 tanks located on the premises of the retail gasoline station at which
73 such gasoline is sold. Such retailer shall not raise the retail price of
74 such gasoline in anticipation of market based price increases.

75 Sec. 503. (NEW) (*Effective July 1, 2006*) The Commissioner of

76 Consumer Protection shall adopt emergency regulations, effective July
77 1, 2006, in accordance with the provisions of chapter 54 of the general
78 statutes, to monitor and enforce gasoline refiner, producer and retailer
79 compliance with the provisions of section 16a-23 of the general
80 statutes, as amended by this act, and section 502 of this act and to
81 require such refiners, producers and retailers to maintain and provide
82 records for inspection by said commissioner and by the Attorney
83 General in order to verify such compliance.

84 (1) Such records shall include, but not be limited to, the following
85 information for such retailers: (A) The volume of gasoline purchased,
86 (B) the purchase price of such gasoline, (C) the date such gasoline was
87 purchased, and (D) the supplier of such gasoline.

88 (2) Such records shall include, but not be limited to, the following
89 information for such producers and refiners: (A) The volume of
90 gasoline sold, (B) the sales price of such gasoline, (C) the date such
91 gasoline was sold, (D) the purchaser of such gasoline, and (E)
92 information regarding discounts, rebates and transportation costs
93 offered or charged pursuant to subsection (c) of section 16a-23 of the
94 general statutes, as amended by this act."