



Senate Bill No. 1000

June 11 Special Session, Public Act No. 08-2

AN ACT CONCERNING ADJUSTMENTS TO CERTAIN PETROLEUM PRODUCTS TAXES, PETROLEUM FRANCHISE AGREEMENTS, GASOLINE DISCOUNTS FOR CONSUMERS, HOME HEATING OIL AND PROPANE GAS CONTRACT DEPOSITS AND THE FUEL OIL CONSERVATION ACCOUNT.

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

Section 1. Subdivision (1) of subsection (b) of section 12-587 of the 2008 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) (1) Except as otherwise provided in subdivision (2) of this subsection, any company which is engaged in the refining or distribution, or both, of petroleum products and which distributes such products in this state shall pay a quarterly tax on its gross earnings derived from the first sale of petroleum products within this state. Each company shall on or before the last day of the month next succeeding each quarterly period render to the commissioner a return on forms prescribed or furnished by the commissioner and signed by the person performing the duties of treasurer or an authorized agent or officer, including the amount of gross earnings derived from the first sale of petroleum products within this state for the quarterly period and such other facts as the commissioner may require for the purpose of making any computation required by this chapter. Except as

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otherwise provided in subdivision (3) of this subsection, the rate of tax shall be (A) five per cent with respect to calendar quarters prior to July 1, 2005; (B) five and eight-tenths per cent with respect to calendar quarters commencing on or after July 1, 2005, and prior to July 1, 2006; (C) six and three-tenths per cent with respect to calendar quarters commencing on or after July 1, 2006, and prior to July 1, 2007; (D) seven per cent with respect to calendar quarters commencing on or after July 1, 2007, and prior to July 1, [2008; (E) seven and one-half per cent with respect to calendar quarters commencing on or after July 1, 2008, and prior to July 1, 2013; and (F)] 2013; and (E) eight and one-tenth per cent with respect to calendar quarters commencing on or after July 1, 2013.

Sec. 2. Subdivision (1) of subsection (c) of section 12-587 of the 2008 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(c) (1) Any company which imports or causes to be imported into this state petroleum products for sale, use or consumption in this state, other than a company subject to and having paid the tax on such company's gross earnings from first sales of petroleum products within this state, which earnings include gross earnings attributable to such imported or caused to be imported petroleum products, in accordance with subsection (b) of this section, shall pay a quarterly tax on the consideration given or contracted to be given for such petroleum product if the consideration given or contracted to be given for all such deliveries during the quarterly period for which such tax is to be paid exceeds three thousand dollars. Except as otherwise provided in subdivision (3) of this subsection, the rate of tax shall be (A) five per cent with respect to calendar quarters commencing prior to July 1, 2005; (B) five and eight-tenths per cent with respect to calendar quarters commencing on or after July 1, 2005, and prior to July 1, 2006; (C) six and three-tenths per cent with respect to calendar quarters

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commencing on or after July 1, 2006, and prior to July 1, 2007; (D) seven per cent with respect to calendar quarters commencing on or after July 1, 2007, and prior to July 1, [2008; (E) seven and one-half per cent with respect to calendar quarters commencing on or after July 1, 2008, and prior to July 1, 2013; and (F)] 2013; and (E) eight and one-tenth per cent with respect to calendar quarters commencing on or after July 1, 2013. Fuel in the fuel supply tanks of a motor vehicle, which fuel tanks are directly connected to the engine, shall not be considered a delivery for the purposes of this subsection.

Sec. 3. Section 42-133j of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The legislature of the state of Connecticut finds and declares that the distribution and sales of gasoline and petroleum products through franchises within the state of Connecticut, including the rights and obligations of suppliers and dealers, vitally affects its general economy. In order to promote the public interest and public welfare, to avoid undue control of the dealer by suppliers, to foster and keep alive vigorous and healthy competition for the benefit of the public by prohibiting practices through which fair and honest competition is destroyed or prevented, to promote the public safety, to prevent deterioration of facilities for servicing motor vehicles on the highways of the state, to prevent dealers from unnecessarily going out of business thereby resulting in unemployment with loss of tax revenue to the state and its resultant undesirable consequences, and to offset evident abuses within the petroleum industry as a result of inequitable economic power, it is necessary to legislate standards pursuant to the exercise of the police power of this state governing the relationship between suppliers and distributors of gasoline and petroleum products and the dealers within the state who sell those products to the public.

(b) In recognition of the factors set forth in subsection (a) of this

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section, it is provided that all provisions of sections 42-133j to 42-133n, inclusive, as amended by this act, to the extent permitted by law, shall be deemed effective as to those presently existing franchise agreements involving gasoline dealers within the state of Connecticut as of October 1, 1977.

(c) The legislature further finds and declares that the distribution and sales of motor vehicle fuels and oils in the state of Connecticut affects the general economy of the state, the public interest and the public welfare. Competition, [and] freedom from unreasonable restraints on alienation and competitive pricing are essential to the functioning of a fair and efficient free market economy within the petroleum industry. The legislature finds and declares that existing petroleum franchise agreements as defined and regulated within sections 42-133e to 42-133h, inclusive, uniformly prohibit assignment of franchise interests without the consent of the franchisor, which consent may be unreasonably and arbitrarily withheld. Also, existing petroleum franchise agreements provide for their automatic termination upon the death of the franchisee. The legislature finds and declares that such provisions constitute unreasonable restraints on alienation and inhibit the fair and efficient functioning of a free market economy within the petroleum industry. Therefore, it is provided that the provisions of any franchise agreement which prohibit assignment without the consent of the franchisor and permit such consent to be unreasonably withheld are void and without effect as contrary to public policy. It is further provided that the provisions of any franchise agreement which terminate the franchise automatically upon the death of the franchisee are void and ineffective as contrary to public policy. The legislature finds and declares that provisions in certain existing petroleum franchise agreements prohibit gasoline retailers or distributors from offering a discount to a buyer based upon the method of payment by such buyer for gasoline. The legislature finds and declares that such provisions constitute unreasonable restraints on

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competitive pricing and inhibit the fair and efficient functioning of a free market economy within the petroleum industry. Therefore, it is provided that the provisions of any franchise agreement that prohibit gasoline retailers or distributors from offering a discount to a buyer based upon the method of payment by such buyer for gasoline are void and without effect as contrary to public policy.

Sec. 4. Subsection (c) of section 42-133ff of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(c) Nothing in this section shall prohibit any seller from offering a discount to a buyer to induce such buyer to pay by cash, debit card, check or similar means rather than by credit card. In furtherance of the legislative findings contained in section 42-133j, as amended by this act, no existing or future contract or agreement shall prohibit a gasoline retailer or distributor from offering a discount to a buyer based upon the method of payment by such buyer for such gasoline. Any provision in such contract or agreement prohibiting such retailer or distributor from offering such discount is void and without effect as contrary to public policy.

Sec. 5. Section 52-512 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Every debt due to any laborer or mechanic for personal wages, from any corporation or partnership for which a receiver is appointed, for any labor performed for such corporation or partnership within three months next preceding the service of the application for the appointment of a receiver, shall be paid in full by the receiver, to the amount [of six hundred dollars] allowed for certain wages pursuant to subdivision (4) of subsection (a) of 11 USC Section 507, as amended and adjusted from time to time pursuant to 11 USC Section 104, as amended from time to time, before the general liabilities of such

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corporation or partnership are paid.

(b) Every debt due to any individual from a corporation or partnership for which a receiver is appointed for a deposit made in connection with the purchase, lease or rental of goods or the purchase of services for the personal, family or household use of such individual, where such goods were not received or such services were not provided prior to the service of the application for the appointment of a receiver, shall be paid in full by the receiver, to the amount [of nine hundred dollars] allowed for certain consumer deposits pursuant to subdivision (7) of subsection (a) of 11 USC Section 507, as amended and adjusted from time to time pursuant to 11 USC Section 104, as amended from time to time, before the general liabilities, except taxes or wages, of the corporation or partnership are paid. As used in this subsection, "deposit made in connection with the purchase, lease or rental of goods" includes, but is not limited to, deposits made by a consumer to a home heating oil or propane gas dealer pursuant to a prepaid home heating oil or propane gas contract or capped price per gallon home heating oil contract.

Sec. 6. Section 52-400f of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

In the event of (1) the termination of the existence of an entity, (2) the insolvency of a person or entity, or (3) the inability of a person or entity to pay all creditors in full, every debt due to any individual from such person or entity for a deposit made in connection with the purchase, lease or rental of goods or the purchase of services for the personal, family or household use of such individual, where such goods were not received or such services were not provided, shall be first paid in full, to the amount [of nine hundred dollars] allowed for certain consumer deposits pursuant to subdivision (7) of subsection (a) of 11 USC Section 507, as amended and adjusted from time to time pursuant to 11 USC Section 104, as amended from time to time, before

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the general liabilities, except taxes or wages, of such person or entity are paid. As used in this section, "deposit made in connection with the purchase, lease or rental of goods" includes, but is not limited to, deposits made by a consumer to a home heating oil or propane gas dealer pursuant to a prepaid home heating oil or propane gas contract or capped price per gallon home heating oil contract.

Sec. 7. Subsection (e) of section 16a-22l of the 2008 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(e) (1) There is established a Fuel Oil Conservation Board consisting of thirteen members, including:

(A) One member representing dealers with retail oil heat sales in excess of fifteen million gallons in the state, appointed by the president pro tempore of the Senate;

(B) One member representing dealers with retail oil heat sales of less than fifteen million gallons in the state, appointed by the speaker of the House of Representatives;

(C) One member representing the heating, ventilation and air-conditioning trades licensed under chapter 393, appointed by the majority leader of the Senate;

(D) One member representing wholesale heating distributors operating within the state, appointed by the majority leader of the House of Representatives;

(E) One member representing a state-wide environmental advocacy group, appointed by the minority leader of the Senate;

(F) The chairperson of the Heating, Piping, Cooling and Sheet Metal Work Board established under chapter 393;

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(G) One member from a state-wide retail oil dealer trade association, appointed by the minority leader of the House of Representatives;

(H) Six members of the public appointed by the Governor, of which one shall be a representative of an environmental organization knowledgeable in energy efficiency programs, one shall be a representative of ~~[in-state generators]~~ an in-state biodiesel distributor, one shall be a representative of a consumer advocacy organization, one shall be a representative of the business community, one shall be a representative of low-income ratepayers and one shall be a representative of state residents, in general, and all of whom shall have expertise in energy issues; [] and

(I) All appointed members of the board shall serve in accordance with section 4-1a.

(2) The Fuel Oil Conservation Board shall be within the office of the State Comptroller for administrative purposes only, and shall establish itself as a tax exempt organization in accordance with the provisions of Section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended. Not later than July 1, 2008, and biennially thereafter, a third party selected by the Attorney General shall audit the activities of the board. The results of such audit shall be submitted in a report to the joint standing committees of the General Assembly having cognizance of matters relating to energy and the environment, in accordance with the provisions of section 11-4a.

(3) The Fuel Oil Conservation Board shall establish a fuel oil conservation account. The account shall be a separate, nonlapsing ~~[accounting]~~ account within the ~~[General Fund]~~ restricted grant fund and shall be funded by annual revenue from the tax imposed by section 12-587 of the 2008 supplement to the general statutes, as

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amended by this act, on the sale of petroleum products gross earnings that is in excess of said revenue collected during fiscal 2006, provided the amount of such revenue that shall be allocated to said account in the fiscal year commencing July 1, 2007, shall not exceed ten million dollars, and the amount of such revenue that shall be allocated to said account in fiscal years commencing on and after July 1, 2008, shall not exceed five million dollars. [Before the accounts for the General Fund have been closed for each fiscal year, said funds shall be deposited by the Comptroller into the fuel oil conservation account.] The Comptroller may deposit into the fuel oil conservation account up to two million five hundred thousand dollars upon the effective date of this section, and any remaining balance for the fiscal year commencing July 1, 2007, shall be deposited as determined by the Comptroller upon the close of the fiscal year, but no later than October 1, 2008.

(4) The Fuel Oil Conservation Board shall authorize specific amounts from the fuel oil conservation account established pursuant to subdivision (3) of this subsection to the program administrator selected to implement an approved plan under this section. Such amounts shall be in the form of grants, which the board shall award twice a year. Any moneys left in the account at the end of each fiscal year shall be transferred outright to the General Fund.