



General Assembly

February Session, 2010

Raised Bill No. 5220

LCO No. 1130

01130_____GL_

Referred to Committee on General Law

Introduced by:
(GL)

AN ACT CONCERNING COMPETITION IN THE MOTOR FUEL INDUSTRY.

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

1 Section 1. Subsection (a) of section 35-25 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *January 1, 2011*):

4 (a) "Commodity" means any goods, merchandise, wares, produce,
5 chose in action, patents, trade marks, land articles of commerce, motor
6 fuel, as defined in section 14-327a, or any other tangible or intangible
7 property, real, personal, or mixed, for use, consumption, enjoyment, or
8 resale;

9 Sec. 2. (NEW) (*Effective January 1, 2011*) (a) No person or entity
10 owning or having common control of more than fifty per cent of any
11 two or more of the following segments of the motor fuel industry in
12 this state: (1) Production or refining, (2) distribution, (3) terminals used
13 for the loading, unloading or storage of motor fuel, or (4) retail sale of
14 motor fuel to the general public for ultimate consumption, shall use
15 such ownership or control with the intent or effect of restraining

16 competition in such motor fuel industry. For purposes of this
17 subsection, "motor fuel" shall have the same meaning as defined in
18 section 14-327a of the general statutes.

19 (b) Whenever the Attorney General, his or her deputy or any
20 assistant attorney general designated by the Attorney General has
21 reason to believe that any person has violated subsection (a) of this
22 section, he or she may, prior to instituting any action or proceeding
23 against such person, issue in writing and cause to be served upon any
24 person, by subpoena duces tecum, a demand requiring such person to
25 submit to him or her documentary material relevant to the scope of the
26 alleged violation. For the purposes of this section, "documentary
27 material" includes, but is not limited to, any information in a written,
28 recorded or electronic form.

29 (c) Such demand shall (1) state the nature of the alleged violation,
30 (2) describe the class or classes of documentary material to be
31 reproduced thereunder with such definiteness and certainty as to be
32 accurately identified, and (3) prescribe a date which would allow a
33 reasonable time to assemble such documentary material for
34 compliance.

35 (d) (1) All documentary material furnished to the Attorney General,
36 his or her deputy or any assistant attorney general designated by the
37 Attorney General, pursuant to a demand issued under subsection (b)
38 of this section, shall be held in the custody of the Attorney General, or
39 the Attorney General's designee, and shall not be available to the
40 public. Such documentary material shall be returned to the person
41 furnishing such documentary material upon the termination of the
42 Attorney General's investigation or final determination of any action or
43 proceeding commenced thereunder.

44 (2) All documentary material or other information furnished
45 voluntarily to the Attorney General, his or her deputy or any assistant
46 attorney general designated by the Attorney General for suspected
47 violations of the provisions of subsection (a) of this section and the

48 identity of the person furnishing such documentary material or other
49 information shall be held in the custody of the Attorney General, or the
50 Attorney General's designee, and shall not be available to the public.
51 Such documentary material or other information shall be returned to
52 the person furnishing such documentary material or other information
53 upon the termination of the Attorney General's investigation or final
54 determination of any action or proceeding commenced thereunder.

55 (e) No such demand shall require the submission of any
56 documentary material, the contents of which would be privileged or
57 precluded from disclosure if demanded in a grand jury investigation.

58 (f) The Attorney General, his or her deputy or any assistant attorney
59 general designated by the Attorney General may, during the course of
60 an investigation of any violations of the provisions of subsection (a) of
61 this section by any person, (1) issue in writing and cause to be served
62 upon any person, by subpoena, a demand that such person appear
63 before him or her and give testimony as to any matters relevant to the
64 scope of the alleged violations. Such appearance shall be under oath
65 and a written transcript made of the same, a copy of which shall be
66 furnished to such person appearing and shall not be available for
67 public disclosure; and (2) issue written interrogatories prescribing a
68 return date which would allow a reasonable time to respond, which
69 responses shall be under oath and shall not be available for public
70 disclosure.

71 (g) In the event any person fails to comply with the provisions of
72 subsections (b) to (f), inclusive, of this section, (1) the Attorney
73 General, his or her deputy or any assistant attorney general designated
74 by the Attorney General may apply to the superior court for the
75 judicial district of Hartford for compliance, which court may, upon
76 notice to such person, issue an order requiring such compliance, which
77 shall be served upon such person; (2) the Attorney General, his or her
78 deputy or any assistant attorney general designated by the Attorney
79 General may also apply to the superior court for the judicial district of

80 Hartford for an order, which court may, after notice to such person
81 and hearing thereon, issue an order requiring the payment of civil
82 penalties to the state in an amount not to exceed five thousand dollars.

83 (h) The Attorney General shall cooperate with officials of the federal
84 government and the several states, including, but not limited to the
85 sharing and disclosure of information and evidence obtained under
86 the purview of this section.

87 (i) Service of subpoenas ad testificandum, subpoenas duces tecum,
88 notices of deposition and written interrogatories, as provided in this
89 section, may be made by: (1) Personal service or service at the usual
90 place of abode; or (2) registered or certified mail, return receipt
91 requested, a duly executed copy thereof addressed to the person to be
92 served at such person's principal place of business in this state or, if
93 such person has no principal place of business in this state, at such
94 person's principal office or such person's residence.

95 (j) A violation of subsection (a) of this section shall be deemed an
96 unfair or deceptive trade act or practice under subsection (a) of section
97 42-110b of the general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2011</i>	35-25(a)
Sec. 2	<i>January 1, 2011</i>	New section

Statement of Purpose:

To promote competition in the motor fuel industry in order to lower retail motor fuel prices.

[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.]