

1 AN ACT in relation to motor vehicle fuel sales.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 1. Short title. This Act may be cited as the  
5 Motor Vehicle Fuel Sales Competition Improvement Act.

6 Section 5. Purpose. The purpose of this Act is to  
7 preserve and enhance the competitive role of small  
8 independent businesses engaged in retail motor vehicle fuel  
9 sales.

10 Section 10. Definitions. In this Act:

11 "Affiliate" means any person who controls, is controlled  
12 by, or is under common control with any other person.

13 "Bank for cooperatives" means a bank established under  
14 Title III of the Farm Credit Act of 1971 (12 U.S.C. 2121 and  
15 following).

16 "Control" means the direct or indirect ownership of, or  
17 right to exercise a directing influence over, more than 50%  
18 of the beneficial interest in any other person.

19 "Dealer" means a person who occupies, as a retailer, a  
20 retail service station under a lease or rental agreement with  
21 a refiner.

22 "Franchise" or "franchise agreement" means a written or  
23 oral agreement between a refiner and a retailer under which  
24 the retailer is granted the right:

25 (i) to use a trademark, tradename, servicemark, or  
26 other identifying symbol or name owned by the refiner; or

27 (ii) to occupy premises owned, leased, or  
28 controlled by the refiner, for the purpose of engaging in  
29 the retail sale of motor vehicle fuel.

30 "Major brand" means the primary tradename or trademark

1 most commonly associated with and identified with a refiner  
2 of motor vehicle fuel, used to identify a refiner's retail  
3 service station.

4 "Motor vehicle fuel" means gasoline, diesel fuel,  
5 alcohol, or any mixture of these fuels, or any other fuel  
6 sold for use in automobiles and related vehicles.

7 "Person" includes one or more individuals, partnerships,  
8 associations, corporations, legal representatives,  
9 joint-stock companies, trustees or receivers in bankruptcy or  
10 reorganization, and common law trusts, and any organized  
11 group, whether or not incorporated.

12 "Producer" means any person who is engaged directly or  
13 indirectly in the production of crude oil.

14 "Refiner" means (i) any person, including an affiliate,  
15 who is engaged directly or indirectly in the refining of  
16 motor vehicle fuel or (ii) any producer who contracts with  
17 another to refine petroleum products for purposes of the sale  
18 of motor vehicle fuel by the producer.

19 "Refinery" means a manufacturing facility at which motor  
20 vehicle fuel is produced from crude oil.

21 "Retail service station" means an establishment where  
22 service may be obtained for motor vehicles and that sells  
23 oil, motor vehicle fuel, and other petroleum products. The  
24 term does not include any facility that is:

25 (i) owned and operated by a cooperative association  
26 that is certified by a bank for cooperatives to be  
27 eligible to borrow money from that bank under Title III  
28 of the Farm Credit Act of 1971 (12 U.S.C. 2121 and  
29 following); and

30 (ii) located on premises owned and operated by the  
31 cooperative association, at which the cooperative  
32 association carries on, as a bona fide part of its  
33 business, the sale or furnishing of farm or aquatic  
34 supplies, farm or aquatic business services, or the bulk

1 distribution of motor vehicle fuel to farmers on farms.

2 "Retailer" means:

3 (i) a wholesale purchaser; or

4 (ii) a person who operates a retail service station  
5 pursuant to a franchise agreement with a refiner or  
6 wholesale purchaser.

7 "Secondary brand" means a tradename or trademark, other  
8 than a major brand, used to identify a refiner's retail  
9 service station.

10 "Supplier" means any person, partnership, corporation, or  
11 other form of business enterprise that refines, manufactures,  
12 compounds, or otherwise produces petroleum products and sells  
13 or distributes them to retail service stations.

14 "Unbranded service station" means an independent dealer,  
15 heating oil distributor, motor vehicle fuel wholesaler, or  
16 peddler marketing gasoline or special fuels under its own  
17 brand, tradename, or trademark other than that of a refiner  
18 or any subsidiary of a refiner.

19 "Wholesale purchaser" means any person, partnership,  
20 corporation, or other form of business enterprise that  
21 purchases petroleum products from a supplier and distributes  
22 them to retail service stations or to individual or business  
23 consumers.

24 Section 15. Refiner's operation of retail service station  
25 prohibited.

26 (a) A producer or refiner of petroleum products may not  
27 commence either of the following:

28 (1) The direct or indirect operation of a major  
29 brand, secondary brand, or unbranded retail service  
30 station in this State with employees of the producer or  
31 refiner, a subsidiary company, or a commissioned agent,  
32 or under a contract with any person, firm, or corporation  
33 managing such a station on a fee arrangement with the

1 producer or refiner.

2 (2) The sale of motor vehicle fuel at a retail  
3 service station.

4 (b) Except as provided in Section 20, beginning January  
5 1, 2002, a producer or refiner of petroleum products may not  
6 operate directly or indirectly a major brand, secondary  
7 brand, or unbranded retail service station with employees of  
8 the producer or refiner, a subsidiary company, or a  
9 commissioned agent, or under a contract with any person,  
10 firm, or corporation managing a retail service station on a  
11 fee arrangement with the producer or refiner. A retail  
12 service station may be operated only by a dealer.

13 Section 20. Exception; refiner's ownership of assets. It  
14 is not a violation of Section 15 for a refiner to own all or  
15 part of the assets of a retail service station, but only if  
16 the refiner does not engage in the business of selling motor  
17 vehicle fuel at the retail service station by the actions of  
18 (i) any employee, (ii) any commissioned agent, (iii) any  
19 person acting on behalf of the refiner or under the refiner's  
20 supervisors, or (iv) any person operating the retail service  
21 station pursuant to a contract with the refiner that provides  
22 that the refiner has substantial or effective control over  
23 the motor vehicle fuel operations of the retail service  
24 station.

25 Section 25. Exception; State's allocation and  
26 distribution of motor vehicle fuel. The provisions of this  
27 Act shall not be construed as affecting any of the following:

28 (1) Any allocation of motor vehicle fuel to  
29 facilities operated by the State.

30 (2) The operation of any facility for storage or  
31 distribution of motor vehicle fuel by the State.

32 (3) The operation of any State-owned retail service

1 station by a producer or refiner of petroleum products.

2 Section 30. Exception; retail service station operated  
3 for training or other purposes. This Act does not apply to  
4 any retail service station operated by a producer or refiner  
5 with its employees that is used as a training or test  
6 marketing center or for advertising or public relations  
7 purposes. A producer or refiner may not operate more than one  
8 such retail service station in the State under this Section.  
9 A producer or refiner operating more than one such retail  
10 service station on January 1, 2002 may continue to operate  
11 more than one such retail service station until January 1,  
12 2003.

13 Section 35. Enforcement.

14 (a) The Attorney General may commence a civil action for  
15 appropriate relief, including a permanent or temporary  
16 injunction, if the Attorney General has reason to believe  
17 that any person has violated or is violating any provision of  
18 this Act or any rule or regulation implementing this Act.

19 (b) If a person violates any provisions of this Act, any  
20 other person adversely affected by that violation may  
21 maintain a civil action against the violator for damages and  
22 appropriate equitable relief, including temporary and  
23 permanent injunctive relief. If the plaintiff prevails in  
24 such an action, the plaintiff is entitled to reasonable  
25 attorney's fees and expert witness fees to be paid by the  
26 defendant, except that in any case in which the court  
27 determines that only nominal damages are to be awarded to the  
28 plaintiff, the court, in its discretion, may determine not to  
29 order that such fees be paid by the defendant.

30 (c) An action may be brought under this Section, without  
31 regard to the amount in controversy, in any judicial circuit  
32 in which the plaintiff resides or is doing business or in

1 which the defendant resides or is doing business.

2 Section 40. Effect on other laws. No provision of this  
3 Act supersedes any other law of this State if compliance with  
4 the other State law can be accomplished consistently with  
5 this Act. In case of a conflict between a provision of this  
6 Act and any other law of this State, this Act controls.

7 Section 99. Effective date. This Act takes effect January  
8 1, 2002.