

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1253

H. P. 1065

House of Representatives, March 12, 1981

Referred to the Committee on Business Legislation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Brannigan of Portland.

Cosponsors: Senator Usher of Cumberland, Senator Carpenter of Aroostook and Representative Fitzgerald of Waterville.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Prohibit Refiners and Distributors from Selling Motor Fuel at Retail.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 10 MRSA §§ 1454-A and 1454-B are enacted to read:

§ 1454-A. Retail sales by refiners and distributors

1. Openings after January 1, 1982. After January 1, 1982, no refiner or distributor may open a major brand, secondary brand, or unbranded retail fuel outlet in the State and operate it with its employees, a parent, subsidiary or affiliate company, commissioned agent or under a contract with any person, firm or corporation managing the outlet on a fee arrangement with the refiner or distributor.

2. Operation after January 1, 1983. After January 1, 1983, no refiner or distributor may operate a major brand, secondary brand or unbranded retail fuel outlet in the State with its employees, a parent, subsidiary or affiliate company, commissioned agent or under a contract with any person, firm or corporation managing the outlet on a fee arrangement with the refiner or distributor.

3. Exceptions. In accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, the Commissioner of Business Regulation shall adopt rules

defining the circumstances in which a refiner or distributor may temporarily operate a retail fuel outlet previously operated by a retail dealer.

§ 1454-B. Equitable treatment

1. **Voluntary allowances.** Every refiner or distributor shall extend all voluntary allowances uniformly to all retail dealers supplied.

2. **Equipment rentals.** Every refiner or distributor shall apply all equipment rentals uniformly to all retail dealers supplied.

3. **Shortages.** Every refiner or distributor shall apportion uniformly all motor fuel to all retail dealers during periods of shortages on an equitable basis and shall not discriminate among the dealers in their allotments.

Sec. 2. 10 MRSA § 1456, as enacted by PL 1975, c. 549, is amended to read:

§ 1456. Legal and equitable remedies

1. **Suit.** If a franchisor or distributor engages in conduct prohibited under ~~this chapter sections 1454 and 1454-B~~, a franchisee or a distributor may maintain a suit against such franchisor or distributor.

2. **Court action.** The court shall grant such equitable relief as is necessary to remedy the effects of conduct prohibited under ~~this chapter sections 1454 and 1454-B~~, which it finds to exist, including declaratory judgment and mandatory or prohibitive injunctive relief. The court may grant interim equitable relief, and actual and punitive damages where indicated, in suits under ~~this chapter sections 1454 and 1454-B~~ and may, unless such suit is frivolous, direct that costs, reasonable attorney and expert witness fees be paid by the franchisor.

Sec. 3. 10 MRSA § 1456, sub-§ 3 is enacted to read:

3. **Unfair trade practice.** A violation of section 1454-A constitutes a violation of Title 5, chapter 10.

STATEMENT OF FACT

Large refiners and distributors, with their superior market power, are driving independent gas stations out of business with unfair, discriminatory practices and pricing policies subsidized by their upstream profits. This trend, if allowed to continue, will result in the monopolization of retail motor fuel sales by a few big companies with power to set prices at will. This bill would serve and enhance retail competition by prohibiting refiners and distributors from opening new gas stations after January 1, 1982; by January 1, 1983, refiners and distributors would have to divest themselves of stations they presently own and operate. The bill also assures that refiners and distributors will treat refiners and distributors fairly with respect to fuel allocation and equipment rentals.