

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2148

S.P. 844

In Senate, January 14, 1992

Submitted by the Department of the Attorney General pursuant to Joint Rule 24.
Reference to the Committee on Business Legislation suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator BALDACCI of Penobscot
Cosponsored by Representative MARSANO of Belfast, Representative CONSTANTINE of
Bar Harbor and Senator CLARK of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-TWO

An Act to Establish the Petroleum Market Share Act.



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

4 10 MRSA c. 308 is enacted to read:

6 CHAPTER 308

8 PETROLEUM MARKET SHARE ACT

10 §1671. Short title

12 This chapter may be known and cited as the "Petroleum Market Share Act."

14 §1672. Definitions

16 As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

18 1. Home heating oil. "Home heating oil" means number 2 fuel oil sold for heating residential, industrial or commercial space or water.

22 2. Motor fuel oil. "Motor fuel oil" means internal combustion fuel sold for use in motor vehicles as defined in Title 29, section 1, subsection 7.

26 3. Refiner. "Refiner" means any person that owns a crude oil refinery or engages in the production of motor fuel oil or home heating oil.

30 4. Retail outlet. "Retail outlet" means each physical location owned or operated by a retailer for the sale of motor fuel oil or home heating oil to the end user for ultimate consumption.

34 5. Retailer. "Retailer" means any person that sells motor fuel oil or home heating oil to the end user for ultimate consumption.

38 6. Wholesaler. "Wholesaler" means any person that sells motor fuel oil or home heating oil to retail outlets and retailers.

42 §1673. Reporting

44 1. Report by wholesaler. Each wholesaler shall provide reports to the Department of the Attorney General in a manner, frequency, time and form specified by the Attorney General, setting forth the total gallons of home heating oil and motor fuel oil sold by the wholesaler to each retail outlet or retailer.

2 2. Report by retailer. Each retailer of home heating oil
3 shall provide reports to the Department of the Attorney General
4 in a manner, frequency, time and form specified by the Attorney
5 General, setting forth the total gallons of home heating oil sold
6 to customers in any municipality from each of its retail outlets.

7 **§1674. Investigations by Attorney General**

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10 The Attorney General may require, by summons, the attendance
11 and testimony of witnesses and the production of books and papers
12 related to the Attorney General's determination of the market
13 shares held by retailers. Summonses must be served in the same
14 manner as summonses for witnesses in criminal cases and all
15 provisions of law related to that service apply to summonses
16 issued under this section so far as they are applicable. All
17 investigations or hearings pursuant to this chapter must be held
18 in Kennebec County or in such other county as the Attorney
19 General designates. Any Justice of the Superior Court may, by
20 order, upon application of the Attorney General, compel the
21 attendance of witnesses, the production of books and papers and
22 the giving of testimony before the Attorney General in the same
23 manner and to the same extent as before that court. Failure to
24 obey such an order of the court may be punishable by the court as
25 a contempt of court.

26 **§1675. Confidentiality**

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28 Information received by the Department of the Attorney
29 General pursuant to sections 1673 and 1674 constitutes a
30 confidential investigative record under Title 5, section 200-D.

31 **§1676. Report by Attorney General to Legislature**

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33 Annually by December 31st, the Attorney General shall make a
34 report to the Legislature describing the concentration among
35 retail outlets in the State or in sections of the State but
36 without disclosing the name of any particular retailer or retail
37 outlet. The Attorney General shall include in the annual report
38 a recommendation to the Legislature as to whether additional
39 legislation is needed to limit or curtail the activity of
40 refiners operating retail outlets.

41 **§1677. Penalties and injunctive actions**

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43
44 Violation of this chapter is a civil violation for which a
45 civil penalty not to exceed \$50,000 per violation may be
46 assessed. The Attorney General may initiate an action in
47 Superior Court for injunctive and other equitable relief to
48 enforce compliance with this chapter. In any action commenced by
49 the Attorney General under this chapter either for injunctive and
50 other equitable relief or for civil penalties, the Attorney
51 General, if on the prevailing side, must be awarded necessary and
52 costs.

2 reasonable investigative costs, reasonable experts' fees,
3 reasonable attorney's fees and court costs.

4 **§1678. Fees**

6 Annually by September 1st, each wholesaler shall pay to the
7 Attorney General a fee in the amount of 35¢ for each 10,000
8 gallons of home heating oil and motor fuel oil sold to retail
9 outlets or retailers during the previous 12-month period ending
10 June 30th.

12 **§1679. Rulemaking**

14 The Attorney General may adopt rules necessary to effectuate
15 this chapter.

18 **STATEMENT OF FACT**

20 This bill requires wholesalers and retailers of home heating
21 oil and motor fuel oil to report gallonage information to the
22 Department of the Attorney General. The Attorney General is
23 required to make an annual report of market shares in the retail
24 home heating oil and motor fuel oil industries and to recommend
25 to the Legislature whether or not additional legislation is
26 needed to limit or curtail the activity of refiners in operating
27 retail outlets.
28