

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative(s) Russell offered the following:

2
3 **Amendment (with title amendment)**

4 Between lines 242 and 243, insert:

5 Section 6. Section 526.303, Florida Statutes, is amended
6 to read:

7 526.303 Definitions.--As used in this act:

8 (1) "Affiliate" means any person whose stock is more than
9 50 percent owned by, or who, regardless of stock ownership, is
10 controlled by, or who, regardless of stock ownership, is under
11 common control with, any refiner.

12 (2) "Competition" means the vying for motor fuel sales
13 between any two sellers in the same relevant geographic market.

14 (3) "Dealer" means any person, other than a refiner or
15 wholesaler, who is engaged in the business of selling motor fuel
16 at a retail outlet.

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17 ~~(4) "Direct labor cost" means the personnel costs incurred~~
18 ~~at a retail outlet attributable to providing motor fuel sales at~~
19 ~~a retail outlet and includes, without limitation, the personnel~~
20 ~~costs relating to the purchase, storage, inventory, and sale of~~
21 ~~motor fuel, the maintenance of equipment, and environmental~~
22 ~~reporting and compliance, but does not include the costs of~~
23 ~~environmental cleanup or remediation. In no case shall the~~
24 ~~direct labor cost be less than the cost of one employee's salary~~
25 ~~and benefits, based upon that employee's working those hours in~~
26 ~~which the retail outlet is providing motor fuel available to the~~
27 ~~public.~~

28 (4)~~(5) "Motor fuel" means any petroleum product, including~~
29 ~~any special fuel, which is used for the propulsion of motor~~
30 ~~vehicles.~~

31 ~~(6) "Nonrefiner" means any person, other than a refiner,~~
32 ~~engaged in the sale of motor fuel.~~

33 ~~(7) "Nonrefiner cost" means: the nonrefiner's invoice cost~~
34 ~~of the motor fuel, by grade, less credit card allowances, trade~~
35 ~~discounts, and rebates actually received, to which shall be~~
36 ~~added federal, state, and local taxes and inspection fees~~
37 ~~applicable to motor fuel; freight charges to the retail outlet,~~
38 ~~and direct labor costs and the reasonable rental value of the~~
39 ~~retail outlet attributable to the sale of motor fuel by the~~
40 ~~nonrefiner. If motor fuel is sold with another item at a~~
41 ~~combined price, nonrefiner motor fuel cost shall also include~~
42 ~~the cost of the other item and the direct labor costs and the~~
43 ~~reasonable rental value of the retail outlet attributable to the~~
44 ~~retail sale of the item by the nonrefiner.~~

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45 ~~(5)-(8)~~ "Posted terminal price" means a refiner's posted
46 price at a terminal, by grade of motor fuel, to the wholesale
47 class of trade within a general trade area. If a refiner does
48 not have a posted terminal price in a general trade area, such
49 refiner's posted terminal price shall be deemed to be no lower
50 than the lowest posted terminal price of motor fuel of like
51 grade and quality of any other refiner selling to the wholesale
52 class of trade in the general trade area.

53 ~~(9)~~ "Reasonable rental value" means the bona fide amount
54 of rent which would reasonably be paid in an arm's length
55 transaction for the use of the specific individual retail
56 outlet, including land and improvements, utilized for the sale
57 of motor fuel. The value of the land and improvements shall
58 include the costs of equipment, signage, utilities, property
59 taxes, and insurance, if paid by the owner, and environmental
60 compliance, such as testing, detection, and containment systems,
61 but does not include the costs of environmental cleanup and
62 remediation. In determining the reasonable rental value of the
63 specific retail outlet, the rental amount of comparable retail
64 outlets in the relevant geographic market shall be considered.
65 When motor fuel is sold at the retail level along with other
66 products, the reasonable rental value attributable to the sale
67 of motor fuel at the retail outlet shall be allocated by the
68 percentage of gross sales attributable to motor fuel sales.

69 ~~(6)-(10)~~ "Refiner" means any person who stores or exchanges
70 motor fuel at a terminal facility in this state and who sells or
71 transfers motor fuel through the loading rack at such terminal
72 facility, and includes an affiliate of such refiner with respect
73 to such affiliate's sale of motor fuel.

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74 ~~(11) "Refiner cost" means a refiner's posted terminal~~
75 ~~price plus state, federal, and local taxes and inspection fees~~
76 ~~applicable to motor fuel, and freight charges to its retail~~
77 ~~outlet, and direct labor costs and reasonable rental value of~~
78 ~~the retail outlet attributable to the retail sale of motor fuel~~
79 ~~by the refiner. If motor fuel is sold with another item, at a~~
80 ~~combined price, refiner cost shall also include the cost of the~~
81 ~~other item and direct labor costs and reasonable rental value of~~
82 ~~the retail outlet attributable to the retail sale of the item by~~
83 ~~the refiner.~~

84 (7)~~(12)~~ "Relevant geographic market" means the geographic
85 area of effective competition.

86 (8)~~(13)~~ "Rent" means the payment of an amount by an
87 individual or agency in return for the right to occupy or use
88 the property of another.

89 (9)~~(14)~~ "Retail outlet" means a facility, including land
90 and improvements, where motor fuel is offered for sale, at
91 retail, to the motoring public.

92 (10)~~(15)~~ "Sale" or "sell" means any transfer, gift, sale,
93 offer for sale, or advertisement for sale in any manner or by
94 any means whatsoever, including any transfer of motor fuel from
95 a person to itself or an affiliate at another level of
96 distribution, but does not include product exchanges at the
97 wholesale level of distribution.

98 (11)~~(16)~~ "Terminal facility" means any inland, waterfront,
99 or offshore appurtenance on land used for the purpose of
100 storing, handling, or transferring motor fuel, but does not
101 include bulk storage facilities owned or operated by a
102 wholesaler.

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103 ~~(12)-(17)~~ "Wholesaler" means any person, other than a
104 refiner or dealer, who purchases motor fuel at a terminal
105 facility and supplies motor fuel to retail outlets.

106 Section 7. Subsection (3) of section 526.305, Florida
107 Statutes, is amended to read:

108 526.305 Discriminatory practices unlawful; exceptions.--

109 ~~(3) Subject to the limitations of s. 526.304(3),~~ A sale
110 made in good faith to meet an equally low price of a competitor
111 selling motor fuel of like grade which can be used in the same
112 motor vehicle is not a violation of this section.

113 Section 8. Sections 526.304 and 526.309, Florida Statutes,
114 are repealed.

115

116

117 ===== T I T L E A M E N D M E N T =====

118 Between lines 38 and 39, insert:

119 amending s. 526.303, F.S.; deleting definitions relating
120 to the Motor Fuel Marketing Practices Act to conform to
121 changes made by this act; repealing s. 526.304, F.S.,
122 relating to unlawful predatory practices and exceptions
123 thereto; repealing s. 526.309, F.S., relating to exempt
124 retail sales by a refiner; amending s. 526.305, F.S.;
125 deleting a cross-reference;