

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative Slosberg offered the following:

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

4 On page 7, line 26,
5 remove: all of said line

6
7 and insert:

8 reimbursement rates authorized by section 1 of this act.

9 Section 3. Section 526.303, Florida Statutes, is amended
10 to read:

11 526.303 Definitions.--As used in this act:

12 (1) "Affiliate" means any person whose stock is more than
13 50 percent owned by, or who, regardless of stock ownership, is
14 controlled by, or who, regardless of stock ownership, is under
15 common control with, any refiner.

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

079745

5/2/2006 9:04:45 AM

Amendment No. (for drafter's use only)

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

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

32 (4)~~(5)~~ "Motor fuel" means any petroleum product, including
33 any special fuel, which is used for the propulsion of motor
34 vehicles.

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

37 ~~(7) "Nonrefiner cost" means: the nonrefiner's invoice cost~~
38 ~~of the motor fuel, by grade, less credit card allowances, trade~~
39 ~~discounts, and rebates actually received, to which shall be~~
40 ~~added federal, state, and local taxes and inspection fees~~
41 ~~applicable to motor fuel; freight charges to the retail outlet;~~
42 ~~and direct labor costs and the reasonable rental value of the~~
43 ~~retail outlet attributable to the sale of motor fuel by the~~
44 ~~nonrefiner. If motor fuel is sold with another item at a~~
45 ~~combined price, nonrefiner motor fuel cost shall also include~~
46 ~~the cost of the other item and the direct labor costs and the~~
079745

5/2/2006 9:04:45 AM

Amendment No. (for drafter's use only)

47 ~~reasonable rental value of the retail outlet attributable to the~~
48 ~~retail sale of the item by the nonrefiner.~~

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

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

73 ~~(6)(10)~~ "Refiner" means any person who stores or exchanges
74 motor fuel at a terminal facility in this state and who sells or
75 transfers motor fuel through the loading rack at such terminal

079745
5/2/2006 9:04:45 AM

Amendment No. (for drafter's use only)

76 facility, and includes an affiliate of such refiner with respect
77 to such affiliate's sale of motor fuel.

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

88 (7)~~(12)~~ "Relevant geographic market" means the geographic
89 area of effective competition.

90 (8)~~(13)~~ "Rent" means the payment of an amount by an
91 individual or agency in return for the right to occupy or use
92 the property of another.

93 (9)~~(14)~~ "Retail outlet" means a facility, including land
94 and improvements, where motor fuel is offered for sale, at
95 retail, to the motoring public.

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

102 (11)~~(16)~~ "Terminal facility" means any inland, waterfront,
103 or offshore appurtenance on land used for the purpose of
104 storing, handling, or transferring motor fuel, but does not
079745

5/2/2006 9:04:45 AM

Amendment No. (for drafter's use only)

105 include bulk storage facilities owned or operated by a
106 wholesaler.

107 ~~(12)(17)~~ "Wholesaler" means any person, other than a
108 refiner or dealer, who purchases motor fuel at a terminal
109 facility and supplies motor fuel to retail outlets.

110 Section 4. Subsection (3) of section 526.305, Florida
111 Statutes, is amended to read:

112 526.305 Discriminatory practices unlawful; exceptions.--

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

117 Section 5. Sections 526.304 and 526.309, Florida Statutes,
118 are repealed.

119

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

121 On page 1, lines 2 through 7, delete those lines

122

123 and insert:

124 An act relating to expenses reimbursement and the Motor Fuel
125 Marketing Practices Act; amending s. 112.061, F.S.; revising per
126 diem, subsistence, and mileage rates for purposes of
127 reimbursement of travel expenses of public officers, employees,
128 and authorized persons; providing an appropriation; amending s.
129 526.303, F.S.; deleting definitions to conform; repealing s.
130 526.304, F.S., relating to unlawful predatory practices and
131 exceptions thereto; repealing s. 526.309, F.S., relating to
132 exempt retail sales by a refiner; amending s. 526.305, F.S.;
133 deleting a cross-reference to conform; providing

079745

5/2/2006 9:04:45 AM