

By Mr. Businger of Brookline, petition of the New England Business Association, John A. Businger and other members of the General Court relative to the shipping or transporting of motor fuel from multiple sources. Commerce and Labor.

The Commonwealth of Massachusetts

Petition signed by:

New England Business Association (NEBA)

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|----------------------------|----------------------|
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In the Year One Thousand Nine Hundred and Ninety-Two.

AN ACT RELATIVE TO THE SHIPPING OR TRANSPORTING OF MOTOR FUEL FROM MULTIPLE SOURCES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 93E is hereby amended by inserting after section 5A
2 the following new sections 5B and 5C: —
3 Section 5B. (a) It shall be unlawful for a supplier to, directly
4 or indirectly, prohibit any dealer at a retail outlet it supplies from
5 selling motor fuel which was purchased from sources other than
6 the supplier, even if the supplier leases the underground storage
7 and dispensing equipment to the dealer and such equipment is
8 used for the storing and dispensing of motor fuel other than the
9 supplier's branded motor fuel, provided that the dealer fully
10 observes all trademark identification requirements reasonably
11 established by such supplier and provided, further, that the dealer
12 shall, at all times, maintain a representative offering of the
13 supplier's branded fuel for motor sale at the motor fuel service
14 station. The term "representative offering" means the offering of
15 two grades of the supplier's branded motor fuel if the dealer offers
16 three or more grades of motor fuel at the motor fuel service
17 station, or the offering of one grade of the supplier's branded
18 motor fuel if the dealer offers two or fewer grades of motor fuel
19 at the motor fuel service station. The representative offering may
20 be supplied to the dealer in total by any supplier of such supplier's
21 branded motor fuel.

22 Any service station in the commonwealth that offers or
23 dispenses motor fuel which was purchased from sources other
24 than the supplier shall not be required to purchase more than sixty
25 per cent of the branded product purchased in the previous
26 calendar year.

27 (b) It shall be unlawful for any supplier to discriminate among
28 dealers in allotments, voluntary allowances, equipment rentals,
29 station rents, unit pricing and other similar matters based on
30 supply or marketing relationships.

31 (c) It shall be unlawful for any supplier to increase the rent to
32 a dealer for a motor fuel service station in any year in excess of
33 the rate of increase in the consumer price index for the closest
34 metropolitan area for which such figures are compiled by the
35 federal government for the twelve month period immediately
36 preceding the new rent period and for which figures are available,
37 provided, however, that in the event the supplier has made a
38 capital improvement in the motor fuel service station during the
39 preceding twelve month period. The supplier may further increase
40 the rent to amortize the net cost of such improvement to the
41 supplier over a period of not less than eight years, provided further
42 that capital investment in excess of \$100,000 shall be amortized
43 over not less than a twenty year period. It shall be unlawful for
44 any supplier to fail to decrease a rent to a dealer for a motor fuel
45 service station in any year less than the rate of decrease in the
46 consumer price index for the closest metropolitan area for which
47 such figures are compiled by the federal government for the twelve
48 month period immediately preceding the new rent period and for
49 which figures are available, provided, however, that in the event
50 the supplier has made a capital improvement in the motor fuel
51 service station during the immediately preceding twelve month
52 period, the supplier may include in the rent an increase to amortize
53 the net cost of such improvement to the supplier over a period
54 of not less than eight years provided further that capital
55 investment in excess of \$100,000 shall be amortized over not less
56 than a 20-year period.

57 In the case of a motor fuel service station acquired by a supplier
58 from a supplier after the effective date hereof, the transferee
59 supplier shall be subject to the provisions hereof as had been the
60 transferrer of suppliers.

61 In the case of a motor fuel service station acquired by a supplier
62 from any person other than a supplier, the consideration paid by
63 such supplier shall be considered a capital investment pursuant
64 to the terms hereof.

65 Section 5C. The Attorney General is hereby authorized,
66 empowered and directed to promulgate regulations implementing
67 this chapter. Such regulations shall implement the purposes of this
68 chapter, as well as the purposes of Chapter 93 and 93A of the
69 General Laws.

