

HOUSE SUBSTITUTE TO SENATE BILL 30

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 9 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated,
2 relating to gasoline marketing practices, so as to provide that suppliers of automotive
3 gasoline shall offer to supply gasoline distributors with gasoline that has not been blended
4 with, but is suitable for blending with, fuel alcohol; to preclude inhibiting gasoline
5 distributors from being blenders; to define certain terms; to change certain provisions relating
6 to marketing agreements subject to said article; to repeal conflicting laws; and for other
7 purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Article 9 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to
11 gasoline marketing practices, is amended by revising Code Section 10-1-232, relating to
12 definitions, as follows:

13 "10-1-232.

14 As used in this article, the term:

15 (1) 'Automotive gasoline' or 'gasoline' means octane rated fuels made from petroleum
16 products for use in the propulsion of motor vehicles.

17 (2) 'Automotive gasoline dealer' or 'gasoline dealer' means any person or firm engaged
18 primarily in the retail sale of automotive gasoline and related products and services under
19 a marketing agreement entered into with an automotive gasoline distributor.

20 (3) 'Automotive gasoline distributor' or 'gasoline distributor' means any person, ~~firm, or~~
21 ~~corporation who is~~ or firm engaged, ~~whether as a jobber or supplier,~~ in the sale,
22 consignment, or distribution of gasoline to automotive gasoline dealers pursuant to
23 marketing agreements.

24 (3.1) 'Blended fuel' means a mixture composed of automotive gasoline and another
25 liquid, other than a de minimus amount of a product such as carburetor detergent or
26 oxidation inhibitor, that can be used as a fuel in a motor vehicle.

27 (3.2) 'Blender' means a person or firm which produces blended fuel outside a terminal
 28 transfer system.

29 (3.3) 'Fuel alcohol' means alcohol or fuel grade ethanol.

30 (3.4) 'Gasohol' means a blended fuel composed of gasoline and fuel grade ethanol.

31 (3.5) 'Jobber' means an automotive gasoline distributor which is not a supplier.

32 (4) 'Marketing agreement' or 'agreement' means a written agreement, including a
 33 franchise, and all related written agreements between an automotive gasoline distributor
 34 and an automotive gasoline dealer under which such dealer is supplied automotive
 35 gasoline for retail sale or an agreement between an automotive gasoline distributor and
 36 an automotive gasoline dealer under which the automotive gasoline dealer is granted the
 37 right to occupy premises owned, leased, or controlled by the automotive gasoline
 38 distributor for the purpose of engaging in the retail sale of gasoline of the automotive
 39 gasoline distributor.

40 (4.1) 'Position holder' means a person or firm which holds the inventory position in
 41 automotive gasoline in a terminal, as reflected on the records of the terminal operator.
 42 A person or firm holds the inventory position in automotive gasoline when that person
 43 or firm has a contract with the terminal operator for the use of storage facilities and
 44 terminaling services for gasoline at the terminal. The term includes a terminal operator
 45 which owns gasoline in the terminal.

46 (4.2) 'Rack' means a mechanism for delivering automotive gasoline from a refinery, a
 47 terminal, or a bulk plant into a transport truck, a railroad tank car, or another means of
 48 transfer that is outside the terminal transfer system.

49 (4.3) 'Refiner' means a person or firm which owns, operates, or controls a refinery,
 50 wherever located.

51 (4.4) 'Refinery' means a facility used to process crude oil, unfinished oils, natural gas
 52 liquids, or other hydrocarbons into automotive gasoline and from which automotive
 53 gasoline may be removed by pipeline or vessel or at a rack. The term does not include
 54 a facility that produces only blended fuel or gasohol.

55 (4.5) 'Removal' means a physical transfer other than by evaporation, loss, or destruction.
 56 A physical transfer to a transport truck or another means of conveyance outside a terminal
 57 transfer system is complete upon delivery into the means of conveyance.

58 (5) 'Retail sale of automotive gasoline' means the sale thereof for consumption, and not
 59 for resale, at a retail outlet serving the motoring public.

60 (6) 'Supplier' means:

61 (A) A position holder or a person or firm which receives automotive gasoline pursuant
 62 to a two-party exchange; or

63 (B) A refiner.

64 (7) 'Terminal' means an automotive gasoline storage and distribution facility that has
 65 been assigned a terminal control number by the United States Internal Revenue Service,
 66 is supplied by pipeline or marine vessel, and from which automotive gasoline may be
 67 removed at a rack.

68 (8) 'Terminal operator' means a person or firm which owns, operates, or otherwise
 69 controls a terminal.

70 (9) 'Terminal transfer system' means an automotive gasoline distribution system
 71 consisting of refineries, pipelines, marine vessels, and terminals. The term has the same
 72 meaning as 'bulk transfer/terminal system' under 26 C.F.R. Section 48.4081-1.

73 (10) 'Two-party exchange' means a transaction in which automotive gasoline is
 74 transferred from one licensed supplier to another licensed supplier pursuant to an
 75 exchange agreement under which the supplier that is the position holder agrees to deliver
 76 automotive gasoline to the other supplier or the other supplier's customer at the rack of
 77 the terminal at which the delivering supplier is the position holder."

78 **SECTION 2.**

79 Said article is further amended by adding a new Code section to read as follows:

80 "10-1-234.1.

81 Regardless of other products offered, any supplier which, pursuant to a marketing
 82 agreement, supplies gasoline from a terminal in this state to a gasoline distributor shall
 83 offer to supply such party with gasoline that has not been blended with, but is suitable for
 84 blending with, fuel alcohol. No supplier shall prevent or inhibit a gasoline distributor in
 85 this state from being a blender or from qualifying for any federal or state tax credit due to
 86 blenders. If a supplier supplies gasoline to a gasoline distributor pursuant to this Code
 87 section which is then blended, the gasoline distributor shall indemnify and hold harmless
 88 such supplier against any losses or damages arising out of claims, costs, judgments, and
 89 expenses, including reasonable attorney's fees, or suits relating to or arising out of such
 90 blending."

91 **SECTION 3.**

92 Said article is further amended by revising Code Section 10-1-240, relating to marketing
 93 agreements subject to said article, as follows:

94 "10-1-240.

95 This article shall apply to all marketing agreements as defined in paragraph (4) of Code
 96 Section 10-1-232, except that this article shall not apply to a marketing agreement granted
 97 prior to July 1, 1973; provided, however, that a renewal of a marketing agreement or an
 98 amendment extending the lease period shall not be excluded from the application of this

99 ~~article~~ that are granted, renewed, or amended to extend the lease period on or after July 1,
100 2009."

101 **SECTION 4.**

102 All laws and parts of laws in conflict with this Act are repealed.