

# HOUSE BILL No. 6388

August 30, 2006, Introduced by Reps. Byrnes, Accavitti, Polidori, Kathleen Law, Meisner, Spade, Clemente, Tobocman, Dillon, Sheltroun, Leland, Lemmons, Jr., Amos, Shaffer, Zelenko, Mayes, Angerer, Gillard and Cheeks and referred to the Committee on Commerce.

A bill to amend 1990 PA 134, entitled "Motor fuel distribution act," by amending the title and section 2 (MCL 445.1802) and by adding section 5a.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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TITLE

An act to regulate the termination and transfer of motor fuel franchises; **TO PROHIBIT CERTAIN CONDUCT RELATING TO PURCHASING AND SELLING OF ALTERNATIVE MOTOR FUELS;** and to provide for certain remedies **AND PENALTIES.**

Sec. 2. As used in this act:

(A) "ALTERNATIVE MOTOR FUEL" MEANS ANY OF THE FOLLOWING:

1           (i) A BLEND OF ETHANOL AND GASOLINE THAT INCLUDES AT LEAST 70%  
2 ETHANOL.

3           (ii) A BLEND OF METHYL-ESTER, COMMONLY REFERRED TO AS  
4 "BIODIESEL", AND DIESEL MOTOR FUEL THAT INCLUDES AT LEAST 2%  
5 METHYL-ESTER.

6           (iii) MOTOR FUEL COMPRISED PRIMARILY OF METHANE, STORED IN  
7 EITHER A GASEOUS OR LIQUID STATE AND SUITABLE FOR USE AND  
8 CONSUMPTION IN THE ENGINE OF A MOTOR VEHICLE, COMMONLY REFERRED TO  
9 AS "COMPRESSED NATURAL GAS".

10          (iv) HYDROGEN.

11          (B) ~~-(a)-~~ "Contract" means any oral or written agreement.

12          (C) ~~-(b)-~~ "Franchise" means a contract between a refiner and a  
13 retailer or between a distributor and a retailer, under which a  
14 refiner or distributor authorizes or permits a retailer to use, in  
15 connection with the sale, consignment, or distribution of gasoline,  
16 diesel, gasohol, or aviation fuel, a trademark that is owned or  
17 controlled by a refiner, or by a refiner that supplies fuel to the  
18 distributor that authorizes or permits such use. Franchise  
19 includes, but is not limited to, both of the following:

20           (i) A contract under which a retailer is authorized or  
21 permitted to occupy leased marketing premises, which premises are  
22 to be employed in connection with the sale, consignment, or  
23 distribution of fuel under a trademark that is owned or controlled  
24 by a refiner.

25           (ii) A contract pertaining to the supply of fuel that is to be  
26 sold, consigned, or distributed by a retailer under a trademark  
27 owned or controlled by a refiner.

1           (D) ~~(e)~~ "Distributor" means a person, including any  
2 affiliate of the person, who meets either of the following  
3 requirements:

4           (i) Purchases motor fuel for sale, consignment, or distribution  
5 to another.

6           (ii) Receives motor fuel on consignment for consignment or  
7 distribution to his or her own motor fuel accounts or to accounts  
8 of his or her supplier, but does not include a person who is an  
9 employee of, or merely serves as a common carrier providing  
10 transportation service for the supplier.

11           (E) ~~(d)~~ "Franchisee" means a retailer who is authorized or  
12 permitted, under a franchise, to use a trademark in connection with  
13 the sale, consignment, or distribution of fuel. Franchisee does not  
14 include a distributor ~~which~~ **THAT** resells motor fuel to retailers,  
15 to the general public, or to both retailers and the general public.

16           (F) ~~(e)~~ "Franchisor" means a refiner or distributor who  
17 authorizes or permits, under a franchise, a retailer to use a  
18 trademark in connection with the sale, consignment, or distribution  
19 of fuel.

20           (G) ~~(f)~~ "Marketing premises" means, in the case of any  
21 franchise, premises that, under the franchise, are to be employed  
22 by the franchisee in connection with the sale, consignment, or  
23 distribution of motor fuel.

24           (H) ~~(g)~~ "Motor fuel" means gasoline, ~~and~~ diesel fuel, **AND**  
25 **ALTERNATIVE MOTOR FUELS** of a type distributed for use as a fuel in  
26 **MOTOR VEHICLES OR WATERCRAFT.**

27           (I) **"MOTOR VEHICLES" MEANS** self-propelled vehicles designed

1 primarily for use on public streets, roads, and highways.

2 (J) ~~(h)~~ "Refiner" means a person engaged in the refining of  
3 crude oil to produce motor fuel ~~—~~ and includes any affiliate of  
4 the person.

5 (K) ~~(i)~~ "Retailer" means any person who purchases motor fuel  
6 for sale to the general public for ultimate consumption.

7 (l) "WATERCRAFT" MEANS THAT TERM AS DEFINED IN SECTION 78101 OF  
8 THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA  
9 451, MCL 324.78101.

10 SEC. 5A. (1) IF A FRANCHISOR DOES NOT SUPPLY OR OFFER TO  
11 SUPPLY AN ALTERNATIVE MOTOR FUEL TO A FRANCHISEE, ANY OF THE  
12 FOLLOWING PROVISIONS CONTAINED IN THE FRANCHISE BETWEEN THE  
13 FRANCHISOR AND FRANCHISEE ARE VOID AND UNENFORCEABLE:

14 (A) A PROVISION THAT PROHIBITS THE FRANCHISEE FROM PURCHASING  
15 OR SELLING THAT ALTERNATIVE MOTOR FUEL FROM A REFINER OR  
16 DISTRIBUTOR OTHER THAN THE FRANCHISOR.

17 (B) A PROVISION THAT LIMITS THE QUANTITY OF THAT ALTERNATIVE  
18 MOTOR FUEL THAT THE FRANCHISEE IS ALLOWED TO PURCHASE FROM A  
19 REFINER OR DISTRIBUTOR OTHER THAN THE FRANCHISOR.

20 (C) A PROVISION THAT DIRECTLY OR INDIRECTLY DISCOURAGES THE  
21 FRANCHISEE FROM PURCHASING OR SELLING THAT ALTERNATIVE MOTOR FUEL  
22 FROM A REFINER OR DISTRIBUTOR OTHER THAN THE FRANCHISOR.

23 (2) A FRANCHISOR OR AN OFFICER, AGENT, OR EMPLOYEE OF A  
24 FRANCHISOR WHO THREATENS, HARASSES, COERCES, OR ATTEMPTS TO COERCE  
25 A FRANCHISEE FOR THE PURPOSE OF COMPELLING THE FRANCHISEE TO  
26 REFRAIN FROM PURCHASING OR SELLING AN ALTERNATIVE MOTOR FUEL FROM A  
27 REFINER OR DISTRIBUTOR OTHER THAN THE FRANCHISOR IS GUILTY OF A

1 MISDEMEANOR PUNISHABLE BY A FINE OF NOT MORE THAN \$1,000.00 FOR  
2 EACH VIOLATION.