

56: 10-7.1

LEGISLATIVE HISTORY CHECKLIST

(Gasoline franchisors--prohibit reprisals against franchisees who sell gasahol and diesel fuel)

NJSA 56:10-7.1

LAWS 1981

CHAPTER 127

Bill No. S892

Sponsor(s) Wallwork, Hagedorn and Dodd

Date Introduced Jan. 24, 1980

Committee: Assembly Commerce, Industry and Professions

Senate Law, Public Safety and Defense

Amended during passage Yes

~~NO~~ Amendments during passage denoted by asterisks. Substituted for A1778 (OCR, Assembly committee statement and sponsor's statement--attached)

Date of Passage: Assembly Feb. 9, 1981

Senate June 26, 1980

Date of approval April 27, 1981

Following statements are attached if available:

Sponsor statement Yes ~~No~~

Committee Statement: Assembly Yes ~~No~~

Senate Yes ~~No~~

Fiscal Note Yes No

Veto Message Yes No

Message on signing Yes ~~No~~

Following were printed:

Reports Yes No

Hearings Yes No

DEPOSITORY COPY  
Do Not Remove From Library

6/28/81

4-27-81 81  
[OFFICIAL COPY REPRINT]

SENATE, No. 892

STATE OF NEW JERSEY

INTRODUCED JANUARY 24, 1980

By Senators WALLWORK, HAGEDORN and DODD

Referred to Committee on Law, Public Safety and Defense

A SUPPLEMENT to the "Franchise Practices Act," approved December 21, 1971 (P. L. 1971, c. 356, C. 56:10-1 et seq.).

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. a. It shall be a violation of the act to which this act is a sup-  
2 plement for any franchisor, directly or indirectly, through any  
3 officer, agent, or employee, to \***[restrict]**\* *\*prohibit\** any franchisee  
4 engaged in the retail sale of motor gasoline from purchasing any  
5 suitable alternate motor fuel from whatever authorized source that  
6 it is available; to reduce allocations of motor gasoline to any  
7 franchisee *\*because of the purchase by the franchisee of an alter-*  
3 *nate motor fuel\** \***[unless the reductions are made in the same**  
9 degree to all franchisees supplied by the franchisor]\*; *\*or\** to  
10 prohibit the use of franchisor issued credit cards to purchase a  
11 suitable alternate motor fuel; \***[or to change in any way accepted**  
11A **business practices between franchisor and franchisee;]**\* provided  
11B that:

12 (1) The franchisee has shown that reasonable efforts to secure  
13 adequate supplies of the alternate motor fuel from the franchisor  
14 have failed;

15 (2) The franchisee continues to meet all other terms and condi-  
16 tions of the franchise agreement;

17 (3) The franchisee shall adequately inform consumers of the  
18 *\*alternate\** motor fuel of the change in type or trade name *\*with*  
18A *reasonable labeling of pumps dispensing the alternate motor fuel to*  
18B *indicate, where appropriate, that such alternate motor fuel is not*  
18C *manufactured, distributed, or sold by such franchisor\*.*

19 b. As used in this section, "alternate motor fuel" means diesel  
20 fuel or any liquid which is the product of the combination of motor

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

21 gasoline and any other liquid or gaseous substance which is not  
22 derivative of petroleum, and which is used for the purpose of  
23 operating a mechanical device powered by internal combustion.

1 2. This act shall take effect immediately.

## SPONSOR'S STATEMENT

The purpose of this bill is to prohibit economic reprisals by a franchisor against a franchisee who sells gasohol or diesel fuel and to facilitate consumer choice with respect to fuels which may be used for automobiles. At present, there is no mechanism which would enable gasoline retailers to purchase alternate fuels, such as gasohol, from any source other than the franchisor. Under this bill, such purchases would be allowed as long as: the franchisor cannot supply the alternate motor fuel; all other terms of the franchise agreement have been met; and, consumers are informed of any change in type or trade name. The bill also provides for retail gasoline dealers to provide diesel fuel if they so choose.

S. 892 (1981)

ASSEMBLY COMMERCE, INDUSTRY AND PROFESSIONS  
COMMITTEE

STATEMENT TO  
**SENATE, No. 892**  
[OFFICIAL COPY REPRINT]

**STATE OF NEW JERSEY**

DATED: FEBRUARY 2, 1981

Under the provisions of this bill, if a franchisee (a service station) (1) tries and fails to secure adequate supplies of an alternate motor fuel from his franchisor (an oil company), (2) meets the other terms and conditions of his franchise agreement, and (3) labels the pumps dispensing the alternate motor fuel to indicate that the fuel is not that of the franchisor, the franchisor cannot prohibit the franchisee from buying and dispensing alternate fuel from someone other than the franchisor. Under these circumstances, the franchisor also would be prohibited from reducing allocations of gasoline to the franchisee and from preventing the use of his credit cards to purchase the alternate fuel.

Because this bill supplements the "Franchise Practices Act," a franchisor who violates the provisions of this bill would be liable to the franchisee for damages and possibly subject to an injunction.

Diesel fuel and gasohol (a fuel mixture of 90% gasoline and 10% ethanol) are the two primary alternate motor fuels presently covered in the bill.

SENATE LAW, PUBLIC SAFETY AND DEFENSE  
COMMITTEE

STATEMENT TO

**SENATE, No. 892**

with Senate committee amendments

**STATE OF NEW JERSEY**

DATED: JUNE 9, 1980

This bill would prohibit economic reprisals by franchisors against franchisees who sell diesel fuel, gasohol, or similar alternate energy fuels. Such purchases would be allowed so long as the franchisor could not supply the alternate motor fuel, other items of the agreement have been met, and customers are informed. The committee amended the bill with respect to the provisions regarding customer notification to insure that pumps were labeled to include, where appropriate, that such alternate fuels were not manufactured, distributed, or sold by the franchisor.

FROM THE OFFICE OF THE GOVERNOR

27 APRIL 1981

FOR FURTHER INFORMATION

FOR IMMEDIATE RELEASE

KATHRYN FORSYTH

Governor Brendan Byrne today signed the following bills:

S-262, sponsored by Senator Anthony Russo (D-Union) which augments the hearing process that certain municipal and county sewage, incinerator and waste management authorities must use prior to revising their rates and fees.

Current law merely requires that the authorities provide notice that they will hold public hearings at least seven days before revising their schedules of rates and fees.

This bill adds the following requirements:

--that the notice must list the proposed adjustments in service charges and the time and place of the hearing and must be published in at least two newspapers of general circulation in the area served by the authority;

--that the authority present evidence at the hearing to show that the proposed adjustments are "reasonable and necessary";

--that the public be provided with an opportunity to cross-examine those giving evidence;

--that a transcript of the hearing shall be made and a copy of that transcript be made available upon request and upon payment of a reasonable fee.

The bill is designed to strengthen the accountability of the authorities.

S-892, sponsored by Senator James Wallwork (R-Essex) which amends the state's Franchise Practices Act to prohibit oil company retaliation against a franchisee who sells alternate motor fuel.

The bill defines alternate motor fuel as diesel fuel or any liquid which is the product of the combination of motor gasoline and any other liquid or gaseous substance which is not a derivative of petroleum and which is used to operate a motor vehicle. Gasohol is included in this definition.

general authority to exercise full police powers to county police departments in counties of the second class.

# # #

[OFFICIAL COPY REPRINT]  
ASSEMBLY, No. 1778

STATE OF NEW JERSEY

INTRODUCED JUNE 12, 1980

By Assemblymen RILEY, DALTON, Assemblywoman GLUCK,  
Assemblymen McENROE, BAER, BATE, HERMAN and STEWART

Referred to Committee on Commerce, Industry and Professions

\***[AN ACT to amend]**\* \*A SUPPLEMENT to\* the "Franchise Practices Act," approved December 21, 1971 (P. L. 1971, c. 356\*, C. 56:10-1 et seq.\*).

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 \***[1.** Section 3 of P. L. 1971, c. 356 (C. 56:10-3) is amended to  
2 read as follows:

3 3. As used in this act:

4 a. "Franchise" means a written arrangement for a definite or  
5 indefinite period, in which a person grants to another person a  
6 license to use a trade name, trade mark, service mark, or related  
7 characteristics, and in which there is a community of interest in  
8 the marketing of goods or services at wholesale, retail, by lease,  
9 agreement, or otherwise.

10 b. "Person" means a natural person, corporation, partnership,  
11 trust, or other entity and, in case of an entity, it shall include any  
12 other entity which has a majority interest in such entity or effec-  
13 tively controls such other entity as well as the individual officers,  
14 directors, and other persons in active control of the activities of  
15 each such entity.

16 c. "Franchisor" means a person who grants a franchise to  
17 another person.

18 d. "Franchisee" means a person to whom a franchise is offered  
19 or granted.

20 e. "Sale, transfer or assignment" means any disposition of a  
21 franchise or any interest therein, with or without consideration,  
22 to include but not limited to bequest, inheritance, gift, exchange,  
23 lease or license.

24 f. "Place of business" means a fixed geographical location at  
25 which the franchisee displays for sale and sells the franchisor's

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**



26 goods or offers for sale and sells the franchisor's services. Place of  
 27 business shall not mean an office, a warehouse, a place of storage,  
 28 a residence or a vehicle.

29 *g. "Gasohol" means a mixture of not less than 10% of 200 proof*  
 30 *anhydrous alcohol and unleaded gasoline for any use whatsoever.】\**

1 *\*1. a. It shall be a violation of the act to which this act is a sup-*  
 2 *plement for any franchisor, directly or indirectly, through any*  
 3 *officer, agent, or employee, to prohibit any franchisee engaged in*  
 4 *the retail sale of motor gasoline from purchasing any suitable*  
 5 *alternate motor fuel from whatever authorized source that it is*  
 6 *available; to reduce allocations of motor gasoline to any franchisee*  
 7 *because of the purchase by the franchisee of an alternate motor*  
 8 *fuel; or to prohibit the use of franchisor issued credit cards to*  
 9 *purchase a suitable alternate motor fuel; provided that:*

10 *(1) The franchisee has shown that reasonable efforts to secure*  
 11 *adequate supplies of the alternate motor fuel from the franchisor*  
 12 *have failed;*

13 *(2) The franchisee continues to meet all other terms and condi-*  
 14 *tions of the franchise agreement;*

15 *(3) The franchisee shall adequately inform consumers of the*  
 16 *alternate motor fuel of the change in type or trade name with*  
 17 *reasonable labeling of pumps dispensing the alternate motor fuel to*  
 18 *indicate, where appropriate, that such alternate motor fuel is not*  
 19 *manufactured, distributed, or sold by such franchisor.*

20 *b. As used in this section, "alternate motor fuel" means diesel fuel*  
 21 *or any liquid which is the product of the combination of motor*  
 22 *gasoline and any other liquid or gaseous substance which is not*  
 23 *derivative of petroleum, and which is used for the purpose of oper-*  
 24 *ating a mechanical device powered by internal combustion.\**

1 *\*【2. Section 5 of P. L. 1971, c. 356 (C. 56:10-5) is amended to*  
 2 *read as follows:*

3 *5. It shall be a violation of this act for any franchisor directly or*  
 4 *indirectly through any officer, agent, or employee to terminate,*  
 5 *cancel, or fail to renew a franchise without having first given*  
 6 *written notice setting forth all the reasons for such termination,*  
 7 *cancellation, or intent not to renew to the franchisee at least 60*  
 8 *days in advance of such termination, cancellation, or failure to*  
 9 *renew, except (1) where the alleged grounds are voluntary abandon-*  
 10 *ment by the franchisee of the franchise relationship in which event*  
 11 *the aforementioned written notice may be given 15 days in advance*  
 12 *of such termination, cancellation, or failure to renew; and (2) where*  
 13 *the alleged grounds are the conviction of the franchisee in a court*

14 of competent jurisdiction of an indictable offense directly related  
 15 to the business conducted pursuant to the franchise in which event  
 16 the aforementioned termination, cancellation or failure to renew  
 17 may be effective immediately upon the delivery and receipt of  
 18 written notice of same at any time following the aforementioned  
 19 conviction. It shall be a violation of this act for a franchisor to  
 20 terminate, cancel or fail to renew a franchise without good cause.  
 21 For the purposes of this act, good cause for terminating, canceling,  
 22 or failing to renew a franchise shall be limited to failure by the  
 23 franchisee to substantially comply with those requirements imposed  
 24 upon him by the franchise.

25 *The sale, consignment, distribution or other offering, by ad-*  
 26 *vertising or otherwise, of gasohol, or any other act directly related*  
 27 *to gasohol sale shall not be grounds for termination of a franchise*  
 28 *or a nonrenewal of a franchise relationship. No franchisor may*  
 29 *engage in any act of economic reprisal of any nature against any*  
 30 *franchisee of that franchisor because of any sale or other act by*  
 31 *the franchisee which relates to the sale, consignment or distribu-*  
 32 *tion of gasohol.】\**

1 \*【3. Section 7 of P. L. 1971, c. 356 (C. 56:10-7) is amended to  
 2 read as follows:

3 7. It shall be a violation of this act for any franchisor, directly or  
 4 indirectly, through any officer, agent or employee, to engage in any  
 5 of the following practices:

6 a. To require a franchisee at time of entering into a franchise  
 7 arrangement to assent to a release, assignment, novation, waiver  
 8 or estoppel which would relieve any person from liability imposed  
 9 by this act.

10 b. To prohibit directly or indirectly the right of free association  
 11 among franchisees for any lawful purpose.

12 c. To require or prohibit any change in management of any  
 13 franchisee unless such requirement or prohibition of change shall  
 14 be for good cause, which cause shall be stated in writing by the  
 15 franchisor.

16 d. To restrict the sale of any equity or debenture issue or the  
 17 transfer of any securities of a franchise or in any way prevent or  
 18 attempt to prevent the transfer, sale or issuance of shares of stock  
 19 or debentures to employees, personnel of the franchisee, or heir of  
 20 the principal owner, as long as basic financial requirements of the  
 21 franchisor are complied with, and provided any such sale, transfer  
 22 or issuance does not have the effect of accomplishing a sale of the  
 23 franchise.

24 e. To impose unreasonable standards of performance upon a  
25 franchisee.

26 f. To provide any term or condition in any lease or other agree-  
27 ment ancillary or collateral to a franchise, which term or condition  
28 directly or indirectly violates this act.

29 *g. To impose any condition, restriction agreement, or under-*  
30 *standing that limits the use of credit instruments in any transaction*  
31 *concerning the sale, resale or transfer of gasohol where there is*  
32 *no similar limitation on transactions concerning any nongasohol*  
33 *motor fuels distributed by the franchisor; or otherwise discrimi-*  
34 *nates against or unreasonably limits the sale, resale or transfer*  
35 *of gasohol.]\**

1 \***[4.]**\* \*2.\* This act shall take effect immediately.

---

8 or estoppel which would relieve any person from liability imposed  
9 by this act.

10 b. To prohibit directly or indirectly the right of free association  
11 among franchisees for any lawful purpose.

12 c. To require or prohibit any change in management of any  
13 franchisee unless such requirement or prohibition of change shall  
14 be for good cause, which cause shall be stated in writing by the  
15 franchisor.

16 d. To restrict the sale of any equity or debenture issue or the  
17 transfer of any securities of a franchise or in any way prevent or  
18 attempt to prevent the transfer, sale or issuance of shares of stock  
19 or debentures to employees, personnel of the franchisee, or heir of  
20 the principal owner, as long as basic financial requirements of the  
21 franchisor are complied with, and provided any such sale, transfer  
22 or issuance does not have the effect of accomplishing a sale of the  
23 franchise.

24 e. To impose unreasonable standards of performance upon a  
25 franchisee.

26 f. To provide any term or condition in any lease or other agree-  
27 ment ancillary or collateral to a franchise, which term or condition  
28 directly or indirectly violates this act.

29 *g. To impose any condition, restriction agreement, or under-*  
30 *standing that limits the use of credit instruments in any transaction*  
31 *concerning the sale, resale or transfer of gasohol where there is*  
32 *no similar limitation on transactions concerning any nongasohol*  
33 *motor fuels distributed by the franchisor; or otherwise discrimi-*  
34 *nates against or unreasonably limits the sale, resale or transfer*  
35 *of gasohol.*

1 4. This act shall take effect immediately.

---

#### STATEMENT

The purpose of this bill is to encourage the availability of alcohol-based motor fuels by prohibiting retaliatory measures by a franchisor of a service station against a franchisee who sells gasohol. Increasing and protecting the supply of alcohol-based fuels in the State would strengthen our energy self-reliance and decrease our dependence on imported oil. This legislation is an important step in aid of the energy awareness and conservation practiced by the residents of the State.

A1778 (1980)

ASSEMBLY COMMERCE, INDUSTRY AND PROFESSIONS  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 1778**

[OFFICIAL COPY REPRINT]

**STATE OF NEW JERSEY**

DATED: FEBRUARY 2, 1981

This bill was amended to conform it to Senate Bill No. 892 (OCR). Under the provisions of this bill, as amended, if a franchisee (a service station) (1) tries and fails to secure adequate supplies of an alternate motor fuel from his franchisor (an oil company), (2) meets the other terms and conditions of his franchise agreement, and (3) labels the pumps dispensing the alternate motor fuel to indicate that the fuel is not that of the franchisor, the franchisor cannot prohibit the franchisee from buying and dispensing alternate fuel from someone other than the franchisor. Under these circumstances, the franchisor also would be prohibited from reducing allocations of gasoline to the franchisee and from preventing the use of his credit cards to purchase the alternate fuel.

Because this bill supplements the "Franchise Practices Act," a franchisor who violates the provisions of this bill would be liable to the franchisee for damages and possibly subject to an injunction.

Diesel fuel and gasohol (a fuel mixture of 90% gasoline and 10% ethanol) are the two primary alternate motor fuels presently covered in the bill.