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February 7, 2011 at 2PM in CR325

Committee on Consumer Protection & Commerce
Rep. Robert N. Herkes, Chair
Rep. Ryan I. Yamane, Vice Chair

Committee on Judiciary
Rep. Gilbert S.C. Keith-Agaran, Chair
Rep. Karl Rhodes, Vice Chair

By: Richard C. Botti, President

Re: HB 972 RELATING TO Gasoline Dealers

Chairs & Committee Members:

We support HB 972 as creating a method of enforcement that has not existed. Under current law, either the Attorney General, or the injured person may bring action, which has been unlikely when the violator may be the plaintiff's own supplier oil company.

The Attorney General taking action may well depend on the Governor's office approving of the Attorney General taking such action. The proposed amendments in HB 972 make it clear that the Public Utilities Commission shall act, and if penalties are not paid, the Attorney General shall institute a civil action. This creates a new triggering device to assure compliance.

§486H-11 Enforcement of prohibition. (a) The attorney general shall commence a civil action to enforce section 486H-10.4 by seeking injunctive or any other appropriate relief. The civil action shall be brought in the circuit court of the circuit where the alleged violation occurred, or where the defendant resides or is doing business.

(b) Any person who is injured in that person's business or property by the violation of section 486H-10.4 may bring a civil action for damages or injunctive relief, or both, against the person violating section 486H-10.4. If the plaintiff prevails, the plaintiff shall be awarded reasonable attorneys' and expert witness fees; provided that if a court awards only nominal damages to the plaintiff, those fees, in the court's discretion, need not be awarded to the plaintiff. Any action brought under this subsection shall be brought in the circuit court of the circuit where the alleged violation occurred, or where the defendant resides or is doing business.
[L 1993, c 329, pt of §1; am L 2008, c 19, §61]