

CHAPTER 486B
UNFAIR TRADE PRACTICES BY PETROLEUM INDUSTRY

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" **§486B-1 Definitions.** As used in this chapter, unless the context otherwise requires:

"Advertising" includes the use of any banner, sign, placard, poster, streamer, card, or any publication in the media.

"Gasoline" means a volatile mixture of liquid hydrocarbons, generally containing small amounts of additives, suitable for use as a fuel in spark-ignition internal combustion engines.

"Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, unincorporated association, two or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity.

"Petroleum product" means gasoline, diesel fuel, liquefied petroleum gas only when used as a motor fuel, kerosene, thinner, solvent, liquefied natural gas, pressure appliance fuel, white gasoline, or any motor fuel, or any oil represented as engine lubricant, engine oil, lubricating or motor oil, or any oil used to lubricate transmissions, gears, or axles.

"Sell" or any of its variants means attempt to sell, offer for sale or assist in the sale of, permit to be sold or offered for sale or delivery, offer for delivery, trade, barter, or expose for sale. [L 2006, c 78, pt of §21; am L 2008, c 19, §56]

" **§486B-1.5 Monitoring of petroleum industry information.**

The public utilities commission or the department of business, economic development, and tourism shall refer to the attorney general any matter that is a violation of this chapter that is discovered in the performance of its duties pursuant to chapter 486H or 486J. [L 2007, c 182, §1; am L 2013, c 259, §2]

" **[§486B-2] Misrepresentations.** (a) It is unlawful for any person to make any deceptive, false, or misleading statement by any means whatsoever regarding quality, quantity, performance, price, discount, profit, or savings used in the sale or selling of any petroleum product regulated pursuant to this chapter or chapters 486H and 486J.

(b) The following deceptive, false, or misleading acts or practices committed or permitted by any person offering to sell any petroleum product that is regulated by this chapter or chapters 486H and 486J are also a violation of this section:

- (1) Misrepresenting the brand, grade, quality, or price of a petroleum product;
- (2) Using false or deceptive representations or designations in connection with the pricing, profits, or sale of a petroleum product;

- (3) Advertising petroleum products or services and not selling them as advertised;
- (4) Advertising petroleum products of a designated brand, grade, trademark, or trade name not actually sold or available for sale;
- (5) Making false, deceptive, or misleading statements concerning conditions of sale, price reductions, costs of operations, profits, or failing to disclose business relationships within the petroleum industry that affect the wholesale pricing of petroleum products;
- (6) Representing that the consumer will receive a rebate, discount, or other economic benefit and then failing to give that rebate, discount, or other economic benefit; and
- (7) Forging or falsifying any records or documents required by this chapter or chapter 486H or 486J or knowingly keeping, using, or displaying the false or forged records or documents. [L 2006, c 78, pt of §21]

" **[\$486B-3] Unlawful profiteering.** Any person who sells petroleum products and who, with intent to enhance the price or restrict the supply of petroleum products:

- (1) Wilfully causes or permits preventable waste in the production, manufacture, storage, or distribution of petroleum products;
- (2) Prevents, limits, lessens, or restricts the manufacture, production, supply, or distribution of petroleum products;
- (3) Enters into any contract, combination, or conspiracy in restraint of trade or commerce;
- (4) Exacts or demands any unjust or unreasonable profit in the sale, exchange, or handling of petroleum products; or
- (5) In any way aids or abets the doing of any act prohibited in paragraphs (1) to (4),

commits an unlawful trade practice. [L 2006, c 78, pt of §21]

" **[\$486B-4] Penalty.** Any person who violates this chapter shall be fined not more than \$10,000 for each violation or imprisoned for not more than five years, or both. [L 2006, c 78, pt of §21]

" **[\$486B-5] Injunctions.** Any person who violates this chapter may be enjoined by the circuit court by a mandatory injunction or temporary restraining order necessary or proper to effectuate the purposes of this chapter in a suit brought by the

attorney general in the name of the State or by any private person in the person's own name. [L 2006, c 78, pt of §21]

" **[\$486B-6] Remedies cumulative.** The remedies prescribed in this chapter are cumulative and in addition to any other remedies provided by law. [L 2006, c 78, pt of §21]