

A Bill for an Act Relating to Gasoline Dealers.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 486H-1, Hawaii Revised Statutes, is amended to read as follows:

**“§486H-1 Definitions.** As used in this chapter:

- (1) “Franchise” means:
  - (A) Any agreement or related agreements between a petroleum distributor and a gasoline dealer under which the gasoline dealer is granted the right to use a trademark, trade name, service mark, or other identifying symbol or name owned by the distributor in connection with the retail sale of petroleum products supplied by the petroleum distributor; or
  - (B) Any agreement or related agreements described in subparagraph (A) and any agreement between a petroleum distributor and a gasoline dealer under which the gasoline dealer is granted the right to occupy the premises owned, leased, or controlled by the distributor, for the purpose of engaging in the retail sale of petroleum products supplied by the distributor.
- (2) “Gasoline dealer” means any person engaged in the retail sale of petroleum products in the United States under a franchise agreement entered into with a petroleum distributor.
- (3) “Good faith” means the duty of a gasoline dealer and a petroleum distributor to act in a fair and equitable manner in the performance and

in the demanding of performance of the terms and provisions of the franchise. The petroleum distributor shall not impose on a gasoline dealer by contract, rule or regulation, whether written or oral, any standard of conduct which is not reasonable and of material significance to the franchise relationship.

- (4) "Inventory" means any product sold to a gasoline dealer for resale purposes by a petroleum distributor.
- (5) "Petroleum distributor" means any person engaged in the sale, consignment, or distribution of petroleum products to retail outlets which it owns, leases or otherwise controls.
- (6) "Retail" means the sale of a product for purposes other than resale."

SECTION 2. Section 486H-5, Hawaii Revised Statutes, is amended to read as follows:

"**[§486H-5] Gasoline dealer's rights.** (a) A petroleum distributor shall not in any way dictate, force, or attempt to set the retail price of any product sold by the gasoline dealer.

(b) After June 7, 1976 it shall be illegal for any petroleum distributor by any action to require a gasoline dealer to purchase only those tires, batteries, and other automotive accessories sold by the distributor. A gasoline dealer may sell any tires, batteries, and other automotive accessories as may be available to him for retail sale.

(c) The petroleum distributor shall at all times act in good faith in carrying out the terms and provisions of the franchise."

SECTION 3. Section 486H-6, Hawaii Revised Statutes, is amended to read as follows:

"**[§486H-6] Petroleum distributor's penalty; collection.** The petroleum distributor's executive officer, representative, or agent who negotiates any contract in violation of section 486H-5(a) and section 486H-5(b), or who otherwise coerces a gasoline dealer in violation of section 486H-5(a) and section 486H-5(b), shall in addition to other penalties provided by this chapter be subject to a civil penalty of up to \$50,000 for each offense.

The penalty shall be assessed and recovered in a civil action brought by the attorney general or by any county attorney or prosecuting attorney in any court of competent jurisdiction. If brought by a county attorney or prosecuting attorney, the entire amount of the penalty shall be paid to the general fund of the county in which the judgment was entered. If brought by the attorney general, one-half of the penalty shall be paid to the county general fund where the action was brought and one-half shall be paid to the State general fund."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 13, 1983.)