

AN ACT

ENTITLED, An Act to prohibit certain contract restrictions on the sale of renewable motor fuels by retailers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That chapter 37-2 be amended by adding thereto a NEW SECTION to read as follows:

Terms used in this Act mean:

- (1) "Franchise-related document," a franchise agreement, branded jobber contract, branded marketer agreement, and any other contract or directive of a franchisor relating to terms or conditions of the sale of fuel by a franchisee or customer;
- (2) "Renewable fuel," biodiesel, biodiesel blend, ethyl alcohol, ethanol blend, and E-85, all as defined in § 10-47B-3.

Section 2. That chapter 37-2 be amended by adding thereto a NEW SECTION to read as follows:

No franchise-related document entered into or renewed on or after the effective date of this Act may contain any provision allowing a franchisor to restrict the franchisee or any affiliate of the franchisee from:

- (1) Installing on the marketing premises of the franchisee a renewable fuel pump or tank, except that the franchisee's franchisor may restrict the installation of a tank on leased marketing premises of the franchisor;
- (2) Converting an existing tank or pump on the marketing premises of the franchisee for renewable fuel use;
- (3) Advertising the sale of any renewable fuel, including through the use of signage;
- (4) Selling renewable fuel in any specified area on the marketing premises of the franchisee, including any area in which a name or logo of a franchisor or any other entity appears;
- (5) Purchasing renewable fuel from sources other than the franchisor if the franchisor does

not offer its own renewable fuel for sale by the franchisee;

- (6) Listing renewable fuel availability or prices, including on service station signs, fuel dispensers, or light poles; or
- (7) Allowing for payment of renewable fuel with any form of payment available for any other type of fuel.

Nothing in this section authorizes any activity that constitutes mislabeling, misbranding, willful adulteration, or other trademark violations by the franchisee.

Section 3. That chapter 37-2 be amended by adding thereto a NEW SECTION to read as follows:

Nothing in this Act precludes a franchisor from requiring the franchisee to obtain reasonable indemnification and insurance policies.

Section 4. That chapter 37-2 be amended by adding thereto a NEW SECTION to read as follows:

No franchise-related document that requires that three grades of gasoline be sold by the applicable franchisee may prevent the franchisee from selling a renewable fuel in lieu of one, and only one, grade of gasoline.

Section 5. That chapter 37-2 be amended by adding thereto a NEW SECTION to read as follows:

Any franchisor found guilty of violating the provisions of sections 2 or 4 of this Act is guilty of a Class 1 misdemeanor.

An Act to prohibit certain contract restrictions on the sale of renewable motor fuels by retailers.

\_\_\_\_\_  
I certify that the attached Act  
originated in the

HOUSE as Bill No. 1247

\_\_\_\_\_  
Chief Clerk  
\_\_\_\_\_

\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

House Bill No. 1247

File No. \_\_\_\_\_

Chapter No. \_\_\_\_\_

\_\_\_\_\_  
Received at this Executive Office  
this \_\_\_\_\_ day of \_\_\_\_\_ ,

20\_\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor  
\_\_\_\_\_

The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 20\_\_\_\_

\_\_\_\_\_  
Governor

\_\_\_\_\_  
STATE OF SOUTH DAKOTA,  
ss.  
Office of the Secretary of State

Filed \_\_\_\_\_, 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State