

HOUSE No. 3096

The Commonwealth of Massachusetts

PRESENTED BY:
David M. Nangle

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:
An Act promoting fairness in gasoline product marketing and sales.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
David M. Nangle	17th Middlesex
Dennis Rosa	4th Worcester
Jay R. Kaufman	15th Middlesex
Robert P. Spellane	13th Worcester
James Arciero	2nd Middlesex
Thomas A. Golden, Jr.	16th Middlesex
Kevin J. Murphy	18th Middlesex
Robert S. Hargraves	1st Middlesex
Mark V. Falzone	9th Essex
Stephen R. Canessa	12th Bristol
George N. Peterson, Jr.	9th Worcester

The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine
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AN ACT PROMOTING FAIRNESS IN GASOLINE PRODUCT MARKETING AND SALES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. As used in this section the following words shall have the following meanings

“Book value”, actual cost less actual depreciation taken

“Marketing premises”, the premises that are used by a dealer in connection with the sale, consignment or distribution of motor fuel

“Producer”, a person who purchases component elements and combines them to produce gasoline products

“Refines”, a person who owns, operates or controls the operations of a refinery

Every marketing agreement is subject to the provisions of this section, whether or not expressly set forth in the agreement. This section shall not apply to transactions otherwise covered under the federal petroleum marketing act

If a producer or a refiner owns a fee simple interest in marketing premises leased to a dealer, the producer or refiner may not sell, transfer, or assign to another person the producer’s or refiner’s interest in the marketing premises unless the producer or refiner:

Makes a bona fide offer to sell, transfer, or assign to the dealer the producer’s or refiner’s interest in the marketing premises, except for signs displaying the insignia or any other trademark, service mark, copyright, or patented equipment of the producer or refiner; or

If applicable, offers a right of first refusal to the dealer of any bona fide offer acceptable to the producer or refiner made by another person to purchase the producer’s or refiner’s interest in the marketing premises.

If a producer or refiner leases marketing premises from a third party and subleases the marketing premises to a dealer, the producer or refiner may not sell, transfer, or assign to another person the producer’s or refiner’s interest in the third party lease unless the producer or refiner:

Makes a bona fide offer to sell, transfer, or assign to the dealer the producer’s or refiner’s interest in the third party lease; and

Makes a bona fide offer to sell, transfer, or assign to the dealer the producer’s or refiner’s interest in any improvements or equipment owned by the producer or refiner and located on the marketing premises, except for signs displaying the insignia or any other trademark, service mark, copyright, or patented equipment of the producer or refiner, at a price not exceeding the greater of the fair market value or the book value of the improvements and equipment; or

If applicable, offers a right of first refusal to the dealer of any bona fide offer acceptable to the producer or refiner made by another person to acquire the producer’s or refiner’s interest in the third party lease and the improvements and equipment located at the marketing premises.

This section shall be applicable to all offers of bulk transfers of service stations made on or after January 1, 2009.