

# SENATE, No. 158

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## STATE OF NEW JERSEY 219th LEGISLATURE

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PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Senator GERALD CARDINALE**

**District 39 (Bergen and Passaic)**

**SYNOPSIS**

Prohibits refiners of motor fuels from passing costs associated with certain payment cards to distributors of motor fuels.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** prohibiting passing of costs associated with certain  
2 payment cards to distributors of motor fuels and amending  
3 P.L.1938, c.163.  
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:  
7

8 1. Section 101 of P.L.1938, c.163 (C.56:6-1) is amended to  
9 read as follows:

10 101. Words used in this act, unless otherwise expressly stated,  
11 or unless the context or subject matter otherwise requires, shall  
12 have the following meaning:

13 "Person" shall mean and include natural persons and  
14 partnerships, firms, associations, joint stock companies, syndicates  
15 and corporations and any receiver, trustee, conservator or other  
16 officer appointed pursuant to law by any court, State or Federal.  
17 The use of the singular number shall include the plural number.

18 "Retail dealer" any person operating a service station, filling  
19 station, store, garage or other place of business for the sale of motor  
20 fuel for delivery into the service tank or tanks of any vehicle  
21 propelled by an internal combustion engine.

22 "Motor fuel" shall mean (a) all products commonly or  
23 commercially known or sold as gasoline (including casinghead and  
24 absorption or natural gasoline), benzol, benzene, or naphtha  
25 regardless of their classification or uses; and (b) any liquid  
26 prepared, advertised, offered for sale or sold for use as or  
27 commonly and commercially used as a fuel in internal combustion  
28 engines, which when subjected to distillation in accordance with  
29 the standard method of test for distillation of gasoline, naphtha,  
30 kerosene and similar petroleum products (American Society of  
31 Testing Material Designation D-86) shows not less than ten per  
32 centum (10%) distilled (recovered) below three hundred forty-seven  
33 degrees (347` ) Fahrenheit (one hundred seventy-five degrees (175` )  
34 Centigrade) and not less than ninety-five per centum (95%) distilled  
35 (recovered) below four hundred sixty-four degrees (464` )  
36 Fahrenheit (two hundred forty degrees (240` ) Centigrade); and (c)  
37 any other product or liquid when sold for use as a fuel in any type  
38 of internal combustion engine furnishing power to operate a motor  
39 vehicle.

40 "Sale" shall have its ordinary meaning and, in addition, shall  
41 include any exchange, gift or other disposition; and "purchase" shall  
42 include any acquisition of ownership.

43 "Selling expense" includes all overhead and general business  
44 expense.

45 "Commissioner" shall mean the State Tax Commissioner.

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is  
not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1     "Distributor" means a person who acquires motor fuel from a  
2     supplier, permissive supplier or from another distributor for  
3     subsequent sale.

4     (cf: P.L.1938, c.401 s.1)

5  
6     2. Section 201 of P.L.1938, c.163 (C.56:6-2) is amended to  
7     read as follows:

8     201. (a) Every retail dealer shall publicly display and maintain,  
9     in the manner regulated by the Director of the Division of Taxation,  
10    a sign stating the price per gallon if sold by the gallon, and per  
11    gallon and per liter if sold by the liter of the motor fuel sold by said  
12    dealer. All taxes, State and Federal, imposed with respect to the  
13    manufacture or sale of motor fuel shall be included in the price  
14    shown on said sign, but said sign shall contain a statement of the  
15    amount of taxes included in said price, or, without specifying the  
16    amount thereof, said sign shall state that taxes are included in said  
17    price. A retail dealer shall not sell at any other price than the price,  
18    including tax, so posted. Any such price when posted shall remain  
19    posted and in effect for a period of not less than twenty-four (24)  
20    hours.

21    (b) No retail dealer shall sell motor fuel at a price which is  
22    below the net cost of such motor fuel to the retail dealer plus all  
23    selling expenses.

24    (c) No other price signs of motor fuel so dispensed, or signs  
25    relating to the price of such fuel shall be used or displayed on or  
26    about the premises where motor fuel is sold at retail, other than the  
27    signs provided by section 3 of P.L.1952, c.258 (C.56:6-2.3).

28    (d) No advertising or sign other than that provided for in section  
29    3 of P.L.1952, c.258 (C.56:6-2.3), which directly or indirectly  
30    contains a statement of, or an implied reference to the price of  
31    motor fuel shall be displayed at any place where motor fuel is  
32    dispensed at retail. Any advertising of the retail price of motor fuel  
33    through any other medium which contains a reference to the per  
34    gallon or per liter price thereof, shall include all taxes in the price  
35    stated, and there shall be included in such advertising a statement  
36    that such price includes taxes, or a statement of the amount of taxes  
37    which are included in such price. Such advertising shall be  
38    identified by the name of the product, and the letters of the name  
39    shall be not less than one-half the size of the figures used in the  
40    price.

41    (e) No rebates, allowances, concessions or benefits shall be  
42    given, directly or indirectly, so as to permit any person to obtain  
43    motor fuels from a retail dealer below the posted price or at a net  
44    price lower than the posted price applicable at the time of the sale,  
45    except that credits earned through purchases on a credit card, debit  
46    card, or rewards card may be utilized by a person to receive a  
47    rebate, allowance, concession, or benefit in the purchase of motor

1 fuels, provided that: (1) the use of credits earned through purchases  
2 on a credit card, debit card, or rewards card shall not change the  
3 retail price displayed on any sign required pursuant to section 3 of  
4 P.L.1952, c.258 (C.56:6-2.3); and (2) the retail dealer or distributor  
5 shall not be responsible for any of the costs associated with the  
6 rebate, allowance, concession, or benefit received by the motor fuel  
7 purchaser except for any interchange fees and transaction fees  
8 associated with the use of a credit card or debit card by a customer  
9 for the purchase of motor fuels.

10 As used in this subsection, "rewards card" means a card or  
11 certificate distributed by the issuer to a consumer pursuant to an  
12 awards, loyalty, rewards, or promotional program, or used to benefit  
13 frequent shoppers or to collect data on purchasing habits.

14 (f) It shall be unlawful for any retail dealer to use lotteries,  
15 wheels of fortune, punchboards or other games of chance, in  
16 connection with the sale of motor fuels.

17 (g) All above-ground equipment for storing or dispensing motor  
18 fuel operated by a retail dealer shall bear, in a conspicuous place,  
19 the name or trade-mark of the product stored therein or dispensed  
20 therefrom, and no retail dealer shall permit delivery into  
21 underground or above-ground containers, tanks or equipment of any  
22 motor fuel other than the brand represented or designated by the  
23 name or trade-mark appearing on such container or dispensing  
24 equipment attached thereto. No retail dealer shall be a party to the  
25 substitution of one grade of motor fuel for another.

26 (h) If the motor fuel stored in or dispensed from any above-  
27 ground equipment by a retail dealer shall not have a brand name or  
28 trade-mark, such container or dispensing equipment shall have  
29 conspicuously displayed thereon the words "No Brand."

30 (cf: P.L.2015, c.44)

31  
32 3. This act shall take effect on the 30th day next following the  
33 date of enactment.

#### 34 35 36 STATEMENT

37  
38 This bill provides that distributors of motor fuels may not be  
39 held responsible for any of the costs associated with a rebate,  
40 allowance, concession, or benefit received by a motor fuel  
41 purchaser for use of a payment card associated with a motor fuel  
42 brand.

43 Many motor fuel refiners give consumers discounts on their  
44 brand of motor fuel if the consumer uses a payment card associated  
45 with the motor fuel brand. These discounts are an exception to the  
46 law that provides that retail dealers of motor fuel must sell motor  
47 fuel at a price which is below the net cost of the motor fuel to the

1 retail dealer plus all selling expenses, and may not offer rebates,  
2 allowances, concessions or benefits.

3 Current law prohibits refiners from passing the costs associated  
4 with these discounts to motor fuel dealers. This bill extends that  
5 prohibition to also prohibit refiners from passing costs associated  
6 with discounts for payment cards associated with motor fuel brands  
7 to distributors of motor fuels.