

**HOUSE . . . . . No. 3063**

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The Commonwealth of Massachusetts

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**In the Year Two Thousand Nine**  
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An Act to reduce gasoline prices..

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

1 Chapter 94 of the General Laws is hereby amended by inserting after section 295CC the  
2 following section:-

3 Section 295DD. For the purposes of this section, the following words shall have the  
4 following meanings:

5 "Affiliate", any entity whose stock is more than fifty percent owned by or who,  
6 regardless of stock ownership, is controlled by or is under common control with any other person  
7 or entity.

8 "Motor fuel", as defined in Section 295A of this Chapter.

9 "Refiner", any entity who produces and stores or exchanges motor fuel at a terminal  
10 facility and who sells or transfers motor fuel through the loading rack at such terminal facility,  
11 and includes an affiliate of such refiner with respect to such affiliate's sale of motor fuel.

12 "Retail dealer", as defined in Section 295A of this Chapter.

13 "Sale" or "sell", any retail transfer, gift, barter, sale, offer for sale, or advertisement for  
14 sale in any manner or by any means whatsoever.

15 "Supplier", any entity who conveys, transports, or otherwise causes motor fuel to be  
16 delivered to another entity or person, except that any entity or person who conveys, transports, or  
17 otherwise causes motor fuel to be delivered as part of a retail sale shall not be considered a  
18 supplier.

19 "Wholesaler" means any entity, other than a refiner or dealer, who purchases motor fuel  
20 at a terminal facility and supplies motor fuel to retail dealers.

21 It shall be a violation of this section for an owner or operator of a terminal facility to sell  
22 motor fuel from the terminal facility to any person at a price in excess of the price it charges any  
23 other person, including a distributor or retailer which it owns or with which it is affiliated.

24 For purposes of this section, the price an owner or operator of a terminal facility charges  
25 a distributor or retailer which it owns or with which it is affiliated shall be the price determined  
26 pursuant to the regulations issued under this section.

27 A sale shall not be a violation of this section if it is made pursuant to the terms of a  
28 franchise or sales contract entered into before the date of the enactment of this section.

29 The commissioner of the division of standards, in conjunction with the commissioner of  
30 the division of energy resources, shall promulgate rules and regulations requiring full disclosure  
31 by refiners and distributors of their wholesale motor fuel pricing policies, with a separate listing  
32 of each component contributing to prices, including the cost of crude oil, refining, marketing,  
33 transportation, equipment, overhead, and profit, along with a description of any rebates,

34 incentives, and market enhancement allowances. Such rules and regulations shall establish  
35 procedures for determining the price an owner or operator of a terminal facility charges a  
36 distributor or retailer which it owns or with which it is affiliated.

37 All information acquired pursuant to these regulations shall be made available to the  
38 general public. Such information shall be disseminated to the public through the division of  
39 energy resources. Such information shall be conspicuously posted at all retail motor fuel  
40 facilities in a manner clearly available and understandable to retail consumers. Such information  
41 shall be included in or with each invoice for the wholesale sale of motor fuel.

42 In addition to any other remedies provided by law, whenever there shall be a violation of  
43 this section, an injunction may be made by the Attorney General, and, upon notice to the  
44 defendant of not less than five days, to enjoin and restrain the continuance of such violations;  
45 and if it shall appear to the satisfaction of a court that the defendant has, in fact, violated this  
46 section, an injunction may be issued by said court, enjoining or restraining any further violation,  
47 without requiring proof that any person has, in fact, been injured or damaged thereby. Whenever  
48 the court shall determine that a violation of this section has occurred, the court may impose a  
49 civil penalty of not more than ten thousand dollars for each violation.