

HOUSE No. 3096

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

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:

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

3 “Book value”, actual cost less actual depreciation taken

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

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

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

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

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

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

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

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

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

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

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

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