COMMITTEE REPORT

April 29, 2009

**S. 612**

Introduced by Senators Setzler and O’Dell

S. Printed 4/29/09--S.

Read the first time March 25, 2009.

**THE COMMITTEE ON**

**AGRICULTURE AND NATURAL RESOURCES**

To whom was referred a Bill (S. 612) to amend the Code of Laws of South Carolina, 1976, by adding Section 39‑41‑235 to require motor fuel terminals to offer for sale products that are suitable, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, page 2, by striking line 27 and inserting:

/ each violation.

(F) If a supplier supplies gasoline to a gasoline distributor pursuant to this code section, which is then blended, the gasoline distributor shall indemnify and hold harmless the supplier against any losses or damages arising out of claims, costs, judgments, and expenses, including reasonable attorney’s fees, or suits relating to or arising out of the blending.” /

Amend the bill further, as and if amended, page 2, after line 27, by adding an appropriately numbered new SECTION to read:

/ SECTION \_\_\_. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws. /

Renumber sections to conform.

Amend title to conform.

DANIEL B. VERDIN III for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 39‑41‑235 TO REQUIRE MOTOR FUEL TERMINALS TO OFFER FOR SALE PRODUCTS THAT ARE SUITABLE FOR SUBSEQUENT BLENDING EITHER WITH ETHANOL OR BIODIESEL; TO PROHIBIT A PERSON OR ENTITY FROM TAKING AN ACTION TO DENY A MOTOR FUEL DISTRIBUTOR OR RETAILER FROM BEING THE BLENDER OF RECORD; TO REQUIRE MOTOR FUEL DISTRIBUTORS, RETAILERS, AND REFINERS TO UTILIZE THE RENEWABLE IDENTIFICATION NUMBER; AND TO DECLARE VIOLATIONS AN UNFAIR TRADE PRACTICE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. The General Assembly finds that the use of blended fuels reduces the dependence on imported oil and therefore the protection thereof is reasonable and necessary to accomplish this legitimate public purpose. The General Assembly further finds that promoting and protecting the use of blended fuels in order to reduce the dependence on imported oil protects a basic societal interest. The General Assembly also finds that it is in the best societal interest not to restrict or prevent the blending of ethanol or biodiesel below the terminal rack by distributors or retailers. Therefore, any provision of any contract that would restrict or prevent a distributor or retailer from blending below the terminal rack is contrary to the public purpose of this act and is deemed void.

SECTION 2. Article 1, Chapter 41, Title 39 of the 1976 Code is amended by adding:

“Section 39‑41‑235. (A) Regardless of other products offered, every terminal, as defined in Section 12‑28‑110(56), located within the State must offer for sale a petroleum product that is not already preblended with ethanol and that is suitable for subsequent blending of the product with ethanol.

(B) Regardless of other products offered, every terminal, as defined in Section 12‑28‑110(56), located within the State must offer for sale diesel fuel that is not already preblended to produce biodiesel or a biodiesel blend and that is suitable for subsequent blending to produce biodiesel or biodiesel blend.

(C) No person or entity shall take an action to deny a distributor, as defined in Section 12‑28‑110(17), or retailer, as defined in Section 12‑28‑110(52) who is doing business in this State and who has registered with the Internal Revenue Service on Form 637 (M) from being the blender of record afforded them by the acceptance by the Internal Revenue Service of Form 637 (M).

(D) A distributor or retailer and a refiner must utilize the Renewable Identification Number (RIN) system. Nothing in this section may be construed to imply a market value for the RINs.

(E) A violation of this article is deemed an unfair trade practice, and each violation is a separate offense. A person or entity violating the provisions of this article is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than thirty days for each violation.”

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 4. This act takes effect upon approval by the Governor.

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