~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 9, 2017

**S. 359**

Introduced by Senator Cromer

S. Printed 3/9/17--S.

Read the first time February 7, 2017.

**THE COMMITTEE ON**

**LABOR, COMMERCE AND INDUSTRY**

To whom was referred a Bill (S. 359) to amend Section 39‑5‑325, Code of Laws of South Carolina, 1976, relating to unfair trade practices for motor fuel retailers, so as to remove references, 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, by adding an appropriately numbered new SECTION to read:

/SECTION \_\_\_. Section 39-5-350 of the 1976 Code is amended to read:

“Section 39-5-350. ~~(A)~~ No part of this article shall be construed to apply to sales at wholesale to hotels, restaurants, colleges, bona fide licensed contractors, farmers buying for their plantations, including labor on their own farms, boardinghouses, religious institutions, or county, city, federal, or state institutions or departments or to cooperative purchases for redistribution among farmers. Retail sales of merchandise of like grade and quality at a price to meet existing competition at any time in any town or locality are also exempt from the provisions of this article. But if such competition is created by any person in violation of this article or when any two or more persons contend that they are meeting the competition of the other and all would be making retail sales in violation of this article, except for the above provisions allowing existing competition to be met, any retailer affected thereby may enjoin all in such category from continuing such practices in any court of competent jurisdiction in this State.

~~(B)~~ ~~Any person selling motor fuel at wholesale or retail at a price below the actual cost of acquiring the product, including transportation and taxes, claiming exemption from this article on the basis that such sales of motor fuel by that person are at a price to meet existing competition under subsection (A) of this section shall keep and maintain records substantiating each effort to meet the competition, including the identity and place of business of the competitors whose competition that person is meeting. The records must be made available to the Department of Consumer Affairs and the Attorney General on request made in connection with any investigation of a possible violation of this article by the department or the Attorney General.~~” /

Renumber sections to conform.

Amend title to conform.

THOMAS C. ALEXANDER for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Introduced on February 7, 2017**

**State Expenditure**

This bill gives the responsibility for keeping records related to any investigation of a possible violation of §39-5-325 et seq., the unfair trade practice for retailers of motor fuel, solely to the Attorney General’s Office by no longer requiring the Department of Consumer Affairs (department) to do so. There are few complaints associated with this section. According to the department, no complaints have occurred since 2015, and only 54 complaints were received between 2001 and 2015. The record keeping on these few investigations requires only a minimal amount of time by staff and no additional expense. Therefore, placing the record keeping responsibility solely on the AG’s office would not have an expenditure impact on the general fund, other funds, or federal funds for either agency.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 39‑5‑325, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO UNFAIR TRADE PRACTICES FOR MOTOR FUEL RETAILERS, SO AS TO REMOVE REFERENCES TO THE DEPARTMENT OF CONSUMER AFFAIRS.

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

SECTION 1. Section 39‑5‑325(C) of the 1976 Code, as added by Act 161 of 1993, is amended to read:

“(C) Any person who is in the retail business of selling motor fuel claiming any exemption from subsection (A) under the exceptions provided in subsection (B) must keep and maintain records substantiating this claim. These records must be made available to the ~~Department of Consumer Affairs and the Attorney General’s~~ Office of the Attorney General on request made in connection with any investigation of a possible violation of this section by ~~the department or~~ the Attorney General.”

SECTION 2. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑