~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 2, 2011

**H. 3478**

Introduced by Reps. Young, D.C. Moss, Gambrell, Agnew, Bowen, H.B. Brown, Clyburn, Spires, Frye, Bingham, Cobb‑Hunter, Hardwick, Hayes, Herbkersman, Hixon, Horne, Hosey, Lucas, McEachern, Ott, Quinn, G.R. Smith, J.R. Smith, Taylor, Umphlett and White

S. Printed 3/2/11--H.

Read the first time January 27, 2011.

**THE COMMITTEE ON AGRICULTURE, NATURAL**

**RESOURCES AND ENVIRONMENTAL AFFAIRS**

To whom was referred a Bill (H. 3478) to amend Section 39‑41‑235, Code of Laws of South Carolina, 1976, relating to petroleum products and diesel fuel suitable for blending, sale of unblended products, 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 striking all after the enacting words and inserting:

/ SECTION 1. Subsections (A), (B), (C), and (F) of Section 39‑41‑235 of the 1976 Code, as added by Act 147 of 2010, are amended to read:

“(A) Regardless of other products offered, every terminal, as defined in Section 12‑28‑110(56), located within the State, every terminal operator as defined in Section 12‑28‑110(58), must offer for sale all grades of petroleum products that are not already preblended with ethanol and that are suitable for subsequent blending of the product with ethanol. Every supplier as defined in Section 12‑28‑110(53), permissive supplier as defined in Section 12‑28‑110(43), refiner as defined in Section 12‑28‑110(49), or any other person or entity who is involved in the bulk transfer of motor fuel as defined in Section 12‑28‑110(8) are responsible for ensuring that every terminal located in this State and every terminal operator are delivered the products set forth in this section.

(B) Regardless of other products offered, every terminal, as defined in Section 12‑28‑110(56), located within the State, every terminal operator as defined in Section 12‑28‑110(58), must offer for sale all grades of diesel fuel that are not already preblended to produce biodiesel or a biodiesel blend and that are suitable for subsequent blending to produce biodiesel or biodiesel blends. Every supplier as defined in Section 12‑28‑110(53), permissive supplier as defined in Section 12‑28‑110(43), refiner as defined in Section 12‑28‑110(49), or any other person or entity who is involved in the bulk transfer of motor fuel as defined in Section 12‑28‑110(8) are responsible for ensuring that every terminal located in this State and terminal operator in this State are delivered the products set forth in this section.

(C) A terminal or terminal operator shall not offer for sale an unblended product that omits any additive found in a product preblended with ethanol. A terminal or terminal operator shall not offer for sale an unblended product that does not contain a comparable amount of any additive found in a product preblended with ethanol. Every supplier, permissive supplier, refiner, or any other person or entity who is involved in the bulk transfer of motor fuel are responsible for ensuring that every terminal located in this state and every terminal operator are delivered the products set forth in this section.

(F) A violation of this article is deemed an unfair trade practice, and each violation is a separate offense. The Department of Revenue shall investigate and prosecute any violation of this article. 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 for each violation.”

SECTION 2. 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 3. 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.

SECTION 4. This act takes effect upon approval of the Governor. /

Renumber sections to conform.

Amend title to conform.

NELSON L. HARDWICK for Committee.

**A** **BILL**

TO AMEND SECTION 39‑41‑235, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PETROLEUM PRODUCTS AND DIESEL FUEL SUITABLE FOR BLENDING, SALE OF UNBLENDED PRODUCTS WITHOUT NECESSARY ADDITIVES, RECORDKEEPING AND REGISTRATION, ENFORCEMENT, WHOLESALER RESPONSIBILITY, LIABILITY, AND NOTICE, SO AS TO PROVIDE THAT THESE REQUIREMENTS APPLY TO EVERY TERMINAL OPERATOR AND EVERY SUPPLIER.

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

SECTION 1. Subsections (A), (B), and (C) of Section 39‑41‑235 of the 1976 Code, as added by Act 147 of 2010, are amended to read:

“(A) Regardless of other products offered, every terminal, as defined in Section 12‑28‑110(56), located within the State, every terminal operator as defined in Section 12‑28‑110(58), and every supplier as defined in Section 12‑28‑110(53), must offer for sale all grades of petroleum products that are not already preblendednd with ethanol and that are 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, every terminal operator as defined in Section 12‑28‑110(58), and every supplier as defined in Section 12‑28‑110(53), must offer for sale all grades of diesel fuel that are not already preblended to produce biodiesel or a biodiesel blend and that are suitable for subsequent blending to produce biodiesel or biodiesel blends.

(C) A terminal, terminal operator, or supplier shall not offer for sale an unblended product that omits any additive found in a product preblended with ethanol. A terminal, terminal operator, or supplier shall not offer for sale an unblended product that does not contain a comparable amount of any additive found in a product preblended with ethanol.”

SECTION 2. 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 3. 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.

SECTION 4. This act takes effect sixty days after the approval of this act by the Governor.

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