~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

April 17, 2012

**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 4/17/12--S.

Read the first time March 8, 2011.

**THE COMMITTEE ON**

**LABOR, COMMERCE AND INDUSTRY**

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, page 1, by striking line 25 and inserting:

/ SECTION 1. Subsections (A), (B), (C), (F), and (G) of Section /

Amend the bill further, as and if amended, page 2, by striking lines 21-23 and inserting:

/ fuel are responsible for ensuring that the products set forth in this statute are delivered to every terminal and every terminal operator located in this state with which they have a contract. /

Amend the bill further, page 2, by striking lines 24-29 and inserting:

/ (F) 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 for each violation. It shall not be a violation of this article when compliance is hindered by any catastrophic event outside the control of the person or entity such as a natural disaster, severe weather event, act of God, or acts of terrorism, fire, war or riot.

(G) Wholesalers purchasing gasoline, gasoline blending stock, or diesel are responsible for ensuring that their activities result in gasolines and diesels that meet the standards promulgated by the Commissioner of Agriculture. Refiners, suppliers, and permissive suppliers shall not be liable for fines, penalties, injuries, or damages arising out of the subsequent blending of gasoline, gasoline blending stock, or diesel pursuant to this section. An entity that does not blend the product at issue has no duty with respect to blending and shall not be liable for fines, penalties, injuries, or damages arising out of blending that does not meet those standards. A refiner, supplier, wholesaler or retailer is not liable for damages caused by the use of incompatible motor fuel dispensed at a retail site if all of the following applies:

(1) the incompatible fuel meet the standards promulgated by the Commissioner of Agriculture;

(2) the incompatible fuel is selected by a person other than the retailer, including an employee or agent of the retailer; and

(3) the incompatible fuel is dispensed from a motor fuel dispenser that correctly labels the type of fuel dispensed.

For the purposes of this subsection, a motor fuel is incompatible with a motor according to the manufacturer of the motor.” /

Renumber sections to conform.

Amend title to conform.

W. GREG RYBERG 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), (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.

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