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P U B L I C H E A R I N G

before

SENATE TRANSPORTATION AND COMMUNICATIONS COMMITTEE

SENATE BILL 2881

(Establishes safety standards for gasoline stations,
prohibits self service)

SENATE BILL 2906

(Sets safety standards for filling stations, bans self-service)

December 16, 1988

Room 403

State House Annex

Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator Walter Rand, Chairman
Senator Francis J. McManimon
Senator S. Thomas Gagliano

ALSO PRESENT:

Peter R. Manoogian
Office of Legislative Services
Aide, Senate Transportation and Communications Committee

* * * * *

Hearing Recorded and Transcribed by
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Hearing Unit
State House Annex
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Trenton, New Jersey 08625

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ER RAND
Chairman
THOMAS F. COWAN
Vice-Chairman
FRANCIS J. McMANIMON
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New Jersey State Legislature
SENATE TRANSPORTATION
AND COMMUNICATIONS COMMITTEE
STATE HOUSE ANNEX, CN-068
TRENTON, NEW JERSEY 08625
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December 1, 1988

NOTICE OF PUBLIC HEARING

The Senate Transportation and Communications Committee will hold a public hearing on December 16, 1988 at 10:00 A.M. in Room 403 of the State House Annex, Trenton, New Jersey.

The subject of the hearing will be the conditions under which gasoline is to be dispensed at retail gasoline stations and will focus on the following bills:

S-2881 (Rand) Establishes safety standards for gasoline stations, prohibits self-service.

S-2906 (Bassano) Sets safety standards for filling stations, bans self-service.

Those persons wishing to testify at, or wishing further information on, the public hearing should contact Peter R. Manoogian, Committee Aide, at (609) 984-7381. In the event that a large number of persons wish to testify, the chairman may limit the time allocated for oral testimony by individuals to no more than 10 minutes, although a longer written statement may be presented for inclusion in the public record. Large groups wishing to express their views are encouraged to appoint one or a few spokesmen to testify rather than to testify individually.



ER RAND
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MAS F. COWAN
Vice-Chairman
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New Jersey State Legislature
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December 5, 1988

NOTICE OF TIME CHANGE FOR
PUBLIC HEARING

Please be advised that the public hearing scheduled to be held on December 16, 1988 by the Senate Transportation and Communications Committee and dealing with the conditions under which gasoline is to be dispensed from retail gasoline stations will commence at 9:30 A.M. rather than at 10:00 A.M. on December 16, 1988 in Room 403 of the State House Annex.

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 26, 1988

By Senators RAND, DALTON and WEISS

1 AN ACT establishing safety standards for retail gasoline stations,
 including a prohibition of the self-service of gasoline by
3 customers, and repealing P.L.1949, c.274 (C.34:3A-1 et seq.).

5 BE IT ENACTED by the Senate and General Assembly of the
 State of New Jersey:

7 1. The Legislature finds and declares that:

9 a. Because of the fire hazards directly associated with
 dispensing fuel, it is in the public interest that gasoline station
11 operators have the control needed over that activity to ensure
 compliance with appropriate safety procedures, including turning
13 off vehicle engines and refraining from smoking while fuel is
 dispensed;

15 b. At self-service gasoline stations in other states, cashiers
 are often unable to maintain a clear view of the activities of
17 customers dispensing gasoline, or to give their undivided
 attention to observing customers; therefore, when customers,
19 rather than attendants, are permitted to dispense fuel, it is far
 more difficult to enforce compliance with safety procedures;

21 c. The State needs stronger measures to enforce both
 compliance by customers with the ban on self-service and
 compliance by attendants with safety procedures;

23 d. The higher general liability insurance premium rates
 charged to self-service stations reflect the fact that customers
25 who pump their own fuel face significant inconveniences and
 dangers, including the risks of crime and fall-related personal
27 injury, which are a special burden to drivers with physical
 infirmities, such as the handicapped and some senior citizens;

29 e. Exposure to toxic gasoline fumes represent a health hazard
 when customers dispense their own gasoline, particularly in the
31 case of pregnant women;

33 f. The significantly higher prices usually charged for
 full-service gasoline in states where self-service is permitted
 results in discrimination against low income individuals.

S2881

2

1 who are under greater economic pressure to undergo the
inconvenience and hazards of dispensing their own gasoline;

3 g. The increasing use of self-service has contributed to the
diminished availability of repair facilities and maintenance
5 services at gasoline stations;

7 h. When gasoline stations offer both self-service and
full-service, the higher gasoline prices usually charged for
full-service make customers less likely to request needed
9 maintenance checks, thus lowering the level of maintenance to
the detriment of public safety;

11 i. The prohibition of customer self-service does not constitute
a restraint of trade in derogation of the general public interest
13 because the Legislature finds no conclusive evidence that
self-service gasoline provides a sustained reduction in gasoline
15 prices charged to customers; and

j. A prohibition of self-service gasoline will therefore promote
17 the common welfare by providing increased safety and
convenience without causing economic harm to the public in
19 general.

2. As used in this act:

21 "Attendant" means a retail dealer or employee of a retail
dealer.

23 "Commissioner" means the Commissioner of Labor.

"Fuel" means any liquid commonly or commercially known or
25 sold as gasoline and sold for use as fuel in the internal combustion
engines of motor vehicles.

27 "Gasoline station" or "station" means a place of business
located in the State and used for the retail sale and dispensing of
29 fuel into the tanks of motor vehicles.

"Retail dealer" means a person operating a gasoline station.

31 3. It shall be unlawful for any attendant to:

33 a. Dispense fuel into the tank of a motor vehicle while the
vehicle's engine is in operation;

35 b. Dispense fuel into any portable container not in
compliance with regulations adopted pursuant to section 8 of this
act;

37 c. Dispense fuel while smoking; or

39 d. Permit any person who is not an attendant to dispense fuel
into the tank of a motor vehicle or any container.

1 4. No person shall dispense fuel at a gasoline station, unless
 2 the person is an attendant who has received instructions
 3 regarding the dispensing of fuel, had practical experience
 4 dispensing fuel under the direct supervision of an experienced
 5 operator for a period of not less than one full working day, and,
 6 upon examination at the end of that period, demonstrated his
 7 understanding of those instructions. The instructions shall
 8 include a full explanation of the prohibitions of section 3 of this
 9 act and any emergency procedures established pursuant to section
 10 8 of this act.

11 5. There shall be available at each station for inspection by
 12 the commissioner a certificate for each person who dispenses fuel
 13 at the station certifying that the person meets the requirements
 14 of section 4 of this act. The certificate shall be signed by the
 15 person and the retail dealer who operates the station.

16 6. Each gasoline station shall be equipped, at a location
 17 remote from the dispensing pumps, with a clearly identified and
 18 easily accessible switch or circuit breaker to shut off the power
 19 to all dispensing pumps in the event of an emergency or of a
 20 customer or other unauthorized person operating or attempting to
 21 operate the pump.

22 7. A violator of any provision of this act shall be liable for a
 23 penalty of not less than \$50.00 and not more than \$250.00 for a
 24 first offense and not more than \$500.00 for each subsequent
 25 offense. Each day that a gasoline station operates in violation of
 26 the provisions of section 5 or 6 of this act is a separate violation
 27 by the retail dealer who operates the station. The penalties shall
 28 be sued for and recovered by the commissioner, in summary
 29 proceedings pursuant to "the penalty enforcement law,"
 30 N.J.S.2A:58-1 et seq., in the county or municipality where the
 31 offense occurred.

32 There is established a nonlapsing dedicated account to be
 33 known as the Retail Gasoline Dispensing Safety Account.
 34 Penalties collected pursuant to this section shall be credited to
 35 the account and appropriated to fund expenses of effectuating
 36 the purposes of this act. If, at the close of a fiscal year, moneys
 37 are available beyond the funds necessary to meet those expenses,
 38 the commissioner shall determine an appropriate amount to be
 39 returned to the General Fund for general State purposes.

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1 8. The commissioner shall, in accordance with the provisions
2 of the "Administrative Procedure Act," P.L.1968, c.410
3 (C.52:14B-1 et seq.), adopt rules and regulations as are necessary
4 to effectuate the purposes of this act, including regulations
5 establishing emergency procedures and standards concerning
6 pump shutoff switches and other safety equipment to be used at
7 gasoline stations and standards for portable containers for fuel
8 dispensed at gasoline stations, which standards shall be consistent
9 with other State and federal regulations.

10 9. P.L.1949, c.274 (C.34:3A-1 et seq.) is repealed.

11 10. This act shall take effect immediately, except that
12 sections 2 through 7 and section 9 of this act shall remain
13 inoperative until the 180th day following enactment.

14 STATEMENT

15
16 This bill strengthens the safety standards imposed on gasoline
17 stations. The bill prohibits the dispensing of gasoline by anyone
18 other than station attendants who have had instruction and at
19 least one full working day of supervised experience with the
20 dispensing equipment. It prohibits attendants from dispensing
21 gasoline while smoking or dispensing it into unauthorized
22 containers or vehicles with running engines. The bill requires that
23 stations be equipped with cutoff switches remote from their
24 pumps and requires station operators to maintain certificates
25 that each attendant has demonstrated knowledge of the required
26 safety procedures. It sets penalties for violations and dedicates
27 the money collected in penalties to enforcement costs.

28 The bill also repeals P.L.1949, c.274 (C.34:3A-1 et seq.) which,
29 like the bill, prohibits the dispensing of gasoline by anyone other
30 than a trained station attendant, but does not currently include
31 any of the bill's other safety requirements.

32 TRANSPORTATION

33 Motor Vehicles

34
35
36
37 Establishes safety standards for gasoline stations, prohibits
self-service.

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 26, 1988

By Senator BASSANO

1 AN ACT concerning safety at retail filling and service stations
and amending and supplementing P.L.1949, c.274.

3

BE IT ENACTED *by the Senate and General Assembly of the*
5 *State of New Jersey:*

1. Section 1 of P.L.1949, c.274 (C.34:3A-1) is amended to read
7 as follows:

1. It shall be unlawful for any owner, operator or employee of
9 an owner or operator of any retail filling or service station,
where gasoline or other inflammable liquid is sold and dispensed
11 to [permit];

a. Permit any purchaser, customer or other person not
13 connected with the ownership or operation of such filling or
service station to use or manipulate any pump, hose, pipe or other
15 device for measuring, pumping or dispensing gasoline or other
inflammable liquid for the purpose of filling the tank of a motor
17 vehicle, or any barrel, drum, can or other container with gasoline
or other inflammable liquid;

19 b. Smoke while using a pump or dispenser of gasoline or other
inflammable liquid;

21 c. Pump or dispense gasoline or any other inflammable liquid
into the tank of a motor vehicle while the engine of the vehicle is
23 in operation; or

d. Pump or dispense gasoline or other inflammable liquid into
25 any portable container not in compliance with regulations
adopted pursuant to section 7 of this 1988 amendatory and
27 supplementary act.

(cf: P.L.1949, c.274, s.1)

29 2. Section 2 of P.L.1949, c.274 (C.34:3A-2) is amended to read
as follows:

31 2. No person shall operate or manipulate any pump, hose, pipe
or other device for measuring, pumping or dispensing gasoline or
33 other inflammable liquid at any retail filling or service station.

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 unless [he shall have] the person is an owner, operator or
2 employee of an owner or operator of the retail filling or service
3 station, who has: received practical instructions in the use and
4 operation of such measuring, pumping and dispensing devices [and
5 has]; had practical experience under the supervision of an
6 experienced operator in their use for a period of not less than one
7 full working day; and, upon examination at the end of that period,
8 demonstrated his understanding of those practical instructions.
9 The practical instructions shall include an explanation of the
10 prohibitions of section 1 of P.L.1949, c.274 (C.34:3A-1) and an
11 explanation of any emergency procedures required by regulations
12 adopted pursuant to section 7 of this 1988 amendatory and
13 supplementary act.

(cf: P.L.1949, c.274, s.2)

15 3. Section 3 of P.L.1949, c.274 (C.34:3A-3) is amended to read
16 as follows:

17 3. Any person who shall violate any of the provisions of this
18 act shall be liable to a penalty of not less than [ten dollars
19 (\$10.00)] \$50.00 nor more than [two hundred dollars (\$200.00)]
20 \$250.00 for a first offense, and not more than \$500.00 for each
21 subsequent offense, in the discretion of the court. Each day that
22 a retail filling or service station is operated in violation of the
23 provisions of section 5 of this 1988 amendatory and
24 supplementary act is a separate violation by the owner or
25 operator of the station. The penalties herein provided for shall
26 be sued for and recovered by, and in the name of, the
27 Commissioner of Labor [and Industry], in summary proceedings
28 pursuant to "the [Penalty Enforcement Law] penalty enforcement
29 law" (N.J.S.2A:58-1 et seq.), in the county [district court or
30 municipal court of the county] or municipality[,] where the
31 offense was committed.

(cf: P.L.1953, c.33, s.4)

33 4. (New section) The Legislature finds and declares that:

34 a. The direct dangers of dispensing gasoline make it important
35 that operators of service stations have the greatest possible
36 control over that activity to better insure compliance with
37 necessary safety procedures, including turning off vehicle engines
38 and refraining from smoking while gasoline or other inflammable
39 liquids are dispensed:

1 b. It is far more difficult for station operators to enforce that
2 compliance if customers are permitted to dispense their own fuel
3 than if dispensing is restricted to station staff;

4 c. At many existing self-service gasoline stations in other
5 states, it has proved virtually impossible for cashiers to always
6 maintain a clear view of the activities of customers dispensing
7 their own gasoline, or to give their undivided attention to
8 observing each and every customer;

9 d. The technological changes which have been made in
10 dispensing equipment since 1949 have not been sufficient to
11 eliminate the need for the requirement provided for in P.L.1949,
12 c.274 (C.34:3A-1 et seq.) that gasoline be dispensed only by
13 trained attendants;

14 e. Stronger measures are required in this State both to
15 facilitate compliance by service station attendants with
16 necessary safety procedures and to effectively enforce the
17 present prohibition of customer self service under the provisions
18 of P.L.1949, c.274 (C.34:3A-1 et seq.);

19 f. Consumers who leave their vehicles to dispense gasoline or
20 other flammable liquids are subject to significant inconveniences
21 and hazards, including the dangers of slipping and falling and of
22 assault or robbery;

23 g. The greater hazards to customers at self-service stations
24 are reflected in the higher general liability insurance premium
25 rates charged to self-service stations;

26 h. Those hazards and inconveniences are especially
27 burdensome to the aged, the disabled and others with physical
28 infirmities;

29 i. The growing prevalence of self-service stations has resulted
30 in the diminished availability of routine maintenance services and
31 repair facilities at filling stations;

32 j. Even in filling stations which offer both self-service and
33 full-service gasoline, customers are less likely, because of the
34 much higher price usually charged for full service, to have
35 attendants make needed maintenance checks, thus causing
36 significant neglect of maintenance and danger both to the
37 customers and to other motorists, as well as the unneeded costly
38 repairs which often result from deferred maintenance;

39 k. The prohibition of customer self-service pursuant to

S2906

4

1 P.L.1949, c.274 (C.34:3A-1 et seq.) and this 1988 amendatory and
supplementary act, therefore, promotes the common welfare by
3 providing increased safety and convenience for the public; and,
moreover, the Legislature finds that the prohibition does not
5 constitute a restraint of trade in derogation of the general public
interest because the Legislature finds no conclusive evidence that
7 self service gasoline provides a sustained reduction in gasoline
prices to the public.

9 5. (New section) Each retail filling or service station in the
State shall be subject to the following requirements:

11 a. The station shall be equipped, at a location remote from the
dispensing pumps, with a clearly identified and easily accessible
13 switch or circuit breaker to shut off the power to all dispensing
pumps in the event of an emergency or in case a customer or
15 other unauthorized person attempts to operate the pump; and

b. There shall be available for inspection at the station a
17 certificate for each person who pumps or dispenses gasoline or
other inflammable liquids at the station certifying that the
19 person is entitled to do so because of compliance with the
provisions of section 2 of P.L.1949, c.274 (C.34:3A-2). The
21 certificate shall be signed by the person and the owner or
operator of the station.

23 6. (New section) There is established a nonlapsing dedicated
account to be known as the Service and Filling Station Safety
25 Account. The account shall be credited with penalties collected
pursuant to P.L.1949, c.274 (C.34:3A-1 et seq.) and this 1988
27 amendatory and supplementary act. Amounts received,
receivable or anticipated on or after the effective date of this
29 act shall be appropriated to fund expenses of effectuating the
purposes of P.L.1949, c.274 (C.34:3A-1 et seq.) and this 1988
31 amendatory and supplementary act. If moneys are available
beyond those funds necessary to meet those expenses, the
33 commissioner shall determine at the close of each fiscal year an
appropriate amount to be returned to the General Fund for
35 general State purposes.

37 7. (New section) The Commissioner of Labor shall, in
accordance with the provisions of the "Administrative Procedure
Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and
39 regulations as are necessary to effectuate the purposes of this

1 1988 amendatory and supplementary act, including regulations
 2 establishing emergency procedures and standards concerning
 3 safety equipment to be used at retail filling and service stations
 4 and standards for portable containers of gasoline and other
 5 inflammable liquids dispensed at those stations, which standards
 6 shall be consistent with other State and federal regulations.

7 8. This act shall take effect immediately, except that sections
 8 1 through 3 and section 5 of this act shall remain inoperative
 9 until the 180th day following enactment.

11

STATEMENT

13

14 This bill amends and supplements the present law prohibiting
 15 the dispensing of gasoline by retail customers, P.L.1949, c.274
 16 (C.34:3A-1 et seq.), to strengthen the safety standards imposed
 17 on retail filling or service stations. Currently, that law prohibits
 18 the dispensing of gasoline by anyone other than station attendants
 19 who have had instruction and at least one full working day of
 supervised experience with the dispensing equipment.

21 The bill also:

22 1. Prohibits an attendant from dispensing gasoline into an
 23 unauthorized container or a vehicle which has its engine running
 or while the attendant is smoking;

25 2. Requires that stations be equipped with a cutoff switches
 remote from their pumps;

27 3. Requires station operators to maintain certificates that
 28 each attendant has demonstrated knowledge of the required
 29 safety procedures; and

30 4. Increases the penalties for violations and dedicates the
 31 money collected in penalties to enforcement costs.

33

COMMERCE AND INDUSTRY

35

Motor Vehicles

37 Sets safety standards for filling stations, bans gasoline
 self-service.

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SENATOR WALTER RAND (Chairman): Good morning, ladies and gentlemen. My name is Walter Rand, and I am Chairman of the Senate Transportation and Communications Committee. I would like to welcome you here today. At this time I would like to introduce those persons present at the Committee table. On my right is Peter Manoogian who is the Legislative Services Staff Aide to this Committee. On my left is Madelyn Rumowicz who is the Senate Aide from the Majority Office. On my extreme left is my Administrative Aide. On my right is John Strachan who is the minority representative to this Committee and on his right would be Mr. Steven Sacks-Wilner who is the Chief Counsel to the Senate Minority. He will be speaking on behalf of Senator Hurley. We will be joined very shortly by two other Senators. In the meanwhile we will proceed.

If you wish to speak today and have not notified the Committee, please give your name to Peter Manoogian, our Committee Aide, after opening remarks are concluded.

I call this public hearing to order for the purpose of hearing testimony concerning the conditions under which gasoline is to be dispensed from retail gasoline and filling stations. The particular focus of this hearing is S-2881 and S-2906. S-2881, which I have sponsored, strengthens the safety standards imposed on gasoline stations. It prohibits the dispensing of gasoline by anyone other than station attendants who have had instruction and at least one full working day of supervised experience with the dispensing equipment. This bill prohibits attendants from dispensing gasoline while smoking or dispensing it into unauthorized containers or vehicles with running engines, and requires remote cutoff switches. This bill also repeals P.L. 1949, C. 274 -- C.34:3A-1 et seq. -- which, like the bill, prohibits the dispensing of gasoline by anyone other than a trained station attendant, but does not currently include any of the bill's other safety requirements.

Senate Bill No. 2906, sponsored by Senator Bassano, generally accomplishes the same objectives as S-2881 but does it by amending the existing law rather than repealing it.

As is well known, these bills were occasioned by the decision of Judge Martin L. Haines of our Superior Court, Law Division, in the case of Kirschner Brothers Oil Co. v. Charles Serraino, Commissioner of Labor and Industry, in which the court held that P.L. 1949, C. 274 -- C. 34:3a-1 et seq. -- which prohibits the operation of self-service gasoline stations in New Jersey, was unconstitutional. The court decided that the factual underpinning of the 1949 statute, while sufficient to meet constitutional standards in 1949, no longer supports the premise upon which the statute was based, notwithstanding that our Supreme Court in Reingold v. Harper in 1952 decided that the statute in question was constitutional. The present decision is based purely on a consideration of factual evidence relating to safety.

I would hope in this hearing to consider the safety issue, but also to focus on other issues, such as convenience to the consuming public, the interests of senior citizens and the handicapped, and other matters. Many of these issues are listed in Section 1, the findings and declaration section, of S-2881 and I need not discuss them in detail here.

I look forward to the testimony to be presented here today on this subject. We call the first witness, the honorable Senator Gerald Cardinale member of the New Jersey State Senate. Good morning, Senator.

S E N A T O R G E R A L D C A R D I N A L E: Good morning. I want to thank the Chairman and members of the Committee for holding this hearing and for giving me an opportunity to testify as the first witness because I do have other commitments that will take me out a little later on this morning and I appreciate your consideration.

Self-service gas is a topic with which I have been involved ever since I have been in the Legislature. The first bill I introduced as a young Assemblyman -- I'm getting a little older now, but that was 10 years ago -- was a bill to repeal a ban on self-service gas, and each session since that time, either alone and more recently together with Senator Frank Graves, and then alone again in various versions, we have attempted to introduce legislation. Some of it has been released from committee from time to time. It has never passed both houses of the Legislature. That's the legislative history, so to speak, of the progress of these bills.

And the issue is one which has aroused great passion on all sides. And too often that passion has clouded certain facts; facts of the marketplace and facts with respect to safety. And I'm here today, not as a proponent of any particular bill, but for the purpose of sharing with my colleagues what I've learned over many years of dealing with the controversy surrounding this question.

When I first became involved in the subject it was because I believed that it is impossible for the cost of a product or service to be lower if government causes unneeded or unwanted labor to be purchased by servers providers. In one sentence, higher overhead always leads to higher prices. In an effort to serve the consumer it was my thought that we should not force all customers to pay for services only some customers would wish to have. Let the marketplace adjust for fluctuating preferences on price and service and everyone should be happy.

You may term that naive. And perhaps I would too, today. I learned that so simplistic an approach doesn't work with issues where basic economic issues are at stake. The considerations with which we have had to deal over the years can be divided, as I believe you did in your opening statement, Mr. Chairman, into three categories: the issues of safety, or convenience, and of economics.

With respect to safety, I have participated in many sessions like this. And over the years the testimony with respect to safety has varied but it has been less concise and less precise than the comprehensive statements made within the June 29, 1988 decision in Kirschner v. Serraino. That trial elicited an organized, systematic approach to the safety issue which called on the knowledge of actuaries, insurance underwriters, equipment experts, fire safety experts, and public polling experts. It is a more thorough analysis of the safety aspect of this issue than all ten years of legislative hearings I have attended on this subject.

The inescapable conclusions must be drawn from the facts illicited and indeed the conclusion which the judge did draw, are rather startling. Twenty-two percent of the people in New Jersey have pumped their own gas in New Jersey notwithstanding our laws to the contrary. Fifty-five percent of the people who live in New Jersey have pumped their own gas in other jurisdictions. Self-service sales of gasoline nationwide are 80% of all retail sales of gasoline. No state has every repealed self-service laws.

Gas stations -- and this is something that I find absolutely devastating to people who would talk about the safety issue -- gas stations are less likely to experience insurance losses than are churches, synagogues, museums, and laundromats. The dispensing of gasoline by self-service -- and this was a conclusion of the court -- is less hazardous than dispensing of gasoline by attendants. And this is supported by ISO, the Insurance Service Organization, from their actual claims experience. It's not supposition.

I would highly recommend that this Committee obtain the full testimony in that case, if you haven't already done so, as well as the conclusions of the court. Don't rely just on the summaries.

It is the finest treatise on self-serve versus full serve on safety that I have ever seen and I am appending some of that testimony to my statement with the decision in that case. I believe you have the copies of the decision in that case.

I would like to quote a few paragraphs from that decision from page four: "Kirschner Brothers proved convincingly that self-service stations are at least as safe and perhaps even safer than full-service stations. An insurance underwriter experienced in assessing risks testified there was no basis to conclude for insurance purposes that the risk of loss or injury in a self-service station was any higher than that in any other station. Actual claims experience was provided through an actuary who concluded on the basis of extensive data, that self-service stations were less hazardous than those with attendants. An equipment expert and a fire safety expert testified to significant technological improvements in gasoline dispensing equipment, the use of which made self-service stations no more hazardous than other stations."

"The evidence included video presentations which showed that attendants in gas stations" -- I have skipped to page six -- "smoked while dispensing gas, left engines running, were inattentive and often responsible for too many pumps to permit careful supervision. Customers were depicted smoking at full-service as well as self-service stations and gasoline splashes occur at both."

One witness indicated that service station attendants by reason of overfamiliarity of gasoline and its uses were more careless. Witnesses for both parties agreed that service station attendants were hard to keep. The turnover rate in New Jersey is 230%.

The second issue is economics. This issued often pits the interest of the oil companies, the retail dealers and the

consumers against one another in the strangest ways. I am certain that no Committee member is so naive as to swallow the arguments of the various interest groups without careful examination. But the economic issue can be very confusing.

Joint hearings were held in April of this year by the Public Safety Committees of this Legislature. The recorded transcripts are available through Legislative Services. At that hearing it was report by the Federal Trade Commission that New Jersey consumers, "stand to gain million of dollars per year in lower prices," -- that's an exact quote -- if self-service gas were legalized. Others argued that New Jersey gasoline prices are the lowest pump prices in the nation as they presently exist. Both parties are correct.

The latest AAA survey of gasoline prices nationwide issued to me, December 15, 1988 -- and I found that they're not even going to issue that until next Monday, but they gave me an advanced copy -- confirms that in almost every category New Jersey enjoys lower full-service prices than any other state. There is no comparison available as to self-service since no self-serve is available in New Jersey.

It is also clear that in every state surveyed, the self-serve prices are lower than the full-serve prices. There is every reason to believe that if New Jersey consumers were permitted to pump their own gas they too would benefit from lower self-serve prices as do the consumers of 48 other states.

However, attempts are always made at every hearing I've been at, this last point, particularly with respect to comparisons of full-serve versus self-serve prices in New York and Pennsylvania and to compare those to New Jersey full-serve prices.

If one is not careful, it is easy to be mislead into believing that full-serve in New Jersey is cheaper than self-serve in our neighboring states. Various testimony came before the joint committee hearing and I suppose will come

before this Committee again today making those price comparison. I believe the Committee should be armed with certain facts.

Since gasoline taxes vary from state to state we can only make legitimate comparisons if we compare prices net of tax. And you will note that on the statement on page five I have attempted to do that. I have taken the figures from the attachment which you have before you attached to the statement which is all states. You could have done this for all states. I did not have the time or resources to do it for all states but I did it for Pennsylvania, New Jersey, and New York because that's our neighboring states.

In Pennsylvania the price of unleaded gasoline state average is 90.5 -- pump price -- of unleaded is 89.9, or premium it is 106.9 -- a \$1.06.9. The tax is 17.4 cents and rather than reading this whole thing-- It won't make any sense as you read it unless you look at the whole thing together.

The net price on leaded gasoline, net of taxes in Pennsylvania is 73.1 cents. In New York it is 74.6 cents and in New Jersey it is 86.6 cents. On that particular category the New Jersey consumer is paying -- forced to pay at least 10 cents -- and in the case of Pennsylvania comparison 13 cents -- 13.5 cents more in New Jersey net of our taxes.

The comparisons that were made at our committee hearing went in the other direction because of different market conditions at that time and because, no comparison of taxes was effectively made by the people doing that.

Now, I've had some conversations here with someone earlier today -- it's not in my statement. I am not suggesting that we raise the tax on gasoline in New Jersey to reach the levels of these other states. I am suggesting that if we want to compare gasoline prices that we compare apples to apples and recognize that the dealers in those other states have a tax component of their price and what may appear to be a higher price may, in effect, not be a higher price.

All other factors being equal, New Jersey consumers could save most of that 10 cents -- much of that 10 cents is they pump their own gas.

That brings up to the third set of considerations, consumer choice and convenience. The argument is often made that consumers in New Jersey like having someone else pump their gas for them. I believe in many cases that's true and I confess that I like that service. However, should my or someone else's personal preference deprive other consumers of a potentially money saving option? I don't think so.

We can learn a great deal from the experience in the 48 states which have self-service available in one form or another. Now there's a typo on this statement. Seventy-eight percent is the actual number. Seventy-eight percent of gasoline nationwide is sold through self-serve outlets. This indicates a high level of consumer acceptance.

When governmental regulations do not prevent self-serve, one third of the station operators go full-serve nationwide, one-third opt for the split island concept, and one-third opt to provide full-service. That's a general number. It may be slightly more than, slightly less than one-third.

When government requires self-serve stations to employ a split island concept, we frequently see operators instituting in some cases wide price fluctuations between self-serve and full-serve islands. These cases give rise to the horror story comparisons we often hear of self-serve costing more than 70 cents beyond the cost -- full-serve costing 70 cents more than self-serve. Sure, both those are not market decisions. Those are decisions being made by an individual operator in one station to discourage people from using the full-serve pump. That is a statement of that operator that he'd rather have everyone being served at the self-service pump.

It is a fact that in some areas of our State, gas is unavailable after dark because of fear of crime. Self-serve does nothing to prevent crime but it may allow some operators the confidence to remain open after dark, making gasoline more available, particularly in urban areas.

This Committee and other committees, as well as individual legislators already have been bombarded with confusing individual case examples of business practices which are extrapolated from individual cases to unfairly castigate a whole industry. But let me tell you one which is not contained in the statement, because I just did it this morning.

I went to three different gas stations this morning that I always go to to buy diesel gas. One is close to my home. The price on diesel gas is \$1.07. Another is a few blocks away and I went there deliberately -- I once in a while go and buy diesel gas there if the other gas station is closed. But they were witnesses -- this is Pyramid Oil -- and they were witnesses at the joint hearings that were heard earlier this year. There the price of diesel fuel was \$1.06, only a penny difference.

The place where I normally buy diesel fuel most of the time when I'm not in a hurry is a place on the highway -- on Route 4, it's a Merit station where the price is 83 cents. I don't know what the fractions are. But there is a very wide fluctuation from one station to another station at least insofar as today's unscientific survey of diesel fuel that I took.

Those are individual market decisions that are being made by an individual station operator either to attract business or perhaps to say, "I don't care whether-- You know, if I get some I'm going to want to make a big profit that's fine. If I don't get very much sale of diesel fuel I really don't care."

But within our present structure where we are not imposing any kind of regulation, you have some station operators who are selling gasoline much less than other station operators because they want to attract business. It is very foolish of anyone to think what we so often hear would be the case that if we gave the right to sell gas on a self-service basis to gasoline station operators, the price on full-service would go through the ceiling.

Gentlemen, ladies, today there is no control on the price of full-service gasoline in the State of New Jersey. There is absolutely no control imposed on that price except competition. There is no justification to believe that if we allow additional competition from another mode of providing gasoline, that by providing additional competition we're going to have higher prices in any aspect of that because I'll tell you why: It's the same thing that goes on in split island stations. If the self-service price went up more people would patronize-- I'm sorry. If the full-service price went up more people would patronize the self-service.

As that price differential got to be greater there would not be the victimization. There would be entrepreneurs going into the business of providing full-service if someone else was doing it at a very high price. As a matter of fact, that's what Pyramid Oil actually did in our neighborhood at one point in time. They're a small distributor. They have four or five stations that they operate themselves. Maybe they have more today, I don't know.

They came in and they originally knocked down the prices of everything in our area. And the owner of that company, Vic Schino (phonetic spelling) -- he's a personal friend of mine; we go to the same church -- he said to me, and he was very proud of it, "Look at the high prices being charged in all of our neighborhood stations. I'm going to go in there and I'm going to knock the smithereens out of these prices."

And he bought a few stations and after he bought the first one he said, "See what's happened in all these others? They've all had to lower their prices to meet my competition."

Well, he's embarked on a different policy and he's now against -- he was for self-service at one time. But he's now embarked-- He's joined the other group. He wants to work on the high margin. And God bless him because if he can make a living on higher margins and the consumer accepts that and someone will come along, I'm quite sure in our competitive system, and open a gasoline station that's going to compete on price. And we all see that happening from time to time.

In the final analysis I have to say that most gasoline retailers are honest people trying to make a honest living by providing a needed service. They're as subject to market conditions as anyone else.

And while it's true that many are opposed to the additional competitive pressures they will face and the need, perhaps, to lower their prices to avoid losing customers to self-service facilities. There are also many retailers who have banded together in favor of self-service gas. Perhaps they're motivated by the thought that self-serve will allow them to cope better with the shortage of labor we now face in New Jersey service industries.

Perhaps they're motivated by a desire to expand without governmentally imposed featherbedding. Whatever their motives, they do exist. They've appeared at legislative meetings from time to time. I've been to some of their meetings as well and I can tell you I attended a couple of years ago a meeting of about 200 of these. They're not just a few people.

In the end it is not the 115 oil refining companies or the 400 gasoline retailers that we must satisfy. I support self-serve because as I see it the free competitive market is the best protection we can offer our constituents and because

it's plain common sense to allow it Thank you very much, Mr. Chairman, members of the Committee.

SENATOR RAND: Senator Cardinale, thank you very much.

SENATOR CARDINALE: If there are any question on any portion of my statement--

SENATOR RAND: We're going to find out in a moment. We have been joined by Senator McManimon on my left, and Senator Gagliano on my right, and if there are any questions, gentlemen, you may--

SENATOR GAGLIANO: No questions here, Mr. Chairman.

SENATOR RAND: Thank you, Senator. Senator McManimon?

SENATOR McMANIMON: No questions. I'm here to digest this morning.

SENATOR RAND: Thank you very much, Senator Cardinale. The Honorable James J. Barry, Director of the Division of Consumer Affairs, Department of Law and Public Safety. Jim, good morning.

J A M E S J. B A R R Y, J R.: Good morning, Senator.

SENATOR RAND: Happy to have you with us this morning,

MR. BARRY: It's nice to be with you. I am here today to make only a few brief remarks. I do not support the concept of self-service because I see no benefit to the consumer. In fact, the only beneficiary of self-service marketing of gasoline is to the individuals who sell the product.

The thing that troubles me so much is the terrific difference in price that I see when I travel outside of our state. New Jerseyans are the beneficiaries of the lowest gasoline prices in the country. And I like that. I also make a point of using self-service gasoline stations when I have an opportunity to do it outside of New Jersey because I want to save money.

The thing that bothers me is that when I look at the full-serve pump, often on another island or at another service station, the difference between the self-serve price and the

full-serve price could be 15 cents, 20 cents and in some cases even more. So I really feel that I have no choice but to use the self-service pump.

It's inconvenient. It's dirty. It has from time to time damaged my clothes. I use them nonetheless to save that money. And yet as I look at every one of those stations around the country, I don't think I've ever seen prices that come close to New Jersey's full-serve prices. I don't doubt that they're out there, but for the most part and from my own personal experience, the full-service gasoline costs considerably less than full-service outside of this State.

So as I look at this issue-- And I'm not going to talk about the safety or other issues. I have a long list that I could run down but I think I would rather leave that testimony for others. I'm simply saying that as a consumer advocate, as Director of Consumer Affairs, I really see no benefit to New Jersey consumers with self-service gasoline.

So I do ask members of the Legislature to consider that very carefully, and I'm going to sit back and listen to the testimony of people with expertise in this area. People with -- who for special reasons may have a real -- may be really at risk if they felt pressure to use -- or perhaps no choice but to use self-service station. My only comment is that I see no benefit for New Jersey consumers. I thank you all very much.

SENATOR RAND: Director, thank you very much. (applause) Let's keep it down. Everybody has a right to be heard and we're going to listen to everybody. Senator Gagliano do you have any questions.

SENATOR GAGLIANO: No questions.

SENATOR RAND: Senator McManimon.

SENATOR McMANIMON: No questions.

SENATOR RAND: The third witness will be Mr. Charles Marciante, State AFL-CIO. Good morning, Charlie.

C H A R L E S M A R C I A N T E: Good morning, Mr. Chairman.

SENATOR RAND: How are you?

MR. MARCIANTE. Fine, sir. Thomas. Francis. Mr. Chairman, our organization, as you know, has taken a very strong position in support of your legislation and its companion measure in the General Assembly. And two days ago we adopted a resolution by the entire executive board, as we have done in years past, to support full-service here in New Jersey and oppose, of course, self-service.

I have heard all kinds of facts and figures by those who are seeking to impose self-service on the general public in New Jersey, and we have conducted a survey amongst our people on a random selection of 2000 of those members throughout the State. And we are indeed the general public.

With your permission I have four questions that were asked and the answers provide some startling types of information to debunk what we feel are a number of erroneous arguments being used in support of self-service.

We have the result of that survey in our office and it is available with postmarks from the membership and the questions that were proposed, the answers that we received. We'd be very happy to make them available to anyone who is interested in seeing those results, but we've taken the results and put them together for you.

It was a very short card that went -- a letter that went to the membership with a return card. The first question on the card was: 1) If you have to choose between pumping your own gas, self-service, or having an attendant pump it for you, full-service, and the price per gallon was the same at either pump which pump would you normally use? Well strangely enough, 6.6% of our people said they would use self-service, and fortunately, 93.4% said that they would use the full-service.

Not a startling kind of revelation, but the second question I think is: If the price at the full-service pump was

5 cents a gallon higher which would you use? And there we had self-service -- said they would use the self-service 31.1% as opposed to those who said they would pay the 5 cents more for a 68.9%, nearly 70%.

If the price at the full-service pump was 25 cents a gallon higher, which would you use? And there the membership said 70.8% if it were 25 cents higher would go the self-service. And of course, startling also, 29.2% would stay with the full-service.

Do you think the fourth question was asked? Do you think New Jersey should legalize self-service stations and let the marketplace set the price for self-service and full-service gas? Seventy-one percent of our people said no. Twenty-eight point nine said yes.

The issue that you have addressed in your legislation, I think, covers the subject quite well as far as Judge Haines' decision. Incidentally we have joined the Attorney General in an amicus brief, and we'll be supporting the Attorney General's position of upholding our self-service legislation. But certainly as an interim protection, certainly the legislation that you people have put forward, I think, is serving the best interests of the citizens of this State.

The issue I don't think has been addressed as well as it should be and that is the economics that are going to be brought into play. I have little faith in the free marketplace as it pertains to this issue. I have a greater faith in the fact that the coverage that people are looking for and the kinds of protections that they can get will best serve them if we continue to have a full-service type of production or product.

We have a great number of senior citizens in this State and I'm sure that the other members of the industry who are going to be talking on this issue will come up and give you the horror stories that are going to come forth with regard to

the Department of Environmental Protection and the kinds of regulations they have to impose. But at this stage of the game I'd like to let them make those projections. I'd like to again, thank the Committee for giving us the opportunity of being here today and to also give to you a reaction from at least a sampling of our people as to how they feel about the issue. Thank you.

SENATOR RAND: Senator McManimon, are there any questions?

SENATOR McMANIMON: No questions.

SENATOR RAND: Senator Gagliano.

SENATOR GAGLIANO: No questions. Thank you, Charles.

SENATOR RAND: Mr. Marciante, thank you very much. John Strachan from the Senate Minority staff representing Senator Louis Bassano, one of the sponsors of the legislation. Good morning, John.

J O H N S T R A C H A N: Thank you for letting me speak on this bill on behalf of Senator Bassano.

It is generally believed that New Jersey is at a disadvantage when it comes to service station prices, because our State does not have self-service gas. Nothing could be further from the truth.

In fact, New Jersey's gasoline prices are already among the lowest in the nation. Mile for mile, New Jersey's roadways are among the most highly traveled in the country. This creates a great demand for gasoline and a market conducive to the location of a large number of service stations in the State. In turn, this results in greater competition and increased choice to the consumer, helping generate low prices. Any price reduction from self-service gas would be short-term and illusory.

Small service gas stations -- pardon me -- self-service gas stations would actually decrease competition over time. Gas companies would favor company owned gas

stations with high volume and high profit margins over the small "mom and pop" stations that provide complete car care facilities and employment for youths.

When small stations are eliminated, consumers would have less access to gasoline. Since the demand for gasoline continues to grow, a cut in the availability and the supply, would actually produce an increase in prices.

New Jersey has a large number of petroleum refineries in the State. The people of New Jersey must live with the by-products of these refineries. They deserve some benefit from having these facilities located in the State.

The technological changes which have been made to dispensing equipment are not sufficient to eliminate the need for trained attendants. The greater hazards associated with customers operating pumps are reflected in the higher general liability insurance premium rates charged to self-service stations.

This legislation will also help protect consumers from inflationary pricing strategies. An example of this was evident following the renewal of the Transportation Trust Fund. When the New Jersey gas tax was increased by 2.5 cents to the Fund needed transportation projects, gas stations increased the price at the pumps by 3 cents. This resulted in a windfall for the gas companies.

The facts clearly point out that the implementation of self-service gas in New Jersey would create an incentive for our motorists -- inconvenience for our motorists -- pardon me, reduce job opportunities for our youth, reduce services available for motorists, and increase profits for the oil companies.

The implementation of self-service gas service in New Jersey would, over time, reduce competition and service. People would be paying more money for less service. Thank you very much. I will answer any questions the Committee may have.

SENATOR RAND: Thank you very much, John. Senator Gagliano?

SENATOR GAGLIANO: No questions.

SENATOR RAND: Senator McManimon.

SENATOR McMANIMON: No questions.

SENATOR RAND: Thank you very much. Mr. Steven Saks-Wilner, Chief Counsel for the Senate Minority speaking on behalf of Senator Hurley. Good morning, Steven.

S T E V E N S A K S - W I L N E R: Good morning, Senator. I'd like to thank the Chairman and the members of the Committee for hearing these bills today and for the opportunity to speak. Senator Hurley, who is a member of this Committee, really wanted to be here personally but unfortunately regrets that he had other commitments, and you've got the second string here.

Proponents of self-service gas in New Jersey contend that the proliferation of self-service gas stations would result in lower gas prices for consumers. When you accept their statement at face value their argument seems to have some merit. But when major oil companies are among the proposal's most vocal supporters, caution and careful deliberation are in order.

Right now the average cost of gas in this State ranks among the lowest in the country. Prices in neighboring states are often 20 cents to 30 cents higher per gallon. Nearby states like Delaware, for example, who have self-service gas stations, prices have soared to as high as \$1.45 per gallon.

I received a call this morning -- I being Senator Hurley -- received a call this morning-- (laughter)

SENATOR GAGLIANO: Senator Hurley received a call this morning.

MR. SAKS-WILNER: Well I'm reading his statement. (laughter) This is not me speaking. Somebody received a call this morning from a constituent who was traveling to Trenton

from Philadelphia.. (laughter) At a Texaco station just across the river from this hearing unleaded self-service was 89.9 and full-service was \$1.53.9. This is a difference of 64 cents a gallon, or 72%. You can get Texaco regular full-service at many Texaco stations in the Trenton area for 89.9 and not 153.9. Even with the seven cents difference between New Jersey and Pennsylvania taxes, we're still paying 7 cents more for full-service here and Pennsylvania residents are paying 54 cents a gallon more for full-service there.

If self-service is such a big money saver why are people paying more for it elsewhere? The answer isn't complicated. New Jersey's dense population and heavily traveled roads encourage oil companies to establish many gas stations in this State. The abundance of gas stations fosters fierce competition forcing companies to offer lower prices even while providing complete service.

Therefore, there's no guarantee that the price of self-service gas would be lower than what we pay now for full-service. Self-service gas would probably remain at the current level for full-service while full-service gas prices would rise 10 cents to 20 cents, or maybe even 54 cents a gallon like it is right across the river.

From an oil company's perspective it is much cheaper and more profitable to operate a large number of self-service stations and cut back on full-service stations. So, New Jersey consumers would end up paying more for less as full-service stations gradually disappear.

We'll see less repair and maintenance stations because many of the small mom and pop owner operated stations may get squeezed out of the business, also leading to less competition and high prices.

You don't need me to tell you -- me being Senator Hurley -- (laughter) of the inequality and bargaining power and economic muscle between mom and pop stations and huge multinational oil companies.

The disappearance of full-service gas stations in New Jersey would greatly inconvenience elderly citizens and the disabled, forcing them to get out of their cars, regardless of weather conditions, and fill their tanks. This problem is only exacerbated by the new and more cumbersome vapor reducing equipment that we've mandated for the pumps.

Also the invitation for people to get in and out of their cars and walk around near moving vehicles is a recipe for disaster. Not only will accidents at self-service stations occur with greater frequency, but gas spills and careless operations by patrons could greatly increase the chance for fires and even explosions.

Finally, the proposal supported by many Congressmen to raise the Federal gas tax to help trim the Federal deficit has kind of been overlooked in this debate. If the Feds put in a gas hike and self-service is instituted enabling states to charge more for full-service, consumers in this State would be hit with a double price wallop.

I'll close by saying that New Jersey drivers are in a unique position to have their cake and eat it too. Conditions are such that consumers can demand full-service at a low price from the oil companies. There's absolutely no evidence that there would be a significant decrease in gas prices even if we allowed self-service gas stations in New Jersey. Our residents today are unfairly paying the highest rates for auto insurance in the country. Let's let them at least keep the lowest rates in the nation for their gasoline. Self-service gas stations should remain unwelcome in the State of New Jersey. Thank you.

SENATOR RAND: Senator McManimon? (applause) Hold it.

SENATOR McMANIMON: No questions.

SENATOR RAND: Senator Gagliano.

SENATOR GAGLIANO: I have several questions of Senator Hurley but I won't ask Steve. (laughter)

SENATOR RAND: Mr. Saks-Wilner, on behalf of Senator Hurley, we thank you very much.

MR. SAKS-WILNER: And on behalf of Senator Hurley I thank you very much.

SENATOR McMANIMON: I think he had an excellent substitute.

MR. SAKS-WILNER: Thank you.

SENATOR RAND: Irene Von Dohlan, Department of Labor. Well, this is a welcome change, isn't it gentlemen?

SENATOR GAGLIANO: Yes.

SENATOR RAND: Good morning.

I R E N E V O N D O H L A N: Good morning. Thank you Mr. Chairman and members of the Committee. My remarks will be very brief. The Department of Labor strongly supports this legislation which bans self-service gas stations not only because of the safety issues, but we also believe that jobs will not be lost.

We do have one request, however. Because of the strict enforcement involved, we will need to hire a team of inspectors and we are asking for an appropriation.

SENATOR RAND: Naturally.

MS. VON DOHLAN: We have estimated that we would need between 160,000 and 190,000 to properly enforce the Act.

SENATOR RAND: The bill spells out that-- I don't like to interrupt you but the bill does spell out that any fines collected will go into that fund.

MS. VON DOHLAN: I know but they believe that--

SENATOR RAND: No, I know you need some prompt money.

MS. VON DOHLAN: --at least to start up. Okay, that's it.

SENATOR RAND: That's totally it? Okay, Senator McManimon?

SENATOR McMANIMON: No questions.

SENATOR RAND: Senator Gagliano?

SENATOR GAGLIANO: No questions.

SENATOR RAND: Thank you very much, Irene.

MS. VON DOHLAN: Thank you.

SENATOR RAND: Rick Shanberg, Governor's Committee on the Disabled. Good morning, Rick.

M A R K R I C H A R D S H A N B E R G: Good morning, Mr. Chairman, members of the Committee.

SENATOR GAGLIANO: Good morning.

MR. SHANBERG: We thank you for allowing us to attend this morning. We support the passage of this legislation. Self-service gas stations in the State of New Jersey would present a very serious problem for persons with disability here in the State, such as a person like myself with a mobility impairment. In inclement weather-- Just in general, it would cause very serious problems in getting out of the car physically and performing the procedure myself, much less another person with a disability.

There are over 1 million people in this State with disabilities. And again, we are very much against self-service gas stations in the fact that it would present many various problems for persons with disabilities in the State. We do support this legislation. Thank you very much.

SENATOR RAND: Senator Gagliano.

SENATOR GAGLIANO: No questions, thank you.

SENATOR RAND: Senator McManimon.

SENATOR McMANIMON: Rick, I would just like to state that I delivered a letter to Peter Manoogian from Wayne Kraemer who supports the same position as you presented here this morning and that will go on the record. Correct, Peter?

DR. MANOOGIAN (Committee Aide): Yes.

SENATOR McMANIMON: Thank you.

MR. SHANBERG: Thank you very much.

SENATOR McMANIMON: Thank you.

SENATOR RAND: Mr. Shanberg, thank you very much. The honorable Barbara Sigmund the Mayor of Princeton. Good morning, Mayor.

M A Y O R B A R B A R A B. S I G M U N D: Good morning.

SENATOR GAGLIANO: That's Princeton Borough.

SENATOR RAND: Princeton Borough, pardon me.

SENATOR GAGLIANO: The heart of Princeton.

SENATOR RAND: We'll encompass the whole thing.

SENATOR McMANIMON: One of Mercer County's finest.

(laughter)

SENATOR RAND: Are you here to talk on Route 91?

(laughter)

MAYOR SIGMUND: Alternate Route 1 which will be filled with full-service gas stations. Senator Rand, Senator Gagliano and McManimon, thank you for letting me speak before you this morning. I'm here to support Senator Rand's bill because real women don't pump gas. Now, neither do real people with visual impairment problems such as depth perception problems -- which I suffer from -- nor as the speaker before me said so eloquently, real people who have ambulatory problems, nor real people with all the frailties that attend advancing old age, nor real people who suffer from the host of maladies to which human flesh is err but which do not necessarily gain you a handicapped license plate.

Now, I heard Senator Cardinale, and I was very interested in some of his arguments. And I understand that Judge Haines has been convinced by some of the necessarily self-serving arguments of self-serve advocates that the Constitution somehow or other demands that this abomination be visited upon American womanhood. (laughter)

Now I would like to pose a different constitutional question or theory and that is this: I believe that it is inherently discriminatory to force people who are handicapped through nature, or through accident, or through advancing age to pay higher prices for full-service which we need because self-service is so difficult or impossible for us to avail ourselves of. So there's a constitutional argument that I

haven't heard advanced, but I don't understand why it isn't at least as good as constitutional arguments of self-serve arguments.

You know we have a Federal system in this country which is a wonderful one because, of course, it allows us to see what's happening in other states. States can act as laboratories for different kinds of experiments for service to Americans and for constitutional and other legal theories. And we have before us 48 states with self-service. I haven't heard anybody in the State of New Jersey who travels to those other states say that they prefer the kind of situation that confronts us in other states. We have that living laboratory. We can employ all kinds of smoke and mirrors to say that it somehow would be different here. I don't know why it would be different here than any other State. We've got 48 examples of what we don't like. New Jersey and Oregon offer this bit of gracious living to our residents and I say, "New Jersey and Oregon, perfect together." Thank you, Mr. Chairman. (applause)

SENATOR RAND: Thank you very much, Mayor. Mr. Jerry Ferrara, Executive Director, New Jersey Gasoline Retailers Association.

SENATOR GAGLIANO: Who?

SENATOR RAND: Mr. Ferrara. Would you introduce yourself, Mr. Ferrara? Senator Gagliano said, "Who?"

SENATOR McMANIMON: He's been around longer than us.

J E R R Y M. F E R R A R A: Gentlemen, I'm Jerry Ferrara, Executive Director of New Jersey Gasoline Retailers and hopefully I'm not going to be brief because-- (laughter)

SENATOR GAGLIANO: We wouldn't want you to be different today.

MR. FERRARA: Well, I figure you gave Doc Cardinale close to a half-hour, I'll do better than that. I won't last a half-hour.

SENATOR RAND: He's got Senatorial courtesy. (laughter)

MR. FERRARA: I knew that one way or another I'd lose out in any case.

The thing that we have to understand is just how did self-serve evolve -- the history of self-serve, and the question that some states didn't bar it. Self-served evolved after World War II when for the major companies and some independent entrepreneurs this was a way to market -- perhaps a little cheaper -- what have you.

Only four states actually had legislation barring self-service so that of them, two are left, Oregon and New Jersey. The other states, self-serve just rolled in on them to the extent that it became a problem for many towns where individual towns attempted to bar self-serve by revamping safety laws and what have you.

Around here, Hempstead and East Hampton, Long Island have been taken to court several times on their barring self-serve. Up to a few years ago Pittsburgh barred it, Erie, Pennsylvania, 33 cities in Massachusettes, it gradually evolved. New Jersey and Oregon are the only two states continuing to bar it.

The strange thing is how one follows the other. After a suit was filed in New Jersey, here, the same type of individual filed a suit in Oregon. Oregon's history is unique. In 1982 they had an unbinding referendum supported by the major newspaper in that state and court records, because of the way that thing was put on the ballot, was challenged. It appeared that Arco/Richfield -- Atlantic/Richfield as it had come to be called-- Arco spent over \$450,000 to promote it and put it on the ballot and what have you. That came out after the referendum was defeated.

When you realize that the major paper supported it and then when it was defeated I asked for a copy of what the results were in the paper. There was one column by one inch just in numbers. That's how badly that newspaper took it.

Now we went to court. We had two different things here. We've got Judge Haines on one side who says-- Originally Judge Haines' decision said that he didn't have the authority to say that self-serve was unconstitutional or better, because the Supreme Court had ruled on that in past years. It took six months to reach that decision.

Three months later he saw the light. Give tribute to the lawyers who represented the proponents. They found two obscure decisions -- I think one in Michigan and one in New York. I may be wrong on this but that's where about, that said -- a fancy title I had to look up -- when a man stand -- decides that in this case the things before him were more realistic, more to today than was before the Supreme Court -- before the Supreme Court. Made a big deal about technology-- I sat through that trial. It was very obvious from the first day there that the-- It was understood practically that that thing was going to be appealed by whichever won.

He allowed quite a bit into the record. I tried to add the things into the record, newspaper articles. They objected to it. He did say he didn't have to pay attention to it because it was hearsay and so forth.

Now the strange part of it is, in Oregon we had another suit. There the judge, at the end of a day or a day-and-a-half hearing ruled right off the bench that he felt the Oregon situation was legal and barring self-serve could exist. Now I figure that this guy has got to be way over on our side-- Let me check his background out. I called my colleagues in Oregon, found out that this judge in case happened to be a legislator who years previously had been in favor of self-serve. He also had been part of the Attorney General's Office. They call it the Justice Department there. He offered to remove himself from the case if the State or anybody had any objection.

Now, how did two judges from one end of the country to the other come back with two different decisions? So we're going to stay here and you'll probably have a lot of legalites later on, following on the legalities of his decision.

Let's find out what technology improved. Technology? The technology of the pump definitely improved. You can now change prices from a thousand miles away. They can read the pumps. They can take the cash flow. They know everything that's going on in that business from any part in the country, which makes it more conducive for them to operate their stations. Of course the bottom line where we come from is that the major oil companies prefer high volume, gas only self-serve station that ultimately can be more conducive for them to take over for direct operation. They've been wiring in the stations here for self-serve for the past ten years.

Now when we had a joint bill here some years ago we asked for divorcement because our charge has been that they really want to take over the station and do away with the individual dealer, we paired a bill, a Dumont bill and a Graves bill. Graves bill, I think, was for self-serve and Dumont's bill was for divorcement. They split it and didn't address that.

We say this openly time and time again, if it is not their ultimate attempt to take over and ultimately control the bulk of gasoline from the well to the gas tank in your car, why not support self-serve? They tell us that, "Well, we need training stations." Very easily could amend it.

Now divorcement is not the issue here. I'm trying to give you a background of what we feel is happening. So that the judge's decision -- technology, nothing changed in the technology of the nozzle. But this is another problem that we'll get to in a minute. It was a little lighter. It's not going to be lighter any more with this gismo. And I look around to all of you people from 1952 to now, you don't look

like you came from Mars, that you're different. You still got the same hands the same human element. And those are the two things where the issue comes -- didn't change. The fact of whether they're women or us, can pump our own gas -- much safer. There's no change. We can still spill gas now as we did in 1952.

California who's had self-serve and full-serve split island for years -- because of the dilemma that was happening where they took a station that had both full-serve and self-serve -- we'll call them split island -- both of the stations had split island -- told the dealers that you want to buy this property, all right, otherwise we're converting this to a full, pure self-serve station with an auxiliary use and maybe a car wash or a convenient store. Thirteen cities in California followed the city of San Anselmo and put ordinances in there requiring them to come in and justify the change from split island, now, to pure self-serve which would eliminate any attempt of even servicing gasoline, any attempt of even fixing flats, battery charges, even the simple amenities without going to repairs.

San Francisco, city and county, has that. Santa Barbara, city and county, has that order. Why did they have to resort to that? Every station built in the last five years, maybe even 10 years -- brand new stations now, not the remodeled ones, was built as a gas only station. The bulk of them up until recently were company operations. They're having the same difficulty of getting help as we have.

To get back to the dealers who want self-serve or not, we make a survey every legislative session among the dealers, do you want self-serve? If you do, give your background and all that. Only the first survey made four years ago, 8% -- 92% were against self-serve, 8% were for it. The last survey made last year, 90% were against it 10% were for it.

Now that can sound self-serving. We asked them the size of their gallonage. Most of the stations who were pro self-serve are what we call high volume, gas only, multi-pump stations. All but 1% -- it may have been only one, one time -- didn't qualify their statement for self-serve. They would take it, providing they could get divorcement. So even there, they expressed a fear of being taken over and they're the most vulnerable.

They don't want little stations. We're losing little stations left and right in any case. And self-serve is not going to-- You'll hear them tell that this will enable little stations to be in business.. Strange, they get out of stations and don't want to even serve them. We've got another problem besides self-serve facing this State. We had 11 refiners supplying this State, direct refiners. Now we've only got six. Governor Byrne loved me because I could tell him squeeze here and squeeze there, without any publicity -- I didn't need it -- where the gasoline was. We only got six which lessens the competition for my little dealers to find a supplier. They're being supplied now, in many instances, to what we call jobbers and distributors; the in-between fellows who someday along the line may even be wiped out too.

So the whole problem-- All this is just a pattern that's created. Now we get down to the question of safety. Let's cover that.

First of all this nozzle here: (witness demonstrates) Normally the nozzle is out this contraption. This is the new great invention of the Department of Environmental Protections that's going to save all our souls and we're going to be around here to hear Jerry Ferrara another 20 years. I'm past the senior citizen mark, well past it, so maybe now we clean up the air and I'm going to breathe better. I don't drink, but maybe I can take the drink and live a little longer.

This is the nozzle that the self-serve customer is going to have to hold in their hand to prevent the fumes. Now is you think this thing-- And this is the seventh version of this nozzle. Had I brought down the fourth version, it was twice as heavy as this. I just don't want to get shot down so I wanted to bring the latest version of the nozzle. Now you've got to hold this thing in there. It's heavy to start with. There's a spring here in most cars it would hook in. In some of the older cars, I understand for some of the nozzles, two different types don't hold in.

Now the DEP, I asked them yesterday after sitting down and trying to battle with potential fines they're going to give my dealers for not having these damned things ready, I asked them, "Are you going to appear at the hearing tomorrow?" And they just smiled. But among their-- In the "Register" where they filed their brief for this they said, "The fact that we don't have self-serve in New Jersey will further enhance the ability of the system to work." I said, "Come on down and tell the Committee this. You know, you're playing both ends of the game."

Safety: The one difference in this court -- in this court -- well, it's the court of public opinion, is that I can tell you stories about safety; illustrate them, as you have in the book in front of you. Examples of what's happened around this country. One example you've got is a grandmother, had her two grandsons in the car, a station wagon. Went out to pump her own gas. Left the motor running. The kids put it in reverse. She tried to stop it. She's up by St. Peter waiting for those grandsons. I don't know whether she's going to crown them or welcome them.

Two young ladies, one pumped their own gas, it spilled back on her. And you would be nervous; anybody would be. Sat in the car, lit her cigarette. She's no longer around.

Now these are horror stories that I've told time and time again, and the proponents in the back say, "Well, so what?" Another young lady did the same thing. Went into the kiosk to wash her hands -- electric stove -- she was gone. And I could enumerate many of those type. But let's get back to the simple type things that happen to you everyday.

You pump the gas, it spills back on you. Do you file a report? You're embarrassed. You go in you wash you hands. One classic story and it had comic twist; an attorney in Philadelphia paid -- you've got to prepay your gas. It's another issue. You go pay your money and then you go back and pump gas. He had paid for \$10 worth of gas, got \$7. He's holding the nozzle and he's hollering, "Hey, I got 10 bucks." With that somebody turned the pump on. The gas sprayed out. There was a roadrunner along side of it that had just painted. Out a burley truck driver steps. That was his private pride and joy, he had just gotten the hood painted. There was a tiff back and forth. To make a long story short they guy went to the -- the attorney went to the attendant. Nobody did anything. He wrote Atlantic/Richfield. This is all public in print. The total cost came to \$80 for the repainting on the hood for the roadrunner and whatever his suit told him to do.

Insurance statistics: There were no statistics presented in that court justifying it either way. That's true. The guy that said he-- You know you can get statistics to read anyway you want. You project it. Because insurance companies didn't separate it. I went to our insurance agent who sells \$4 million worth of liability insurance in New Jersey and an approximate amount in Pennsylvania. What he found in claims over the past couple of years were basically claims for falls. Logically? Sure.

One station had seven claims for falls in Philadelphia in two years. Let's hope they were all legitimate. Let's have this scenario why you can easily fall. When we work the gas

pumps during the wintertime and we shoveled around to serve your car. And you come in you get out of your car and you start brushing the windshield off and the rear window and you brush it off on the ground where we just got done shoveling. We try to be polite but we're having a fit.

A modern station-- Let's give the best scenario possible. Canopy over the top, it's snowing. The snow just came down this way, it's drifted in here. You come in, you brush the snow onto the ground, you pump your car. Getting out of the car, pumping gas, walking to and from to pay the gas, that's where the biggest claims came.

One hot shot came in and tried to fill his own motorcycle. He went up in flames. There's a reserve claim for him for \$224,000.

Now those are the type of accidents that most of us do not report. I'll venture to say unless you were seriously injured-- You fall, you go home cursing yourself, you got to clean the suit, you've got a bruised knee, and your wife calls you an idiot that you can't walk straight. Now those accidents, what happens? Filling, spilling-- In self-serve states some of them don't have this automatic thing. This is supposed to shut off automatically when the gas comes. Some places they take popsickle sticks, cut it to the right size, wedge it in here and then sit in the car where it's warm.

Now the classic safety thing. The one report that really thrilled me was -- to listen in court -- Mobil Oil and Exxon both testified that they had some statistics. The statistics were in their company operated stations. The ones they manage, own, direct, they had a list of accidents. And I felt, "Gee whiz, it can't be real important." They each had five fatalities in the past five years. All but one of them were at self-serve pumps. The only one that wasn't was in a bay that -- probably a full-service station, somebody was fixing a gas tank--

And you shouldn't be concerned about that. Why should you even worry about ten lives? The only statistic that was available that they admitted to, because they sold millions and millions and millions and millions of gallons of gasoline through those stations. So ten lives don't mean nothing.

Now to me if I were one of the ones who lost their life there, I'd like to come up -- and maybe I would be in jail for shooting them. Those are the statistics. This is what Judge Haines based his stuff on.

The other safety-- The biggest issue made there and I'm glad you have it in your bill, Senator Rand, remote switch. Except it's called a "kill switch." They said that in their self-serve stations whether it had a convenient store or a kiosk, that if there was an accident, they could hit that switch and shut off all the pumps.

I'm going to show you in a few minutes a diagram of a convenience store in Florida. Now that kill switch-- That's provided the cashier in that store can see the spill. You've got it in your bill, great. An attendant would be unable to supervise-- Well, they said five cars. When my people in the audience heard that an attendant would be serving five cars we said, "Find him. Find a guy that could do that for us, we'll pay him \$10 an hour because he's really got to be good."

The basic service is two cars, maybe stretched to three if you're on the side the island. Now an attendant wouldn't be any faster than some cashier fifty yards away in a convenient store, or a guy in a kiosk.

We followed one station in New Jersey that has a safety switch. We went in there and looked at in the kiosk. They had it turned off. They had a key to turn it on and off. For some reason, they were afraid they were going to hit it.

You're going to hear how now they said 24-hour operation, another big issue. That we can make it safer for our attendants in a bulletproof booth so that we can serve the

public 24 hours a day. You can put all the bulletproof glass you got there, I wouldn't put anyone in there on two instances: 1) a guy holds a gun at the window and tells you to open up. You say, "Shoot me, the glass is bulletproof, I ain't worried." If you can get that kind of guy he's pretty good.

More importantly, I'll put anybody in the booth and than in less than a minute I'll get you out of there and I will not use a gun. I will tell the Committee privately any time you want. I've made a vow never to make it public in the press how, because some other idiot will imitate it. The simplest, easy thing I can get you out of the booth and I'm being charitable when I say a minute. When you see what's happening you'll come running out in a hurry.

So there's no safety to the attendant. What about the woman driver? And I believe Mayor Sigmund had some years ago given me an example of that. And she came here not because I invited her but because she heard about the judge and she was furious. You walk up and you've got to prepay because for fear you're going to pull up. Now you go up, you either give a credit card, you give the exact amount, or you give a \$20 bill and you get change.

You've got to walk up there, pay, come back, and pump your gas. I've had several women ask me this question, "Who protects me from being mugged?" So I'm coining the phrase, we protect the attendant in the booth if he believes it, who protects the consumer from the four wheel cowboy who zips in there in a car, grabs your purse, grabs your wallet, knocks you over and takes off? Where is the protection for them, so-called 24 hours?

Again, on safety-- I gave the booklet and somewhere in there, about the third or fourth page-- Oh, one other issue here. You've got a page here showing the gas pump. This is called a Multi-Product Dispense, commonly called an MPD pump. It is four foot wide at the bottom. You will see there's a

picture of a New Jersey motorist -- I got it from him -- pumping gas. Now when your on that side of the pump how in the hell can anybody in a remote kiosk or a convenient store see you whether you're spilling gas, putting it in a glass bottle?

Cardinale referred to a video. We both had videos down in the hearing. This video was a classic. It was done overnight. They found a station that on camera, violated every rule you could think of. Had two different containers for gas, one glass, one plastic. The owner of the station come out -- the attendant come out smoking, the owner come out smoking to talk to a gal that pulled up in a car. She got out smoking.

Let me tell you something, I believe that St. Peter had to help them find that station overnight, all by chance. We had a video of Philadelphia showing the various violations. I don't want to bore, but here's four foot. That's just an example of what I'm going to show you on the chart. You cannot see-- Now these are the pump they're going to have. These are the popular pumps. In there is a chart-- Just before that is a page with this. I don't know if we ought to hold it up to the public, or what. This is a station in Butts Road and Glades Road in Boca Raton. In fact one of the parties to the suit marveled at this particular convenient store because it was the latest state-of-the-art. The orange marks before that represent cars that were parked in front of the station, in front of the building. These were actual cars that were there when I went there. Inside there is counter with a pretty large store. My wife got lost in there. She knows every self-serve convenience store in that vicinity.

There was one cashier facing in the counter. There was a glass this way and a glass in the back; another person making sandwiches. Here's cars being pumped in gas. If you look that would block-- If he was on this side getting gas you couldn't see it. There was a fine-- (member of the audience walks up to witness) Oh, here's a guy that should have been testifying too. Thanks, Frank.

Here's a motorcycle, here's another car. On this island here was a car with a horse trailer on it. Now you look at these. These black things are the pumps. Here's somebody in here. Even if she was looking, she couldn't see through those pumps. I took two pictures in that store. She didn't bat an eye. She was so busy collecting for potato chips, for gasoline, for sandwiches, she didn't turn once to look out here. But they will tell you there's a kill switch in there and God forbid if gas should spill, she would know it.

That station didn't have any canopies. The only way you could ever have one person observe a station in this instance is put them on top of a flagpole where they can look down; no canopy, nothing, look around and see cars pump. There is no way-- I was going to say "hell." There is no way in hell that that's safe. And that's what they're going to propose to us as being the safety version of what's going on.

In this pamphlet, there are-- A radio reporter that I'd never met, four years apart, he made a survey. He says a few examples of accident, some recent ones.

Now we get down to pricing. I think AAA will be here later to do a survey on pricing. FTC report-- Oh, the greatest report here. He may even be in the audience. He wrote a report and sent out a release that all the papers picked up. New Jersey motorists are paying 17 cents more a gallon for gasoline than they would in other states.

We wrote him a letter. We didn't get an answer right away. One of my fellows want to go pass these out right here? I think I've got enough -- three, four, five -- all right. (distributes materials) It's got a lot of possibility. When I was interviewed, I said he was all wet because we don't make 17 cents a gallon profit, let alone be able to save it.

You know how he arrived at this thing? Talk about trying to arrive at a purpose. He surveyed the differences in price around the surrounding-- You've got four cities here, in

fact. He took it out what we call the "Lundberg Report." That's this thing here, a trade paper. He found that the price of gasoline of self-serve, makes an allowance for the average difference in taxes, so that our taxes come into play, was 17 cents different in these four cities, on average. And he concluded that if we had self-serve the full-serve price would stay what it is today, and self-serve price would go down 17 cents a gallon. He didn't figure at all that they would raise the self-serve price.

Now, there was a lot of gobbledegook what about wholesale prices and all. On the second sheet of that presentation I took the same week that he did and "Lundberg's" showed average profit margins per gallon. This is a letter I sent to your counterparts the Assembly and Senate committees in May.

I took those cities, Long Island, Philadelphia, Providence, Rhode Island; Boston, Massachusetts; Newark, New Jersey. As you can see I don't have Boston's price. Long Island price, average margin -- this is taking in consideration the actual margin of profit the dealer made, regardless of taxes, the net margin, difference what he actually made per gallon of gas. So that took an allowance difference in tank price, different in taxes.

Long Island, regular leaded margin, 13.9. Full-serve -- this is now, regular unleaded -- 17.95. Philadelphia, at that time 25.9, regular unleaded, 34.9. Providence, Rhode Island, 24, regular unleaded, 30.6. Boston I don't have available. Newark, New Jersey, regular leaded margin 5.29, regular unleaded margin, 11.73. What gobbledegook are we talking about? I heard earlier in testimony, you make allowances for the taxes. This is the bottom line, gentlemen. There is no savings. It's a fraud. A fraud as much as this damn thing is. (witness waves gas nozzle around) That's another issue. There is no savings at all to anybody. We

don't want self-serve. The consumers don't want self-serve. And the best thing that ever happened to me was when the judge finally decided it was unconstitutional. I never got so many phone call and letters from the consumer in America.

There's some gentleman, I understand that's going to testify, who bawled me out because he couldn't find my telephone number in the book. He finally went to the gas station.

There is no saving for the consumer whether in price, convenience, the ability to get repairs. There is no benefit to the average dealer that he'll be allowed to survive. We're going to get wiped out pretty much in a lot of other fashions. But this certainly accelerates that.

And last but not least, I cut this out of the Shell book. We're talking about prices, right? "Shell Image Makers." There's a price sign there that shows self-serve 88, full-serve \$1.37, self-serve .94, full-serve \$1.46, self-serve \$1.03, full-serve \$1.55. Wherever that is, that's the difference. No comparison with us in taxes. That's what they're getting. And this is one of their magazines, "Shell Image Maker."

I think-- I appreciate the time you gave me. If there's any questions I'll be happy to answer it. I think that we can continue at any time in a private dialogue, answer any questions you want, in any fashion to find out that self-serve is a benefit to the consumer. I appreciate-- I saw Frank Forst here. For years he's been an advocate from labor. He'll tell you his personal experiences and he had an interest enough to show up.

I see another fellow come in here go, "You remember me?" I said, "No." He said, "I was in one of your hearings four years ago" -- private citizen -- and I understand he's going to testify.

I didn't prepare this hearing for anybody that's for your bill, Senator. I didn't have to call anybody. They come out themselves. I had no idea the Governor's Office-- I had no idea Jim Barry-- Labor, of course, made a complaint to me because they were going into the suit, but no solicitation.

Thank you for your time. You've been very generous with me. It's probably the most time I've been given at any committee hearing on this. Usually Frank Graves manages to cut me off.

SENATOR RAND: Senator McManimon?

SENATOR McMANIMON: No, no questions.

SENATOR RAND: Senator Gagliano.

SENATOR GAGLIANO: Kind of a question and a comment at the same time. It's interesting a Mobil station near my office where I deal, when he first opened the station he said, "When are we going to get self-serve?" And about a month or six weeks later he said, "I changed my mind. I don't want to see it."

The second thing is I was in Florida in January of this year, 1988, and I noticed a 45 cents per gallon difference between self-serve and full-serve. I was with two other persons. We were already at the full-serve location and we said, "Well, what's the difference?" Well the difference turned out to be \$6 or \$7 for a full tank of gas. And that bothered me.

And the third thing is I was in Connecticut one time and needed information because I was somewhat lost. And what you said about a person being in a bullet proof cage or box, whatever, a woman was in that box on the other side and I don't think I threatened the person in there, but I got no satisfaction, whatsoever, trying to ask that person a question. And I felt awfully strange that here's a person I'm doing business with and yet I couldn't get any information out of him. So a lot of the things, Mr. Ferrara, I think a lot of

us have gone through. And I-- I'm sure we're going to hear from others on this issue. But I guess, my question is, do you have any averages, overall, state to state, that has self-serve on the differential between the cost of self-serve and the cost of full-serve compared with the average prices in New Jersey? I want to hear that if you have it.

MR. FERRARA: I think that AAA may do that. They have a more unbiased survey. By the way, do you land in West Palm Beach, Senator?

SENATOR GAGLIANO: Well this happened to be in Jupiter. I do land-- Yes.

MR. FERRARA: This is on a-- It's a big road going out to the big mall there. If you're in Boca Raton, take a look at this station, and you'll find that everything I told and more so, by personal observation, is true.

One other quick issue, Senator Cardinale-- Some years ago I got invited to a kind of a debate on self-serve in Cresskill and I was kind of wary of the fact that I was being set up. I went there, it was a Cresskill Republican Club. There were 50 people there. One guy started off saying, "Now look, Jerry, usually I'm on your side--" I don't even know this guy.

But of that, only one person in that entire audience said that his mother was in Florida, she knew where to get repairs and she knew where to buy gas cheaper.

SENATOR GAGLIANO: Thank you.

SENATOR RAND: Thank you very much, Mr. Ferrara.

MR. FERRARA: Thank you for your courtesy.

SENATOR RAND: We're going to give somebody from the opposition an opportunity, so if I intersperse it's just because I want to have a balanced meting. Let me call on Mr. S. David Brandt, attorney at law. And you did preempt Senator Cardinale, Mr. Ferrara. You beat him by five minutes. No, you got five minutes extra.

MR. FERRARA: Oh, thank you, Senator.

SENATOR RAND: Good morning, Mr. Brandt.

S. D A V I D B R A N D T, E S Q.: Let me introduce myself, I am the attorney that represented Kirschner in the litigation that resulted in the decision of Judge Haines.

SENATOR GAGLIANO: Is that mike on, sir?

SENATOR RAND: Yeah, if you press your little red button.

SENATOR GAGLIANO: We've got a machine of some kind, right behind us. It's hard to hear.

MR. BRANDT: I appreciate the opportunity to try and fill you in as to what is involved in that litigation, and provide you today with the reports and documents that are of record in that case, because when someone describes them to you they're often not the same as what they were. So I will be giving you today, for the record copies of all the expert reports and the testimony, the decision of Judge Haines, and a copy of an amicus brief that was filed yesterday by a couple of small retail dealers who want to see self-service in New Jersey and has asked the Appellate Division to uphold Judge Haines' decision.

Probably the sentence that summarizes the entire case is that everyplace in the world, everyplace in this world, self-service gasoline is allowed except in Oregon and New Jersey. If you travel to Canada, or England, or France, or Australia, or Africa, self-service is not prohibited by any legislature there. It is permitted and the open free market determines how it's dispensed. And there are hundreds of different solutions handled by governments in other states and in other countries as to the issues being raised on price differential, availability to the handicapped and the elderly, and so forth.

What Judge Haines' case decision comes down to is that the Legislature has the power to regulate but it does not have

the power to prohibit, totally prohibit anyone from selling gasoline where the customer chooses to dispense his or her own gas. That that is beyond the power of the Legislature because the total prohibition-- In order to justify a total prohibition, the New Jersey Supreme Court said there has to be a safety basis for a total prohibition of any business activity. They rendered that decision back in 1950, and even then, a minority of the court concluded there wasn't even enough fear of self-service at that time--

SENATOR RAND: Let me just ask you one thing again, for my own-- You are telling me that the judge said that the Legislature has no right to prohibit--

MR. BRANDT: Any lawful activity, and business activity, unless--

SENATOR RAND: You said that the Legislature has no right to prohibit. And I didn't get quite to the end. I guess I was so intent on listening. The dispensing--

MR. BRANDT: The basic rule--

SENATOR RAND: Let me get the whole sentence very clearly because I would like to know what that judge said, very frankly.

MR. BRANDT: Well, I'll give you a copy of the decision.

SENATOR RAND: But what did he say--

SENATOR McMANIMON: He's got it right here, Walter.

SENATOR RAND: --if I may ask, Mr. Brandt? You said the Legislature--

MR. BRANDT: It's not just what that judge said. It's what the Supreme Court--

SENATOR RAND: No, no, no. You made a statement--

SENATOR GAGLIANO: You said what the judge said, sir.

MR. BRANDT: Yeah okay, but I'm trying to put it into context, Senator.

SENATOR GAGLIANO: Put it in the right context.

MR. BRANDT: The right context is--

SENATOR RAND: Yeah, I'd like to get that -- what the Judge said that we are prohibited. If you could give me that, I would appreciate that.

MR. BRANDT: Let me start with the--

SENATOR RAND: There is a separation of power in this State, thank goodness.

MR. BRANDT: Absolutely.

SENATOR RAND: And I want to know what the judge said on this Legislature, what we can do, and maybe we will say what the judge can't do. But that's a very important point.

MR. BRANDT: Let's go back to the Reingold decision which is not by a trial court judge. It's by the Supreme Court of New Jersey.

SENATOR RAND: No I would ask what you just said, if I could, for my own edification. You said, and I'm trying to get the rest of that--

MR. BRANDT: I'm going to get there, Senator, but I have to give you the background so you'll understand where the judge comes from.

SENATOR RAND: Well, you made a statement and all I wanted to get-- And I usually don't get too excited, Dave, but I really wanted for my own mind so that I can digest it, you said that the judge said that the Legislature is prohibited. And all I'm trying to do is get what you said. It's a matter of record so I'll get it out of the matter of record.

MR. BRANDT: I will say it again, but I will give it to you in context, okay. And I will get to it, Senator. I'm not ducking you at all.

Judge Haines is bound, as every judge in the State is, by the Supreme Court decisions of the State. The Supreme Court in the Reingold decision decided then that the only basis which a total prohibition of self-service of gasoline can be upheld is if there is a safety -- public safety justification for it.

That's the rule that Judge Haines had to live with. I had to live with it. Everybody has to live with it because the Supreme Court said so.

He applied that rule and said unless there is a public safety justification for the total prohibition of this business activity -- self-service of gasoline -- unless there is a public safety basis the law must fail because it's a total prohibition. Because it is a total prohibition, it is not a regulation. It doesn't say that we are going to regulate something we're worried about. It says under no circumstances if Dave Brandt comes into a gas station and he's in a hurry and he wants to pump his own gas, I cannot do so.

SENATOR RAND: You've clarified it under the context in which you put it in.

SENATOR McMANIMON: Mr. Chairman. In other words what you're telling us is that the courts have already assumed that they have approved safety conditions and therefore became legal when they have proved that they have the safety conditions there.

MR. BRANDT: I think I understand you, but I'm not sure.

SENATOR McMANIMON: I'm trying to reach into you. The whole conclusion with Judge Haines when he brought forth his final statement was the fact that he felt that the self-service stations had proved safety conditions.

MR. BRANDT: That--

SENATOR McMANIMON: Therefore--

MR. BRANDT: But the evidence before him lead him to the conclusion that no one could decide. No one, neither he nor anyone, based on the evidence presented that there was any greater safety hazard at self-service stations than at full-service stations.

SENATOR McMANIMON: It's a shame he didn't hear some of the statements today.

MR. BRANDT: Oh I heard all of them. I heard them at the trial. Senator, let me first of all correct some of the statements made today.

Mr. Ferrara, inadvertently I'm sure, misstated the testimony from Exxon and Mobil. Let me just read to you what Mr. Ferrara just said to you a few moments ago, that there had been ten deaths in the records of Mobil and Exxon. That is absolutely incorrect. It is a false statement. The actual statement of--

SENATOR GAGLIANO: I thought it was five, Mr. Brandt.

MR. BRANDT: Five for each company is what he said. And let me read to you-- There were five but not deaths.

SENATOR GAGLIANO: No, no I think he said five and maybe he said ten later, but I heard five.

MR. FERRARA: (speaking form audience) Five each.

MR. BRANDT: Five each, but there were no deaths, Senator. He said deaths.

MR. FERRARA: They testified to fatalities.

SENATOR RAND: Let's not have any cross discussion.

MR. FERRARA: All right, all right.

SENATOR RAND: We will give everybody an opportunity to--

SENATOR GAGLIANO: We understand that you two fellows get along so well.

MR. FERRARA: No, we do.

MR. BRANDT: I will read you the testimony. This is Exxon at the trial. John Adkins, Eastern Region CORS Manager, Exxon Company. First he concluded that there was an incident -- an accident during dispensing one, every 45 million fill-ups; once, every 45 million fill-ups.

There were five -- and now I quote -- "Five fire accidents during the refueling process did not result in serious injury. In two of the incidents the customers had spilled gasoline and ignited their clothes when lighting

cigarettes after re-entering their cars. Each sustained minor burns and refused the offer to secure medical attention. The other three accidents occurred because of driving off while the hose nozzle was still in the vehicle fill pipe. In these fires no injuries were sustained." It is of interest to note that one of these cases occurred with attendant service when the attendant collected for the transaction before removing the dispensing hose from the fill pipe. And I could quote the testimony from Mobil.

As a matter of fact, in New Jersey we have had a death at an attendant station. And it was caused by an intentional act of the attendant who was trying to make life tough for the guy relieving him and purposely squirted fuel around the pump islands and an innocent customer came in smoking, dropped an ash and burned to death. And the attendant intentionally had put that gasoline on the ground.

The conclusive testimony of the trial was that we retained the services of the actuary who used to work for the Commissioner of Insurance of New Jersey. It is probably the leading actuarial firm in the country today. We did not give any precondition as to the conclusion or the testimony of the methodology of the firm. That report was prepared by Huggins Financial Services and the witness was Warren Cooper who was the Chief Actuary to the New Jersey Department of Insurance previously, up until a few years ago.

Mr. Cooper concluded-- What he did is he examined what are called the ISO records. Ninety-seven percent of all insurance records are reported to the ISO; so it's a 97% sample. And based on a 97% sample, he compared the accident rates in Oregon and New Jersey where we have no self-serve with the accident rates where there is self-serve. And found that where there was self-serve the accident rate was .78 of what it was where we have attended-serve. In other words, 78 accidents in the self-serve and you's have 1.00 in the full-serve. So we

actually had a statistical lower rate of incident. And he went through the type and I will give you his report. It's in detail. It was subject to cross-examination. It was submitted in advance. It was examined. The Attorney General cross-examined. And the judge concluded that it was absolutely reliable and un rebutted.

Now that is simply conclusive evidence. It's not anecdotal as Mr. Ferrara would tell you a story of what could happen or what happened in one incident. This is a total national sampling over a length of time over years and it was very expensive to do it. And it is incredibly reliable and it's incredibly -- I suggest to you -- conclusive on the issue of safety.

Let me just say--

SENATOR GAGLIANO: Excuse me, Mr. Chairman, may I ask a question?

SENATOR RAND: Yes.

SENATOR GAGLIANO: Are you saying, Mr. Brandt, that as far as we as legislators are concerned we have to be limited solely to the issue whether or not the process of self-serve is dangerous to the public safety? Are you telling us as legislators that is the only thing--

MR. BRANDT: I'm not saying--

SENATOR GAGLIANO: No, I'm just saying.

MR. BRANDT: The Supreme Court of New Jersey said that, not me.

SENATOR GAGLIANO: Okay. What you're saying is that the Supreme Court said in the Reingold case--

MR. BRANDT: Yes, that's precisely what they said.

SENATOR GAGLIANO: --that the only issue here is safety.

MR. BRANDT: That's correct.

SENATOR GAGLIANO: We can not take anything else into consideration?

MR. BRANDT: If you're prohibiting. You can regulate.

SENATOR RAND: No, no they-- They just won the--
Give me my--

SENATOR GAGLIANO: He's going to answer it. He's saying prohibit, not regulate.

SENATOR RAND: Okay.

MR. BRANDT: That's correct.

SENATOR GAGLIANO: Okay, so if we--

MR. BRANDT: A total prohibition of an activity requires you to be acting in some public health or safety basis because you are totally prohibiting.

SENATOR RAND: I would submit-- Senator Gagliano, if I interpreted and I got my interpretation from the-- It said that the judge said in summary that the original prohibition was based on safety. And since the judge decided the oil companies disputed the safety issue that the legislation that had been passed was no longer applicable. But that doesn't prevent us, and that's what I was looking for, the word "prohibiting" the Legislature. It says nothing in here about "prohibiting" the Legislature. And what I tried to do is to separate -- and I didn't want to be an activist on either side here today. What I want to very clearly make a point is that the Legislature has the right to do whatever it chooses to do and the Judiciary has the right to do whatever they wish to do. We are not precluded from activity on our behalf, and Judge Haines in no way can prohibit that.

You're enough of a lawyer to know that and I think Mr. Brandt will admit that. And that's all I wanted to do.

SENATOR GAGLIANO: I wanted to get that clarified too. Because it is true, the court will have the opportunity to review whatever comes out of the Legislature, obviously.

Okay, with respect to--

MR. BRANDT: Can I just read two sentences from Judge Haines?

SENATOR GAGLIANO: Sure.

MR. BRANDT: He said, "It is safety and safety alone which is the subject of this litigation. The statute is constitutional if it addresses safety concerns reasonably. It is unconstitutional if it does not."

SENATOR GAGLIANO: Okay, but then we have an opportunity now -- because Judge Haines said so -- we have an opportunity to reconsider. And it seems to me there are other issues that we may be able to consider in the legislation, including safety of persons who would pump their own gasoline.

My biggest concern is really for the consumer who -- and I don't know the reason -- is forced, literally forced to pay so much more money for the same product because they pump it themselves. And I think that the gasoline companies are their own worst enemies in that regard because we in New Jersey have a propensity to travel.

As you know we all say, "Our kids never go to college in New Jersey." Well, it's true they go someplace else and we follow them and visit with them. And we go to self-service stations and my particular experience was a 45 cents a gallon differential. I think that's unreasonable, unconscionable, and ridiculous that we have to pay those extra amounts.

And that's what's bothering me as I listen to the testimony here and I listen to the issue of safety. I mean I can create safety issues. I think they've been spelled out. I think there are safety issues that are there that we should guard against.

Once a person gets out of a car, there are safety issues. They might be dumb enough to walk in front of another car that's just coming in for service.

But I have to tell you, the thing that gets me is cost. And as I say, I think the companies have been their own worst enemies. Maybe they make that much more money, maybe they don't. But the price differential seems to indicate the

attitude of the public be damned we're going to make you pump your own gas because you don't want to pay 45 cents or 50 cents a gallon more. That's what's bothering me about this.

MR. BRANDT: Yeah, I understand. I'm not a witness that's qualified to talk about price.

SENATOR GAGLIANO: And I'm only qualified by reason of people telling me what they've paid in other jurisdictions.

MR. BRANDT: Sure. I can tell you, however, that for example, my clients, the Kirschners are not -- they sell Mobil gas. They set their own price. Mobil does not set the price for my clients.

One of the witnesses in this case, a fellow from Haddon Township, Warren Luessen -- Senator Rand may know Warren -- he seeks to have self-service in his station. He joined with our litigation. He said he'd testify.

He said, "I have a problem." He said, "I'm trying to stay open the hours my customers want. I can't get employees to work the hours. Employees come and go within a month." The turnover rate on attendants is unbelievable. Along the Turnpike they turn over about every month. If you can hold an employee for 30 days-- He said, "I have an operational problem. Staying open on weekends, getting people there. I can't run the station with only one person. So, I want to have self-service so I can stay open and sell gasoline into the evening hours and on the weekend and holidays when I can run with a skeleton crew of one person."

That's what he wants to do and why he wants to do it. I would suggest, Senator, price differential issues, that's something certainly you can regulate. That's an area you can regulate. I'm simply suggesting--

SENATOR GAGLIANO: Well, I don't know that we can regulate prices legally. I really don't. You know, and I look at it this way: Suppose I went into a supermarket or a member of my family went into the supermarket and you go down this

aisle and you're going to pay "X" dollars and you go down this aisle you going to pay "3X" dollars? Now that's discriminatory, too.

MR. BRANDT: We do it in New Jersey, Senator. Some years ago there were a lot of us that didn't like supermarkets because they were going to hurt the little grocer. We didn't prohibit the supermarkets.

SENATOR GAGLIANO: No, but the prices--

MR. BRANDT: And they are self-service food stores is what they are.

SENATOR GAGLIANO: That's right, they are self-service food stores and everybody's treated equally with respect to price.

MR. BRANDT: No, not if you go to--

SENATOR GAGLIANO: Oh yes, absolutely.

MR. BRANDT: If you go to a little grocery store where they get the food for you you pay more.

SENATOR GAGLIANO: You have a choice.

MR. BRANDT: Exactly, and that's all this case is about is to have a choice. (applause) That's exactly what the Supreme Court said, that if you prohibit something and deny the businessman and the consumer the choice, you've got to have a heck of a good reason for prohibiting choice. If you were to say you can't walk down the aisle and get your peas off the aisle because you might knock over the peas you'd have to have some basis for that fear. You'd have to have some reason to show that people were getting hurt in the aisles of a supermarket and you'd have no reasonable way to regulate it, then you could prohibit. That's what the Supreme Court has said consistently in any case where you totally prohibit an activity.

Here you have that same problem. If the issue is price, the issue is accessibility to handicapped, if the issue is availability of services, you can regulate those things.

But prohibiting it is a strange -- is looked upon with suspicion by the courts because it's a total ban; that on the day Dave Brandt's in a hurry and I go to a station, and I know how to pump gas, I can't do it, I can't do it once a year, it's illegal.

If 6% of the people prefer it, you're saying that 6% can't do it. If there is 100 on occasion who want to pump their own gas, they can't do it. So there is a suspicion of a total prohibition because you're totally banning it among consenting adults who want to do it themselves.

That's the problem of a total ban, and I'm here really to explain that when you're dealing with a total ban then you're dealing with a tough constitutional issue. And that's why the Supreme Court and then Judge Haines in this case have made the outline, have announced the principles that unless there's a public safety justification, we will not uphold a total ban on a form of a business.

I would like to leave you the reports for those who wish to read them. I'd like to leave you Judge Haines' decision and the conclusions that he reached. He outlined his specific findings of fact in that case. I think he tried to be very careful and respectful to this Legislature. He recognized that the courts always have a presumption of validity to any legislative act. He recognized all those things, but in light of the fact that there is no substance to the allegation that it's not safe. In fact, it is a little safer. Then he said, "I have no choice but to invalidate this statute."

SENATOR McMANIMON: Mr. Chairman?

SENATOR RAND: Senator McManimon.

SENATOR McMANIMON: I have one serious question that concerns me. You know 12.5% of the population throughout the United States is either mentally or physically handicapped. Did Judge Haines address the handicap situation at all?

MR. BRANDT: He said that's for the Legislature to regulate.

SENATOR McMANIMON: Pardon?

MR. BRANDT: He said it's for the Legislature to regulate. It's a matter to be regulated and some states do have regulations on gas stations where there is self-service to take care of the physically and mentally handicapped both on pricing and assistance. I don't know all the ways. I've heard a half-a-dozen different kinds of legislation that has been adopted in other cities to protect the interests of the handicapped. For example, I believe one place says if you have a handicap sticker than you never have to pay more than the self-serve price.

SENATOR McMANIMON: My concern is how at the self-service station how can they pump the gas themselves?

MR. BRANDT: They don't have to. They can go where there-- Some states require split island where there is full-service.

SENATOR McMANIMON: It's an inconvenience if I have to travel 10, 12, 14 miles to another station just to get it when I've got two or three stations within three blocks. So what we are doing is we are turning our backs on them completely. We are sending them elsewhere.

The State now has to recognize the fact that when any new building is being constructed we have to provide for the handicapped. And I'm really concerned here. It's not just safety factors, it's economics as well.

MR. BRANDT: Sure.

SENATOR McMANIMON: It's a culmination of things. And what has happened is that with Judge Haines' decision we are theoretically getting legislation by judicial decree and I take a personal affront to that and I'm not a lawyer. I'll be very frank, I think this legislation we've got here today is good legislation and I'm going to get more into this with you, Walter, because there's some areas I think we have to really charge.

SENATOR RAND: Senator McManimon, thank you. Senator Gagliano?

SENATOR GAGLIANO: Just one more point, on the issue of-- If I go in and I see a 40 cents or 50 cents difference between the cost of gas, and whether or not I serve myself or not, I think there's a bit of duress. I don't think it is really a free choice. I mean this is my reaction to it because unlike the supermarket everybody pays the same. If I go in and I feel strongly that I want an attendant to pump gas than I have to pay 40 cents or 50 cents extra.

MR. BRANDT: Senator, are you the gentleman that uses diesel fuel?

SENATOR GAGLIANO: No, that was Senator Cardinale. He has one of the last diesel fuel cars.

MR. BRANDT: What I wanted to say about diesel, as you probably know, self-service of diesel is not prohibited in New Jersey and yet I don't think the fears that you're talking about here have come into reality in New Jersey in diesel fuel. It's available, attended and unattended. You can get it even though there isn't much demand it for it because there aren't that many diesel vehicles.

SENATOR GAGLIANO: Very, very-- At least I've noticed very few motor cars, automobiles -- lots of trucks.

MR. BRANDT: Right, and there aren't too many places that carry it. But what I'm suggesting to you--

SENATOR GAGLIANO: That's still bothering me though, this business of the choice is almost by duress. I don't know quite-- I haven't figured this out in my own mind--

MR. BRANDT: How to regulate that differential in some way? Because I know there are bills--

SENATOR GAGLIANO: And I don't know how we can do that. If in Florida what I saw, myself, a 45 cents differential then it's choice by duress; it's not choice by

choice. It's choice by duress. That's what bothers me, and that's why I wanted to know about this safety issue because I definitely feel it's economic.

Jim Barry was here, and Jim Barry has been Consumer Affairs Director for several years now and I have seen newspaper releases by him. I've seen him in action, and he really is a consumer oriented person, obviously by his job. And he comes here and says he is personally opposed to self-service. I mean, that strikes me as being very important. And when people call me and tell me their experiences in other states, I do feel this feeling of choice by duress and they don't seem to work together.

MR. BRANDT: Of course, all I'm suggesting to you is to encourage you to look at the other bills that have been introduced in here in New Jersey and exist in other states that deal with the pricing issue, deal with accessibility to the handicapped, availability of full-service. Those issues can be addressed by legislation that is less than a total prohibition.

SENATOR RAND: Well, the one thing at the end, thank goodness, we've established is the Legislature can pass any legislation as long as it stands the test of constitutionality.

MR. BRANDT: Oh, of course.

SENATOR RAND: So there's no prohibition of anything that we want to pass, Senator Gagliano, and I got that that's really the key of what I wanted, nothing else.

SENATOR GAGLIANO: No, I realize that regardless of what the (inaudible) said.

SENATOR RAND: Regardless of whatever situation. (laughter) Mr. Brandt, I thank you very much.

MR. BRANDT: May I give this to you?

SENATOR RAND: Yes, you certainly may.

SENATOR McMANIMON: Walter?

SENATOR RAND: Yes.

SENATOR McMANIMON: One other question.

SENATOR RAND: One other question, Mr. Brandt.

SENATOR McMANIMON: One other question I'm concerned with. Self-service stations, what is the breakdown on company owned?

MR. BRANDT: I don't know.

SENATOR McMANIMON: I'd just like that because I'm getting concerned because of the fact that you're getting more and more into almost a -- six major corporate structures controlling the whole ball of wax--

MR. BRANDT: I know that in New--

SENATOR McMANIMON: --with the sole purpose of knocking out John Q. Public, average businessman.

MR. BRANDT: Senator, I know that New Jersey has lost gas stations as fast as or faster than the nation as a whole. We're losing gas stations, as you know, very rapidly. I think New Jersey now has 57% of the number of stations it had at the peak, and nationally it's not quite that bad. New Jersey is actually losing stations a little faster than nationally.

SENATOR McMANIMON: Is it because of termination of leases?

MR. BRANDT: I don't know the reason, Senator.

SENATOR McMANIMON: No, I think it's an area we've got to look into, too.

MR. BRANDT: Yeah, I don't know why.

SENATOR McMANIMON: Whether it's forcing them out of business because of price structure or otherwise or the value of properties.

MR. BRANDT: I don't know. It may be 100 different reasons. It may be that people don't like the job of running the gas station, go into some other field. Maybe they were frustrated in trying to find employees, because that's the most common complaint. You see signs all over, "Help Wanted" wherever you go in a gas station.

SENATOR McMANIMON: I just get concerned. I'm getting the impression that there's a pressure movement afoot throughout this State where they're moving in that direction for self-service, and what they're doing actually is those people who have had leases for a period of years, all of the sudden they're gradually squeezed out.

MR. BRANDT: I can only tell you that the people I represent are small dealers like Warren Luessen and there's two more, William Casandsa, Alfred Lewis (phonetic spelling). These are little dealers, and they are asking the court to invalidate the prohibition on self-service. They've contributed money to the litigation. They do not want to be bound to have an attendant serve the gas. I don't represent the big guys. I represent the little guys, and they're the ones asking for relief. If the big guys want it too, fine. The little guys are asking for it. Not every one of them. They're saying, "We want the choice of doing it-- Maybe we'll only be self-service on Saturday. I don't know, but we want the choice to do it."

SENATOR RAND: Thank you very much Mr. Brandt. Renee Borstad, Director of Consumer Affairs and Superintendent of Weights and Measures of Burlington County. Good morning, or good afternoon.

R E N E E B O R S T A D: Good afternoon.

SENATOR RAND: We've reached the witching hour.

MS. BORSTAD: Well, what's very interesting, I've been listening to what everybody has been saying and has been saying things through the years. I'm from Burlington County. The county of the home of the Haines decision. Also the county that still has the only full-service Stewart's Root Beer Stand. And it's an interesting factor right now because I have to thank you and commend both you and Senator Bassano for recognizing that the consumers have been burdened enough.

From the point of the senior citizen and the handicapped it's totally impossible for them to serve gasoline themselves. Under the new vapor recovery law that's been mandated in the State of New Jersey, it's almost totally impossible for people who are not capable of using pump nozzles to use that pump nozzle to effectively put their gasoline in their vehicles.

You've already heard from Mr. Ferrara and who is quite the -- extensive expert through the field and represents a large number of independents in the State.

I, too, don't want to see the small businessman and woman go out of business in this State. They're the backbone of this country. And I, for one, feel that going into a station where you have a lot of consumers running around stations that really don't know what they're doing-- And I can tell you that after the decision was made we were suddenly faced with a number of people who thought that we had self-service gasoline in New Jersey. And going into the station that I always deal with found a number of people getting out of their cars and attempting to serve themselves and the station owner being very concerned because of the safety. There were too many people. It was close together.

The past experience that we have had that we have had a cap on the cost of retail gasoline on the wholesale and retail where the station owner could only make "X" number of cents on a gallon, that has been done away with so it could create free enterprise. That than brought to us in the State of New Jersey the ability for station owners and the gasoline people themselves to raise the price of gasoline. Competition has kept that price down.

We could now sit in our cars. We are unique with the State of Oregon, and we can be served. Now the industry wants us to get out of our cars because if we don't we'll have to pay the same price -- we'll have to pay more or the same price that we're paying now for sitting in our cars.

And for an individual who is in charge of three Assistant Superintendents who go into the field on a regular basis in Burlington County to check service stations, I fear for their safety because consumers who cannot pump their own gas, who cannot get the assistance from someone who refuses to come out of a kiosk can possibly spill gasoline. And I have to worry now about what is going to happen to one of my people who is in the field when there is a spill or somebody gets out of the vehicle and has a cigarette and pumps their own gas at the same time.

And that is done. That was done the day that I went into the station to get gasoline where somebody immediately went for the hose, tried to get the nozzle in his tank, and at the same time was smoking.

In the convenience stores in other states where I've been, you have to stand on line so there's no time factor involved. And as a mother of a individual who works in another state who recently spilled gasoline because she could not handle the pump and my husband and I had to go over there and bring her back home because we left her car at work because she couldn't find a full-service station, I have to object the same as everybody else has. There is no consumer protection if we go into -- or marketplace protection if we go into self-service gasoline.

Now as far as the money saving option, it's obviously, and I agree directly with the Director of the Division of Consumer Affairs, you will pay more for your gasoline. Oregon finally had to bring it to the people for a vote. And the people decided they did not want self-service gasoline.

I think what I've seen here in the legislation that has been provided by Senators Rand and Bassano, the direct requirement that Judge Haines has made for legislation to come forward and address the safety factors which you have done. And as long as the control is in the station owner, the

consumer will not have to suffer, will not have to come out in bad weather, will not have to run around the State of New Jersey 12 or 15 miles away from their home and attempt to get gasoline to be pumped inside their vehicle.

I think that's consumer choice. The consumer has a right for that protection. It has lived with that protection and should continue to live with that protection.

We recently also are the county that had a major accident. The station fortunately was closed. The thought to the station being open 24 hours in view of what happened, it was a delivery to the station. The delivery ignited at 2:00 a.m. There was a massive explosion. Fortunately the driver was able to get away from his vehicle and the station, and he wasn't injured. The thought to the fact that there would have been consumers in that station pumping their own gasoline at the time would have been a very major disaster.

And I'm not looking for gas stations to be open 24 hours a day. I really don't like supermarkets being open 24 hours a day because the price goes to the consumer. The consumer pays for the station to be open 24 hours a day and the consumer pays for the supermarket to be open 24 hours a day. And if the consumer bags his or her own groceries in the supermarket they're not getting it cheaper. That was their choice to do.

I hope that this bill successfully leaves Committee, comes to the floor, and is successfully voted in favor of the consumers of New Jersey and that you will ban self-service gasoline in this State and allow New Jersey to be as unique as Oregon, and let us go about our business of enjoying safety and the beauty of this State. Thank you.

SENATOR RAND: Senator McManimon, do have anything that you--

SENATOR McMANIMON: No questions, thank you.

SENATOR RAND: Senator Gagliano?

SENATOR GAGLIANO: No questions, thank you.

SENATOR RAND: Thank you very much. Mr. Joseph Riordan, United Seniors Action. Good afternoon, sir.

J O S E P H R I O R D A N: Good afternoon. Thank you for allowing me to testify. It's going to be short but it's going to be from the heart.

My name is Joseph Riordan and I'm here today representing United Senior Action a fairly new grass roots senior movement in the State organized for the purpose of coalescing senior groups and clubs in the entire State around the most important senior issues. Self-service gas stations was not a high priority issue on our agenda but since it came to the floor, we feel we must address it.

There has been much testimony, pro and con, about the economics. But reality is, if you gave gas at cost to someone and they cannot fill the tank, you have given them nothing. If a person is unable because of fear or physical inability to fill the tank, they cannot avail themselves of the offer. I personally have from time to time used self-service stations in other states, not comfortably, but made the choice based on the much higher price for service. On one occasion I had the added cost of buying a new gas cap because I forgot to replace it after filling the tank.

My wife drives our car. I assure you, she would never try to fill the tank and should not be charged service prices of 25 cents or 35 cents more per gallon. While some seniors might see some advantage, the large majority oppose self-service.

I had occasion in the last few days to see a service attendant working with the new fume protection unit on a gas hose. I assure you that I would not have been able to do what he tried to do. He wrestled with it for about three minutes before he got the thing into the tank. I would not be able to cope with it.

If it would cause me trouble, I'm sure most older people would have the same difficulty. Until such time as we can address all of the problems I strongly request that we leave well enough alone.

SENATOR RAND: Senator McManimon?

SENATOR McMANIMON: I have no questions.

MR. RIORDAN: Thank you.

SENATOR RAND: Thank you very much. Mr. Riordan, we appreciate your coming down. Nina McGrath, New Jersey Developmental Disabilities Council.

N I N A M c G R A T H: Good afternoon.

SENATOR RAND: Good afternoon.

MS. McGRATH: Thank you for the opportunity to testify. I am here representing the New Jersey Developmental Disabilities Council. We are in support of these bills because they specifically prohibit self-service gas. As an advocate for citizens with disabilities in this State, the Council is often involved with the issued or equal access for those citizens. For us, self-service gas in is not exactly an economic issues. It is an access issue, and by virtue of that fact, in our eyes and in the eyes of several commentators this afternoon, a civil rights issue.

People who use wheelchairs or have mobility limitations will find it extremely difficult, if not impossible, to use self-service gas stations. At present, the highways and byways of this State present an open course to those citizens because there is the assurance that they will be able to get gas at any station at any point the need to; an assurance or freedom, if you will, also guaranteed to those citizens of this State without disabilities, but one that we cannot take for granted, given the present move to change the situation.

If the members of this Committee have ever been in the position, an awkward one, where you're looking for a 24-hour

gas station, or you only have a credit card for a particular gas station and you're facing an endless stream of Texacos and Exxons when you have a Sunoco credit card you will know the sense of frustration and panic which will ensue when people with disabilities who cannot use self-service gas stations must continue to look for one full-service.

There is no assurance for people who use wheelchairs that once they get where they are going in this State that the building will be accessible. At least at present they do not have to plan ahead to make sure that the gas station will be accessible. I urge this Committee to support this legislation.

SENATOR RAND: Thank you very much. Senator Gagliano?

SENATOR GAGLIANO: No questions.

SENATOR RAND: Senator McManimon?

SENATOR McMANIMON: No questions.

SENATOR RAND: Ms. McGrath, thank you very much. Pam Fischer, American Automobile Association. Good afternoon.

P A M E L A S . F I S C H E R: Good afternoon. Thank you for the opportunity to testify today. I am Pam Fischer and I'm here representing the AAA affiliated automobile clubs of New Jersey. We have a membership of approximately a million motorists across the State of New Jersey and they are the consumers of gasoline, so we are here speaking for them.

We have stood by the position that self-service is good news for the oil companies and bad news for the consumers and we applaud your bills that have been introduced -- the legislation that's been introduced today, and we support it.

There's been a lot of talk about price, and I think we can help discuss some of that today in terms of what AAA has done with their surveys. I'd also like to address the idea of the no choice. Senator Gagliano keeps bringing up the idea of no choice. We stand behind that. We don't feel that self-serve gasoline stations offer consumers a choice when it comes to saving money and I'll address that for a moment.

We feel that if self-service is initiated, our current full-service prices which have consistently been the lowest or some of the lowest in the country according to our regular holiday gasoline surveys, will become the bottom line self-service prices. Full-service will then go up and will cost the consumer an average of approximately 10 cents to 15 cents if not more -- and we've heard about more -- per gallon. And if you're a cost conscious consumer -- and we think that everyone in this room is -- what choice do we have than but to pump our own gas? And that's a real concern of ours.

I would like to provide you with some real basic statistical information. And my apologies, I do not have Senator Cardinale's information regarding our survey that came out yesterday. I have not been in the office due to a death in the family, so I have not seen those numbers but I do have the numbers from our last survey which was conducted over the holiday -- the Thanksgiving holiday. I can, however, provide each of you with those numbers through the mail. I'd be happy to do that.

According to our last survey we found that consumers across the country are paying an average of 99.7 cents for self-service and \$1.21.3 for full-service. Now this is the average, that does not take into consideration that there are some disparities in different areas. That's a difference of approximately 22 cents. New Jersey motorists at that time, and we know that it hasn't gone up very much, have paid an average price of 99.1 per gallon while enjoying full-service. So if you look at the national average for self-serve it's 99.7 cents and our average in New Jersey is 99.1 cents.

Now we found that during the past 12 months New Jersey's average full-service prices have mirrored or in some cases have even fallen well below self-service prices charged in most other states. And again, I will be happy to give you that information.

I would like to mention to you that we have a very large membership, and one of their favorite things to do is travel. Over 50% of our members take car trips of four days or more in length over the course of the year. They go to many different states. They come to us in planning those trips and they come back to us and tell us about the prices they paid for gasoline.

Our membership has been very vocal about self-service. They do not support it. They feel as though they will have to pay a great deal more. We hear of stories from Florida. A great difference in the price of gasoline. We hear about motorists who travel -- a member who traveled to Missouri and paid 55 cents more for a gallon of gasoline because he would not pump his own. He didn't want to pump his own. He wanted full-service.

So we hear those things from our members and we are very concerned. We're also concerned because we have yet to hear the proponents of self-service gasoline offer consumers a guarantee of lower prices. And that is also concerning our members. In fact, at the hearings earlier this year in April, we could not -- we got no guarantee of lower prices. And we passed that information to our members, and they're extremely concerned. They're saying to us then, if there's no cost savings to us, how will it benefit us?

Many New Jerseyans do view self-service as very unfulfilling. We've gotten the issue not only in terms of price but also in terms of convenience. They cite the lack of convenience as a real problem. People don't want to get out of their car in inclement weather. People don't want to have to go in and stand in line with people who are paying for their groceries to buy their gasoline.

We all know how cold it was this morning. I don't cherish the idea of having to handle a gasoline pump when it's this cold outside in the morning.

We are also are concerned because many of our members are over 55 and they are telling us they don't want to pump gas because they can't pump gas. They feel uncomfortable handling the nozzles and some of them physically just can't do it. And that's a concern of theirs.

As the voice of the motorist we must support their position. We encourage you to pass these bills, to stand up for the consumer, the motorist. We really do feel that self-service is simply no choice for the motorist.

SENATOR RAND: Senator Gagliano?

SENATOR GAGLIANO: Ms. Fischer, I just want to ask one question. Has the AAA done any studies with respect to the issue of safety?

MS. FISCHER: We haven't really addressed safety that much in the last few years. We've really focused more on the price issue. We feel that that's the number one concern for our motorists, for our consumers, and for our membership. Not to say that we are not concerned about safety; I don't want to diminish the significance of that. But we've looked at the price issue as the number one concern of our members.

SENATOR GAGLIANO: I would appreciate it-- I don't know whether there would be time, but I think there will be time between now and-- If legislation passes and if the matter is continued in court I presume there will be additional hearings and since your organization represents a million members or a million motorists in this State that it might behoove you to look at that issue of safety since Mr. Brandt testified that that is the -- that is, in his opinion and probably he's right, in the court's opinion-- Up until now, it's been the number one issue, and it might behoove your organization to take a look at that because I think that will also have to be addressed.

I feel like you do. I feel very strongly with respect to the economic issue and the choice is only a choice under duress, and that's the only choice that I see.

MS. FISCHER: That's the way we view it, and we keep hearing that from our members.

SENATOR GAGLIANO: And any time you have duress, then it's not really a free contract; it's not really free competition.

MS. FISCHER: Right.

SENATOR GAGLIANO: Duress, in law, is a reason for canceling out a contract that might have been. But I do think that you ought to look at that other problem--

MS. FISCHER: We certainly will.

SENATOR GAGLIANO: --if there is a problem. Thank you.

MS. FISCHER: We certainly will. Thanks.

SENATOR RAND: Thank you, Senator Gagliano. Senator McManimon.

SENATOR McMANIMON: No questions.

SENATOR RAND: Thank you very much, Ms. Fischer. We appreciate your testimony. Mr. James Benton, Executive Director, New Jersey Petroleum Council, panel one.

J A M E S E. B E N T O N: Mr. Chairman, before I--

SENATOR RAND: Good afternoon.

MR. BENTON: Thank you very much. Before I begin, let me just suggest in response to your directive as Committee Chairman, we tentatively put together some panels. Mr. Chairman, our panels are obviously comprised of representatives of some of the companies in New Jersey that market gasoline, each of whom is an independent gasoline marketer. It might be in the best interest of time since you haven't paneled any previous witness if each of these people were allowed to come up very briefly by themselves. I think they will feel a lot more comfortable as competitors, because of the Federal antitrust prohibitant. However, if you insist they can accompany me. We grouped ourselves in two panels.

SENATOR RAND: No, we'll give-- How many panels are you going to run, three panels?

MR. BENTON: Two, sir.

SENATOR RAND: Two panels.

MR. BENTON: There are five witnesses that would like to testify.

SENATOR RAND: Fine, we can give them a fairly substantial amount of time.

MR. BENTON: Okay, thank you, sir.

SENATOR RAND: Thirty minutes, do you think would be ample time?

MR. BENTON: Your courtesy is appreciated. Mr. Chairman, as a representative of a petroleum industry, you've had an opportunity from time to time to review our statements--

SENATOR RAND: May I-- If I just may-- May say to those people here that want to go down and get some lunch, we're going to continue straight through because we have 24 witnesses today and there are about another eight -- ten or so after this. So if anybody wants to go-- We have 30 minutes where we're going to address this panel. You may want to get some refreshments or so, but we will be continuing straight through. Thank you, Mr. Benton.

MR. BENTON: Thank you, Mr. Chairman. I sincerely appreciate your courtesy in affording us an opportunity to present to you our views concerning the introduction of attendant self-service gasoline here in the State and the measure before you today which would broaden the Legislature's prohibition of such a practice.

Fundamentally, Mr. Chairman, we see the issue of self-service and its introduction as one of a consumer issue. Indeed I will be presenting to you and perhaps at this time the statement which is right underneath my associate, Mr. Papps could be distributed to you. But I won't read from my prepared text today because I think the matter speaks a whole lot better as one that engages in a dialogue.

We see the issue of attendant self-service as one regulated properly by the Legislature and the Executive of our State that should be introduced to New Jersey consumers so they can benefit as residents of 48 other states and indeed all international countries have. I think government -- if I could just stand back philosophically -- does have an opportunity to provide and requiring that that choice which we believe is inherent in the self-service mode of operation, is provided to all customers; that indeed that choice is not made under any particular duress as Senator Gagliano had made before.

The issue that primarily is a focus to the members of the petroleum industry -- and by the members I'm talking about dealers, jobbers, attendants in the generic sense -- is the issue of labor and the difficulty in providing for the type of service that New Jersey consumers have come to depend on when refilling their automobile tank. We believe that choice when properly considered by the Legislature is one that is appropriately regulated, providing for attendant service and also has an ancillary benefit of returning to a full-service which many of us have come to see in declining numbers.

We believe New Jerseyans are capable of making that difference between full and self-service at the time that they purchase their gasoline and that indeed they are capable of enjoying the opportunity to make that decision.

We think they're capable of refilling their own gasoline and capable of enjoying the types of benefits that other residents of the 48 other states have allowed.

We believe the self-service option has been extended successfully to diesel fuel and, in fact, there is no dramatic upheaval or churning in the marketplace as many opponents of self-service would predict. In fact what I'd like to submit for the record to you today, Mr. Chairman, this issue has been portrayed as one that has been driven by the major oil companies. Indeed you will hear from representatives of the

dealer community today, of the jobber community, and yes of the major companies that believe this type of practice ought to be extended to New Jersey. And in case one comes away with a mistaken idea that it is one driven by a narrow small number of major oil companies, let me submit for the record here, the New Jersey Division of Taxation records, four pages -- five pages long -- excuse me -- of those listed wholesalers that market petroleum product in New Jersey to the approximate 4000 service stations that refill automobile tanks -- automobiles here in this State.

I think it's important to remember that those 4000 dealers that are presently selling gasoline in this State are all individual competitors, and as such are presenting to you a request that they be permitted to offer self-service in an environment appropriately regulated by the Legislature; not, in fact, a statewide prohibition as they presently now have.

We believe the consumers in New Jersey, perhaps not even in majority numbers, but certainly in numbers that are very significant, will in fact prefer a self-service option, and in fact should be afforded the opportunity to do so.

We believe that the experience nationally, that is approximately 80% of consumers nationally in other states-- In fact, millions of Americans this morning probably utilized and did in fact utilize self-service gasoline when proceeding on their daily course of employment.

To present to you anecdotal remarks that are unfounded in fact do this Committee and insult the intelligence of this Committee -- do this Committee a disservice. In fact self-service is a proven viable marketing strategy that can be employed to market gasoline.

Mr. Chairman, speaking directly to the issue, in 48 other states as self-service as a practice has evolved, there is to date no bill nationally to repeal self-service or to, in fact, overturn the introduction of self-service to its

marketers. If there was -- and you, Senator and the Assembly people would also join in this, you do in fact know how easy it is to introduce appropriate legislation. Let me again repeat: There is no legislation anywhere. The reason for this is the dramatic consumer acceptance. But it's not just limited to consumer acceptance. It's also limited to dealer acceptance.

If you were to go to our neighboring State of Pennsylvania or indeed any state in the nation, and introduce a bill designed to prohibit self-service, the consumers of the state would be of concern and also the dealers. The dealers in those states would be the first people to march at the State House steps of any capital in the nation, to voice their concern over the blanket prohibition of self-service gasoline marketing. They believe that the diversity of strategy best serves the interest of the consumers in their state and in turn the diversity of strategy will also benefit our New Jersey customers.

In my statement today, you will see that in fact with the introduction of self-service, the availability of full-service, of split island, and, yes, of full complete self-service gasolines are all present in the marketplace, all competing for that individual decision that is made when a consumer drives down the street and elects to refill at a particular station. Perhaps the significance of that decision is lost on an average motorist. But let me tell you, that the companies that market gasoline in New Jersey, not just majors but the dealers, wholesalers, all in fact pay very close attention in a very competitive marketplace to that type of a choice.

We believe also that the availability of repair will continue to exist. It will exist in a very general way in service stations throughout the State and the Legislature recognized that and in fact helped dealers by making dealers available to, in fact, offer inspections by the State. That's

a very healthy incentive that the Legislature has granted to service stations to remain as repair facilities.

Also, you will see now that with increased technology in cars, it used to be, as a matter of fact -- speaking from a personal perspective -- I could fix my car. That I understood what was under the hood and I could do the types of repairs that were mandated. I could tell you no longer, with the automated technology that's in a car and indeed the sophisticated technological computers that are now present, you must in fact -- often cases -- go back to the automobile dealer. And the automobile dealer, as you will see in my testimony, is now perhaps the dominant repair service that is offered to customers.

There is also the growing number -- and you've seen them, Senators, as you've traveled throughout the State -- of the type of express service. The Jiffy Lubes to mention a specific.

SENATOR GAGLIANO: The "J" Team.

MR. BENTON: The "J" Team, or whatever. Those too, have taken a nitch out of what was traditionally the automobile repair business that service stations once had. The point is, as the consumers have needed that service, the marketplace has responded. I think repair will continue to be, in fact, a dominant available service in New Jersey.

Let me also address the fact of what the prohibition has done. The prohibition has also had some unintended side consequences. Safety of service stations: The more modern stations are in fact more safety conscious and more able to provide customers and attendants with appropriate safety mechanisms because of the modernization programs that haven't accompanied the introduction of self-service here in New Jersey, although you're seeing a lot of it now -- in fact, that modernization has retarded the benefits of these new expansions and new modernizations and their introduction here in New

Jersey. With the introduction of self-service, indeed that mechanism for going ahead and introducing these more modern safety considerations will, in fact, be hastened.

Let me also suggest as was before, there is a great deal of concern -- appropriate concern, but we believe unfounded concern -- in an allegation that was made, that in fact dealers are being forced out by major oil companies or in fact being terminated. Mr. Chairman, I have the experience here of the entire nation in my testimony which includes an analysis from the "National Petroleum News Fact Book." In fact, the number of direct salary operations in the nation are at a very small percentage nationally. In fact, distributors, i.e. wholesalers, in this State and indeed the nation comprise the majority of operating strategies. Indeed, the dealers continue to retain a healthy percentage.

If you were to go back statistically -- and the Division of Taxation keeps these records -- on the number of company operations, direct operations here in the State, you will find they have dramatically fallen. Yes sir, some several companies -- one of which is about to appear before you -- do operate with direct operations. We see that as a healthy competitive marketplace. The majority of the companies that will be testifying before you today and indeed in the State, do not operate direct salary as anywhere near the majority. Perhaps even less than 6% of their stations.

We think that's a healthy mix. We think it's an appropriate concern for the Legislature. But on examination you will find that the dealers in New Jersey through legislation enacted by the Legislature and signed by the Governor have the foremost protection in terms of the franchise law when accompanied by the national Petroleum Marketing Practices Act of any dealers nationally.

SENATOR McMANIMON: Excuse me. Mr. Benton?

MR. BENTON: Yes, sir.

SENATOR McMANIMON: If I were to ask the question on that-- Would you be able to give me the breakdown of the company as both, owner, supplier, and in some instances, banker?

MR. BENTON: Yes, sir. I'd be able to provide that information to you. But Senator--

SENATOR McMANIMON: I think it would be important that we get that type of information.

MR. BENTON: I didn't, quite honestly, see it as a part of this hearing today.

SENATOR McMANIMON: Well--

MR. BENTON: However, I'm happy to provide it to you. Senator, I would also suggest--

SENATOR McMANIMON: I would like to have it for my overall analysis of the situation.

MR. BENTON: I would also suggest that the Division of Taxation also has those independent numbers. You can take them from Jim Benton and the New Jersey Petroleum Council. I'm happy that you rely on us for that type of input. But I would also commend to you the fact that the Division of Taxation has those as formal records. I would ask that they be requested formally to provide that information.

I would also suggest that there's another major reason, one that was alluded to earlier, why service stations are in fact following -- in an advanced rate -- than the national trend, and that is the environmental regulations that have been approved by the Legislature and signed by the administration. Those type of regulations, as Jerry Ferrara pointed out to you, do include Stage II vapor recovery, and that of cost, which has widely exceeded the Department of Environmental Protection's expectations in this area because of the short time period for demand, have in fact hastened the departure. But there would also be environmental regulations appropriately enacted, such as underground storage tanks and the types of competition that has placed them under.

Mr. Chairman, there are appropriate fire regulations that should be considered when introducing self-service gasoline regulations. These are nationally recognized standards based on the experience of state fire marshals throughout the nation and participating in the National Fire Protection Association. These will effectively deal with the questions that may come up as a result of testimony on fire safety. In fact, there is no experience as was alluded to earlier by the insurance industry or by the fire industry, that should give you the reason to blanketly prohibit self-service gasoline marketing.

As far as several groups, let me briefly address the experience of numerous groups. In fact, according to our polling data which was submitted or will be submitted to this Committee, conducted by Gallup, a nationally recognized polling organization that does sophisticated and we believe accurate polling information, 55% of the citizens in this State have had experience with self-service and in fact would approve of the introduction of self-service here in this State. Twenty-two percent -- an interesting figure the polling also turned up -- 22% of New Jerseyans have already pumped gasoline in New Jersey out of frustration with the present prohibition; that they were unable to get service in the time frame that they wanted and apparently, although illegally had pumped their own gasoline.

SENATOR GAGLIANO: How often, Jim? Did you--

MR. BENTON: It wasn't done on a time frame, Senator.

SENATOR GAGLIANO: I've done it too. I'm sure I've done it too, maybe in the last five years. I don't think that's a statistic that we have to deal with.

MR. BENTON: No, it's just something that we believe is a monitor of the frustration of prohibition. That's all.

SENATOR GAGLIANO: Well, I think we all get frustrated from time to time. I want to know if it was routine or if it was just a quick frustration that you said, "Well, let me throw

\$5 worth in here even though I'm being illegal because I've got to get moving," that kind of thing?

MR. BENTON: Sir, as you saw yesterday in the "Wall Street"--

SENATOR GAGLIANO: See Jim, the thing that I can't follow on that is that I might have the same frustration putting \$10 worth of gas in my car at the self-service station and then have to wait in line to pay my money or wait in line before the guy will turn the pump on for me, because that's happened. I mean, there's a certain amount of frustration there. You go to the window and there are people waiting in line. And there's one person behind the window.

See, maybe we're spoiled in New Jersey and we probably are. But I'm having a very difficult time--

MR. BENTON: Senator, we may very well be spoiled.

SENATOR McMANIMON: That's why I go to Wawa instead of--

MR. BENTON: Those types of frustrations-- The nature of our question only asked if the residents had had experience in New Jersey pumping gasoline. The question was that simple. But let me also say, on behalf of the oil industry and the thousands of dealers that are marketing gasoline with their wholesaler here in the State, no one wants any frustrations at all in the State. Whether it is waiting on line or whether it is the inability of an attendant, or in fact, in the full-service environment, which we now have, where you have six pump islands and perhaps only one, maybe two attendants. And that's a problem. We think it's also a safety problem, that we don't think they're capable of judging the three or four cars at the same time that they have presently reservicing.

Let me turn as I--

SENATOR RAND: I was just going to say Jim, I'd rather wait ten minutes than pump my own gas. I'll tell you that.

MR. BENTON: Senator, we believe--

SENATOR RAND: And I have done that. I have waited ten minutes.

MR. BENTON: Senator, we believe that's your right and we believe that the Legislature ought to properly regulate for the introduction for that type of a choice.

Senator Graves' legislation, as you've undoubtedly seen, Senator Cardinale's legislation, both from a Republican perspective and a Democratic perspective have introduced the self-service legislation which would mandate that full-service and self-service both be the option--

SENATOR RAND: It doesn't seem to go anywhere.

MR. BENTON: And in fact-- Well--

SENATOR RAND: Well, there must be something to that because let me tell you something. Legislators respond to public pressure. I can tell you that. They're impressed with the mail that they get. They're impressed when a constituent calls. And I must tell you, that ever since that case, my mail-- I don't even want to tell you how much mail in the affirmative, rather against the judge's decision has been -- it's not even a majority. It's just overwhelming.

MR. BENTON: Senator I think you can recognize also, as I said earlier, with regard to the Legislature, that no Legislature in 48 other states is actively considering a return to statewide prohibition of self-service. And you can also appreciate that consumers in the other states would be the first ones to object, along with the dealers who would literally march to the State House steps in any other state, should self-service be prohibited in that State.

SENATOR RAND: I can tell you I visited three states and once the consumers learn that there's a way to march on their State Capitol, they'll march.

MR. BENTON: They will march.

SENATOR RAND: I have never heard--

MR. BENTON: And Senator, they haven't to date.

SENATOR RAND: I visited three states this summer and I have never heard -- and unsolicited -- of people who are so upset. I went to Vermont, I didn't go up to drive up, but one of the friends -- and I'm sure you know him -- drove up, \$1.74 and there was nobody to give it to him. And a senior citizen looked at our plates and said, "You from New Jersey?" And you should have heard this senior citizen talk. Same thing in Ohio.

MR. BENTON: Mr. Chairman, let me just address that type of experience because I think it's important and perhaps goes central to the issue that we're going to consider. And yes, Senator, as you probably recall I was with you in Vermont. And I enjoyed the same experience that you did in Vermont.

SENATOR McMANIMON: That's why we respect you, Jim.

MR. BENTON: Let me also talk to you, Senator, if you might, about the preference of the people of Vermont. As I said earlier, there is no bill in Vermont, and you know how willingly people write and march on the State House steps. There is no legislation in Vermont attempting to impose a statewide prohibition on self-service.

And in fact when an individual purchase is made, when you consider, in fact, the appropriate taxes that a citizen in the State of Vermont has paid in the purchase of motor fuel and the type of consumer acceptance of self-service, again you have a scenario, and I'm using very general terms, which the overwhelming number of Vermont -- the people of the State of Vermont have preferred self-service. As a result, that type of differential is completely -- the cost of maintaining that attendant is completely on the full-service price.

Now if you're asking me to justify the price that you mentioned for that full-service, no, Senator, I can't because in fact that is an individual dealer's choice to, in fact, close that pump. No Vermonter, no traveler recognizing that they're going to pay that much for self-service will

patronize. That pump is effectively closed in that instance. However, let me also suggest that 80% plus of the Vermont residents -- and I have the actual number here if I can just thumb through this study to look it up -- have, in fact, preferred self-service. The State of Vermont-- I'm sorry, Senator, the accurate number -- that's a nationwide number, the 80%. I'm misquoting. The citizens of Vermont in 1987-- Fifty-five percent of the residents in the State of Vermont pump their own gasoline, and in fact there is no repeal effort of that practice. And that individual dealer had the freedom of choice to make that type of pricing decision.

Senator, I think the various groups also deserve examination. The State of Florida has more senior citizens than the State of New Jersey has. In fact, again, there is no repeal. The residents of the State of Florida in a statewide poll overwhelmingly approve the option of choosing self-service according to the Florida Division of Consumer Affairs.

Let me also mention the very critical concern and the very real concern that has been voiced today with regard to handicapped. Senator, the handicapped residents of our State do have special concerns and do have special access problems. Legislation presently before you would provide, as it is done in other states, that handicapped residents are afforded the self-service price and full-service attendant service when they are purchasing their own gasoline. That is supported and done in other states and most recently when it was considered in the City of Philadelphia, the handicapped groups spoke in favor of the introduction of a self-service option.

Senator, in closing I'd be happy to answer any price questions that you may have. It's important to remember that the major oil companies market gasoline with one price, that is the wholesale price. It is the individual dealer's option to set those prices as he or she sees fit as to best meet the needs of those consumers. We believe the introduction of

appropriately regulated attendant self-service means an auxiliary benefit of return to the full-service where the attendant checks your oil and washes your windshield; services that we're not presently enjoying now even though we tend to call the type of service, full-service that we have.

Senator, members of the Committee, in conclusion, the answer to the dilemma that this Legislature faces is to appropriately regulate for the introduction of attendant self-service. Prohibition is not the answer. New Jersey should join all of its surrounding states, and states throughout the nation, save Oregon, and many of our other international countries in affording New Jerseyans the opportunity to make that type of a choice -- a choice not under duress because of the appropriate regulatory concerns, but a choice that is made by overwhelming numbers throughout the nation. And that choice is for self-service and can be best exemplified by where the consumer chooses to spend his or her money when refueling their gasoline tank.

Mr. Chairman, I'd be happy to answer any questions and respond to any concerns you may or may not have.

SENATOR McMANIMON: Jim, thank you very much. I think your statement pretty much covers right where you're coming from and the points you want to come across. And I'm sure the members of the Committee will digest it before any kind of conclusions are made.

MR. BENTON: Thank you very much, Mr. Chairman.

SENATOR McMANIMON: Jim, before we conduct the panel, I think what we ought to do is take a five minute break until the other legislators come back here because I think it's important that they participate while the panels make their presentations.

MR. BENTON: Thank you, Mr. Chairman.

SENATOR McMANIMON: All right? Thank you.

MR. BENTON: Thank you, Mr. Vice Chairman, for recognizing that.

(RECESS)

AFTER RECESS:

SENATOR RAND: Mr. Benton, may we proceed?

MR. BENTON: Yes, sir.

W I L L I A M C A S H: Good afternoon, Mr. Chairman, members of the Committee. My name is William Cash and I'm the Northeastern Region Dealer Manager for Exxon Company, USA, and in that capacity I have responsibility for motor fuel sales at Exxon dealer operated service stations for nine Northeastern states including the State of New Jersey. Certainly I appreciate the opportunity to appear before you today to speak in opposition to the enactment of Senate Bills 2881 and 2906.

Now, Mr. Chairman, out of respect for the time that you've already dedicated to this hearing and the fact that others want to follow me and address the Committee, I will try to highlight my points rather than reading in its entirety my prepared remarks. I believe my prepared comments have been circulated to you.

But first, Exxon does not believe there is any real justification for a continuation of a ban on offering motorists the option of self-serve gasoline dispensing in the State of New Jersey. And certainly while we understand the concern for customer safety during the dispensing of gasoline as you stated in both these bills, we believe that the safety standards that already exist adequately protect motorists who choose to self-fuel their vehicles.

Additionally, we believe that a ban on self-serve vending of gasoline deprives both the consumer and our retailers of benefits. The State of New Jersey's ban on self-serve gasoline vending as you're well aware, was enacted originally as a fire safety measure. But however, as early as

1969 the National Fire Protection Association endorsed gasoline self-serve stations with an attendant on site. And as you've heard repeatedly today, 48 states as well as the District of Columbia have permitted self-serve gasoline and none have rescinded that permission.

You heard references from Mr. Ferrara this morning and then Mr. Brandt corrected those statements. But Exxon's fire safety record further substantiates this point that safety is not a huge concern. Over a three-year period beginning in 1985, 40 incidences were reported nationwide involved fires at Exxon Company operated stores. Those are stations, Senators, that are operated by Exxon with Exxon employees. During that time period, an average of company operated stations across the nation was 540 such stations. As you heard corrected, only five fires out of the 40 reported were related to the fuel dispensing process and the actions of either the driveway attendant or customer.

None of the five fire accidents during the refueling process resulted in serious injury. In two of the incidences the customers had spilled gasoline on their clothes and ignited them when lighting cigarettes after they re-entered their vehicles. They sustained minor burns and refused our offer to secure medical attention.

The other three incidences occurred because of customers driving off while the hose nozzle was still in the vehicle fill pipe. Again, no injuries were sustained. And as was pointed out, I believe, earlier this morning, of these three that involved customers, one of those three cases occurred when the attendant failed to remove the dispensing hose from the fill pipe before collecting for the transaction.

Exxon's experience at its company operated retail outlets in terms of accidents to sales volume is that there is essentially no difference in risk from fire whether gasoline is dispensed by attendants or by customers. And I think you also heard testimony to that effect by Mr. Brandt.

Regarding consumer benefits, self-serve, again, is a widely accepted method of merchandising gasoline and has grown to more than 75% of all the retail gasoline sold. And the principal reasons for such widespread acceptance are the advantages that self-serve offers to consumers including lower price, faster refueling times than for attendant service, and more gasoline retail outlets being opened or operated during late night hours. And certainly the New Jersey ban on self-serve denies motorists in this State the option to pump their own fuel and receive the associated advantages.

And as you heard testimony, I believe from Mr. Ferrara, I believe the refueling time factor is especially important in this State. And motorist delays waiting for service will likely worsen at year-end when Stage II vapor recovery equipment becomes operational since the refueling process itself will take longer because the Stage II coaxial hoses dispense fuel at a slower rate, as much as 30% slower.

The opportunity for consumers to benefit from all night or late night operations, again, is severely limited under current law in New Jersey. Gasoline outlets open at night are available to those who must work in the evening, or on shift work and provide a well lighted place for stranded motorists to enlist help or to make a telephone call.

In regard to the dealer or retailer benefits, service station dealers in the 48 states across the country as well as the District of Columbia that permit self-serve gasoline dispensing find that self-service opens up a variety of pricing and operational options that assist them in competing in the marketplace. The pricing options are obvious. The operational options include the use of what we call partial self-serve. In states where self-serve is not prohibited by law, an estimated 70% of the Exxon leasee dealers offer both full and self-service. Thus, the evidence would indicate legal restrictions are not necessary to preserve attendant service in

New Jersey. Gasoline retailers will undoubtedly provide full-service in this State just as they do in other states that permit unrestricted self-service. They will do so because segments of the motoring public want attendant refueling service.

In this connection with most Exxon dealers with partial self-serve offering, and all of our Exxon company operated locations -- that is, those stores operated by Exxon company personnel -- voluntarily offer to pump gasoline for handicapped drivers at self-serve prices when both full and self-serve islands are open. And I like, Mr. Chairman, to just make sure that we have clear that in the case of Exxon only 45 of our stores in the State of New Jersey are in fact operated by Exxon with its own employees, while some 490 are operated by independent station dealers such as those represented by Mr. Ferrara.

And so there was the indication that we were attempting to pull a sham on the State of New Jersey by moving in to taking over dealers stores and I suggest that, again, the evidence does not support such a contention.

Also, let me go on with my comment that self-serve operations give gasoline retailers more flexibility in staffing their service station. One important advantage is the ability to attract higher caliber employees for the cashier position in a kiosk or a sales office arrangement. These positions provide job opportunities for a wide variety of persons including women, handicapped, and even the older folks.

The gasoline retailers in New Jersey currently have a difficult time, as you heard earlier, finding people to work as island attendants. The turnover rate for attendants is very high in this State because of the tight labor market. Also the low wage scale for the job and overall shortage of service workers.

Many of Exxon's New Jersey gasoline retailers believe that self-serve option will give them enough flexibility to manage attendants in such a way as to reduce the attendant turnover rate, strengthen employer quality, and improve customer service. These types of changes would obviously benefit both consumers as well as our motor fuel retailers.

So to summarize, Mr. Chairman, safety records attest that self-serve dispensing of gasoline is at least as safe as attendant dispensing. Self-service gasoline vending does offer benefits to consumers as well as to service station operators. Motorists have the option to pump their own fuel to save money and/or time versus full-service, or to receive attendant service.

Also, additional security for employees should result in consumers finding motor fuel available at more locations at night. Gasoline retailers benefit because the self-serve option gives them more competitive flexibility with their operations. For all these reasons, the New Jersey Legislature should not adopt the law that would continue to differentiate the State from the other 48 states that allow motorists the option of self-serve motor fuel fueling vending. Indeed, an unrestricted retail gasoline marketplace is the best assurance that the needs of New Jersey motorists will be accommodated.

Senator, Committee members, and Mr. Chairman, that concludes my formal comments. Again, I'd like to express my appreciation for the opportunity to appear.

SENATOR RAND: Mr. Cash, thank you very much. Who do we have on the next panel?

N E L S O N A N T H O N Y: Nelson Anthony.

SENATOR RAND: Yes, sir.

MR. ANTHONY: Mobil Oil Company.

SENATOR RAND: Welcome.

MR. ANTHONY: Thank you. My name is Nelson Anthony, and I represent Mobil Oil Corporation. Mobil is a New Jersey

refiner. We run extensive research and development operations in the State of New Jersey. We employ about 4000 in the State of New Jersey. And we have fairly significant gasoline marketing facilities here.

I'd like to start off by just giving you a few numbers, because a lot of questions have been asked here about what percent of stations are company operations, what percent are dealer operations. We've heard talk of a grand conspiracy to drive dealers out of business. The numbers as shown in a study recently conducted by Temple, Barker, and Sloan on behalf of API show nationwide 4.5% of service stations are salary operated or company operated. Ninety-five point five percent of the service stations, major brand service stations, in this country are dealer operated. So the overwhelming massive stations out there are dealer operated.

There is and has been no great conspiracy to drive dealers out of business. Self-service is a legal option. And I stress the word "option." For dealers in 48 states, dealers are thriving on self-serve. And this is the way it ought to be. We want to see dealers thrive.

Neither Mobil, or any other major supplier can afford to have weak, financially unsound dealers out there. If a dealer isn't making money then he can't buy your product and he's going to run a lousy operation. We want healthy dealers. We want them to make money. We think that allowing dealers all of the competitive tools we can give them is good for them. And arguing here for self-serve, we've had these arguments before on other competitive tactics that we have proposed to our dealers. They haven't always agreed with us in the beginning, but once they used the tactic and they see that it produces more business and more profits for them, they turn around.

What kind of profit does a Mobil dealer make today and what is the relationship between Mobil and their dealer? I

think it's important for the Committee to understand that. Our studies, or the data at least for October of 1988 -- October 1988 -- pool margins, that is the average gross profit on a gallon of gasoline that a dealer earns on all the grades he sells, unleaded, regular, whatever. Pool margins in three markets were looked at: Long Island, New York; Baltimore, Maryland; and Newark, New Jersey. The average dealer gasoline gross profit in Long Island, New York was 14.9 cents a gallon. The pool merging in Baltimore, Maryland was 13.9 cents a gallon. And in Newark, New Jersey was 15 cents a gallon.

If we look at these numbers we can see pretty quickly that the gross profit is roughly the same in all three markets. Two markets with self-serve, one market -- New Jersey -- with full-serve. What does this mean in terms of dollars to the dealer? Mobil stations generally average between a million and three million gallons a year.

Now that's not true of every station but that is the average. At 15 cents a gallon you're looking at \$150,000 a year on gasoline gross profit alone; that's at a million gallons. At three million gallons that number is \$450,000. That does not begin to comprehend the gross profits that a dealer can make from sales of other related products, car washes, repair bays, snack shops, snack food items, express lube operations, whatever other alternate business the dealer runs at that location.

Service stations today in the main are big business and they have to be. Service stations today cost a lot of money. We are spending \$1.5 million to \$2 million to build a service station today. Real estate costs are out of sight. The cost of sophisticated equipment is out of sight. The cost of environmental protection is out of sight. We're not complaining about this; it's the way it has to be. We can't run things the way we did in the old days. We have to take care of the groundwater. We have to take care of the air. We have to take care of the customer.

We have managed to do this through the price and allocation controls which were a huge disaster in the '70s. I'm sure we all remember them. We have managed to keep the price of gasoline to the consumer at a pretty decent place despite a number of obstacles. Some of them imposed upon us by pretty lousy regulations. I think looking back we all realize that the controls of the '70s were terrible for everybody concerned.

Here we are today, and we're looking at a free and competitive market that's worked pretty well for the dealer. We're spending all this money on stations, we've got to charge a pretty good rate, because otherwise we can't afford to run them. The only way we can charge a pretty good rent to the dealer is if these stations pump a lot of gas. After all, that's our business. We're in the business of gasoline and oil. And we make money on these sales to the dealers.

Now when we lease a station to a dealer, we give him his valuable piece of property. We want him to sell all the gasoline he can, and we want him to make all the money that he can so that he can buy more gasoline from us. How do we do that?

We do not take a commission on his sales. We do not make any money on his retail prices. We do not tell him what to charge. We can't do that. We can't tell him what to charge. We can't tell him how to run his business. We can't tell him he's got to use self-serve or he's got to use full-service or he's got to use a repair operation. We can't tell him those things. The Justice Department, your Attorney General, will be all over us in a minute if we tried to do that.

How do we set up our relationship with our dealers? We lease them a service station and we charge them rent. We sell them gasoline and petroleum products at wholesale prices. Once they buy this stuff they resell it to their customers at prices they set. If there are big differences between

full-serve and self-serve out there in some states, it's because the dealers are charging it. And if they're charging it and consumers are paying it, it's because the consumers want to pay it.

This is the most competitive business in the country. No other industry in this country has as many competitors as the service station business, the oil business. Not a single oil company has over 8% of the market in this country. Take a look at the auto industry, the steel industry, any industry in this country. You will not find the incredible number of competitors out there. If we don't service the customer, our customer will have plenty of other places to go. There's always somebody out there in the oil business ready to make a buck by meeting consumer needs and preferences. So we lease the station to the dealer. We charge him rent. We make some money on wholesale profit.

We don't make money on his repair bays. We don't make money on his snack food operations. We don't make money on his car washes. That's all the dealer's.

So why are we going out there building service stations with snack food alternate profit centers, with car washes, with express lubes? Why are we building these different kinds of stations? There's only one reason: because the consumers are demanding this type of facility and they won't patronize the facility if you don't meet their demands.

We're investing this money, we're building these facilities, with these different kind of profit centers, these different kind of businesses, so the dealer can make money so he can buy our products. We don't make a thing out of the deal when we eliminate a repair bay. As a matter of fact, repair bays are not disappearing either. Over 75% of Mobil stations today still have repair bays. Okay now, I don't know how long this is going to last. It will last as long as consumers continue to buy there. The consumer is very effective in this

business. And it doesn't take much in terms of a gasoline price difference to chase the consumer away. We know that from hard experience. So either you give the consumer what he wants or you very quickly wind up out of business. And I don't care how big you are. We've seen all sorts of oil companies go under or be acquired by other people because they weren't smart enough to keep up with consumer needs.

We are trying to meet consumer needs and preferences. And we think that one of the ways to do that is to let our dealers have the option of using self-service. Now I say the option because that's all it is. No dealer out there has to use self-service no matter what we tell him. You cannot force him to do that. Federal law won't let you do it. State law won't you do it. And you can't throw a dealer out of a station because he refuses to do it either. There's a Federal Petroleum Marketing Practices Act that says you can't do that. There's a New Jersey Franchise Act that says you can't do that.

What then are the opponents of self-service worried about? I'll tell you what they're worried about. They look around at 48 other states and they see that 80% of sales in those other states is going to self-service. They know it's what the consumer wants. And they know that left to a free and open competitive market they're going to have to adopt those tactics that the consumer wants, if they're going to stay in business. Not because anybody is forcing them to do it. But because it's the way the business is run; because that's what the consumer wants.

If an oil company tries to force a dealer to do something that consumers don't want they will quickly lose the business. It's not only against the law, it is a stupid business decision. And no company in this business that's got any smarts is going to do things like that. We at Mobil have been constantly increasing our business, improving our stations because we are trying to give the dealer the wherewithall to

meet consumer needs. That's what this is all about. This is not a question of pricing. The oil companies can't guarantee low prices, because the dealer sets those prices; not the oil companies. The oil companies don't concern themselves with dealer pricing. We're not criticizing dealer pricing. We want the dealer to make money. And the dealer's going to make money so long as he gives the consumer what he wants. And if his pricing is wrong, the customer will correct that very quickly by taking his business next door.

The oil industry is not so monolithic that any company can get away with overpricing anything. A penny or two difference at the pump chases customers away very quickly. Any dealer in this room can tell you that.

So really what we're talking about here is not pricing, it's not guarantees, it's not the aged and the infirm. I'm a member of the AAA. I'm over 55. I belong to a senior citizen group. I think it's ageistic, like sexist, to talk about these so-called senior citizens unable to pump their own gas. The poor things are so feeble they can't get out of their cars. That's a bunch of nonsense.

We who are approaching senior citizen status are very able to do all of these things for ourselves, and we don't need anybody telling us what we can and can't do. I mean, we're very capable.

We're worried about the handicapped. The handicapped problem is being handled in 48 states. Very few states have adopted handicap legislation. There is a voluntary program out there where the handicapped folks get full-service at self-serve prices and they don't have to drive 14 miles to get that.

Eighty-six percent of the stations in this country in states where they allow self-service are split island operations. That means they offer full-service and self-service as well.

People with a handicap will not have a problem getting service. It's out there. It will be available to them. So I really don't know what the fuss is about? You can't put a straight jacket on the market. You shouldn't. It's bad for business. It's bad for the customers. It's bad for your constituents. Thank you. I'll be glad to answer any questions.

SENATOR RAND: Mr. Anthony, thank you very much. I just want to just tell you one thing. We don't tell senior citizens what to do. They tell us.

MR. ANTHONY: I hope so.

SENATOR RAND: Make no mistake about that.

MR. ANTHONY: Okay.

SENATOR RAND: Thank you very much.

MR. ANTHONY: Thank you.

SENATOR RAND: Who do we have next here, Peter? Is there a representative from the Hess Company?

A N D R E W J. D' A M I C O: Yes there is.

SENATOR RAND: Yes, I don't have your name, sir.

MR. D'AMICO: I'm Andy D'Amico and I'm Vice President of gas station operations.

SENATOR RAND: Good afternoon, sir.

MR. D'AMICO: I think the Committee has some prepared text there and what I'd prefer to do is just take a few minutes and address some of the things that I think may have been left out in the discussions that have come out today.

We've heard a number of areas discussed as far as safety, and I think we've talked about all the things that can take place to protect the consumer as far as fire suppression systems, and emergency shut-offs, and no hold-open devices, and so on and so forth. I think there's one issue that's been missed and I think it's worth bringing up to the Committee and that's really the safety of the employee at these gasoline stations.

In my tenure with Hess I am not aware of any one situation where any consumer has been attacked while they were at one of our self-serve locations. But I've been at the funeral of three full-serve attendants who were killed in the process of doing their duty.

Some of the other things that we see in trying to run locations in a full-serve basis in a State like New Jersey-- Our locations right now are manned about 65% of the number of people that we need. If we had 1000 employees in the State of New Jersey, we're looking right now at 650 to run the operations that we have out there. The average tenure of the employees that we have at this station, 60% of the employees that we have right now to fill those 65% of the jobs have less than two weeks experience.

We're turning over hourly employees at a rate of about 400%. Our situation is not any different than the dealers in these rooms. Our average salary to these employees, the hourly employees, is not minimum wage. It's not \$3.65 an hour. We're looking at better than \$5.20 an hour. And yet we're still looking at turnover rates better than 400%.

We've done some extraordinary things to try and man these stations. We've put together busing programs. We put together incentive programs where employees who perform at the very top level are able to accelerate their wages through the various job classifications. We've gone to job fairs. We've gone to high schools. We've gone to colleges. We've put ads in newspapers. To no avail. We're still running at 65% of the people we need to run these locations. Our representatives who are responsible for running these operations spend probably 60% of their time doing nothing but trying to get hourly people for the managers who are running them. Those individual managers today are spending 50% of their time trying to hire hourly employees.

The situation's not going to get any better in the New York metro area and the Philadelphia metro area. If we look at the number of retail jobs that are expected to grow between now and 1995, we expect an increase in the service industries of 25%, New Jersey Department of Labor statistics. On the other hand the number of people who can man these jobs is going to decline by 14 1/2%. If we take our own statistics and compile those numbers, that means that five years from now or six years from now, we're going to be looking at 40% of the people we need -- between 35% and 40% of the people we need to run these locations.

Physically that just can't be done. That's one of the problems that we see approaching unless we begin to face the fact that there are other alternatives. In the areas where we have self-serve it opens new opportunities for handicapped. Six percent of our employees at self-serve locations are handicapped people. Four percent of our employees are people over 65. If we try and do that in a full-serve environment, take a 20 degree day, I'll guarantee you we can't get people to do that.

So these are all issues that I think the Committee should address and be aware of and be willing to consider. In the State of New York, 32% of our stations are still full-service, 11% percent are split service 57% are self-service.

SENATOR RAND: You have a problem hiring people there?

MR. D'AMICO: In New York we have basically the same issues.

SENATOR RAND: Doesn't make any difference whether it's--

MR. D'AMICO: Particularly in places like Long Island.

SENATOR RAND: It doesn't make any difference whether it's full-service or self-service?

MR. D'AMICO: Well, no. I'm talking about Long Island where we--

SENATOR RAND: Well, I merely am asking you because you referred to New Jersey that you have a problem with the labor pool. I would ask you do you have the same problem in Philadelphia or New York?

MR. D'AMICO: We have problems hiring people. But at the self-serve locations we can totally man those facilities because it takes less people. We can operate those 24--

SENATOR RAND: How about the full-service?

MR. D'AMICO: The full-serve locations in places like Long Island we have the same problem as we do here. In places like--

SENATOR RAND: Then the person that wants full-service has got the same problem there than he would have anywhere else.

MR. D'AMICO: In places like Syracuse and Rochester we don't have those problems. What I'm trying to point out is where you have these limited labor pools you just can't get enough people to man these locations. And I think that has to be recognized. I think it's very very important.

SENATOR RAND: No, I just wanted to know if the self-service had generated a much greater labor force to take care of your overall problems and I understand that. That was why I asked that.

MR. D'AMICO: Turnover is substantially less in self-service, obviously. The people that come with us stay with us a lot longer period of time because they're not exposed to the same scenarios. They're not exposed to the weather. They're not exposed to the same danger situations that you might encounter in full-serve.

SENATOR RAND: Well, you don't have as many people.

MR. D'AMICO: Well, you don't have as many people, that's right.

SENATOR RAND: If you have five full-service pumps and you have five self-service pumps then certainly you've got one person looking over those five self-service pumps as normally you would have two or three.

MR. D'AMICO: Again, the experience level is a lot different, too--

SENATOR RAND: Yeah, I understand.

MR. D'AMICO: --because that person's not leaving.

SENATOR RAND: I just wanted to get that in my own mind whether the labor force is any better in those areas or not. That's all.

MR. D'AMICO: The other important thing, I think-- The other important issue and the one that, again, concerns us most is that employee issue. I think the entire aspect of safety has been addressed and I think it's been addressed very, very well. I think everyone that's come up has talked about the safety issue.

SENATOR RAND: I understand. Let me say this to you, I very very readily see both sides and I'm listening very intently to the opinions that are expressed, and I certainly am taking it in and listening to what you have to say. So I realize the problems on both sides.

MR. D'AMICO: The major-- The other major issue I think that I'd like to talk about is price scenario. And there's been a lot of talk about differentials as far as self-serve; full-serve differentials. At the Hess stations where we have split island arrangements, our average differentials between 6 cents and 7 cents a gallon from self-service to full-service.

SENATOR RAND: You are the exception, may I add.

MR. D'AMICO: These are the company operations that we're talking about.

SENATOR RAND: You are the exception, may I say, in the five states that I visited in the summer.

MR. D'AMICO: That's a possibility. Again, I think the scenario can be created where if people want full-service, if the dealer is interested in selling full-service in a location where he has a split island arrangement, there is ample opportunity for him to price that full-service very, very aggressively and meet the needs of the consumer and still sell an awful lot of product at full-service prices by again taking those 50 cents and 40 cents differentials that you've talked about and bringing them down to realistic numbers. That is happening in a number of scenarios. Those cases I haven't heard brought up.

SENATOR RAND: Spoken like a true merchandiser.

MR. D'AMICO: The other issue that I think needs some discussion is if in the State of New Jersey self-service were legalized tomorrow I would anticipate that Amerada Hess would reduce its prices at its company operations anywhere in the range of 3 cents to 4 cents a gallon.

SENATOR RAND: How much?

MR. D'AMICO: Three to 4 cents a gallon.

SENATOR RAND: And what would the full-service go to?

MR. D'AMICO: The full-service, again, would maintain that differential that I just spoke about.

SENATOR RAND: Three to 4 cents?

MR. D'AMICO: No, 6 cents to 7 cents from self-serve to full-serve.

SENATOR RAND: And that would be constant, that differential?

MR. D'AMICO: That's where it is--

SENATOR RAND: That's a commitment that we would have from Amerada Hess.

MR. D'AMICO: That's where it is today. Listen, I'm not going to sit here and--

SENATOR RAND: No, no I understand the fluctuations.

MR. D'AMICO: Competitive environments change.

SENATOR RAND: Let me say, I realize the flows and the ebbs and tides of the pricing situation. But it's interesting to note that you made a commitment of the differential which very few other people have made. So I take you at your word.

MR. D'AMICO: Based on today's environment, that's where we are. That's what's happening in the marketplace today, and that's the way we are pricing. If there's any questions, I'd be happy to answer them.

SENATOR RAND: Mr. D'Amico, I thank you very much. We got some enlightening things from you and I appreciate that.

MR. D'AMICO: Thank you.

SENATOR RAND: I don't have the names of-- Jim.

MR. BENTON: Yeah.

SENATOR RAND: I don't have the name of the respective people that you want to testify. You'll have to give them to me. Somebody from Amoco? And Texaco? Is that correct. Thank you. If some of the information is repetitive may I just urge, just to speed it up a little bit. We've still got about 10 or 12 more people to testify. If some of the information is repetitive, may I just ask those to just stick to the issues that are not repetitive so that we can give everybody a chance. We have a number of people yet from other dealers that wish to testify.

ANTHONY CUTRINO: I will do that, sir. I have a very short statement there that I will read.

SENATOR RAND: Yes, thank you.

MR. CUTRINO: My name is Anthony J. Cutrino, I'm a sales manager for Amoco Oil Company. I appreciate this opportunity to comment to this group. I reside in New Jersey and have resided here for the past eight years. I'm responsible for Amoco Oil Company's gasoline sales in this State.

During my 25-year career with Amoco I have seen self-service become widely accepted in other states where Amoco markets. The bill before the Committee today prohibiting

self-serve in New Jersey would be contrary to the interests of New Jersey consumers as well as New Jersey gasoline retailers.

Concerns about the safety of full-serve should no longer be an issue. Studies in 48 other states, with more than a decade of experience, have shown self-service to be as safe, or even safer, than full-service. In the New Jersey Superior Court's decision in June of this year overturning the 39 year old self-serve ban, the judge found that the technical advances were so compelling that a self-serve ban, based on safety concerns, could no longer be justified.

Amoco strongly supports self-service. Amoco also strongly supports full-service. We support the widest range of options. Permitting self-service does not mean the abandonment of full-service but, instead, means an additional option for the consumer. In other words, self-serve when you want it; full-serve when you need it.

Preference for the self-serve option has grown over the years. Amoco's research department has published yearly self-serve market studies since 1975. In 1975 on 13% of the motorists used self-service. Today 79% use this service. In our neighboring State of Pennsylvania self-serve is used by 64% of the motorists. Having observed legislative consideration of self-serve for a number of years here in New Jersey, too often the impression has been created that service station dealers are uniformly opposed to self-service. This is not at all the case; many Amoco dealers favor it.

Prior to the April joint committee hearing on self-service, interested Amoco dealers wrote to voice their preference for self-service. I've enclosed copies of those messages, and I urge you or the members of your staff to give these dealers a call to discuss their views. What you will undoubtedly hear, as I have repeatedly heard, are stories of severe labor shortages and, most importantly, the need for the improved security that self-service offers, particularly in the evening hours.

I would also like to invite members of the Committee to visit some of our 24-hour self-serve inner city stations in nearby Philadelphia to see first-hand the effective security measures we have implemented. I would hope that the members of the Legislature would feel a responsibility to allow companies to provide, in New Jersey, this same high level of security, for both the public and for the station dealers and their employees. Self-service affords this.

One final point. Amoco Oil Company sells gasoline wholesale to our dealers. We do not sell full-serve gasoline or self-service gasoline. In the 48 states where self-service is an option, full and self-serve prices are set by independent retail business people, based on their individual competitive conditions, their individual costs of doing business, and their individual marketing strategies.

Isn't this true for every other retail business? I can't think of another retail business in New Jersey that is denied, by law, a widely used and accepted marketing technique in the way that service station dealers have been denied self-service. It's time for a change. I thank you.

SENATOR RAND: Mr. Cutrino, thank you very much. Mr. Marroni.

LOUIS J. MARRONI: Yes, sir.

SENATOR RAND: Good afternoon, sir.

MR. MARRONI: Good afternoon, sir. Thank you. I'll try to be as brief as I can, gentlemen. I appreciate the opportunity for Texaco to appear before you and state opposition.

Number one, let me say we do have approximately 475 branded Texaco service stations in the State of New Jersey. And in keeping with Senator McManimon's request and for your information, less than 6% of them are company operated. And you might also be interested in knowing in the nation that we're less than 7% company operated so that our self-serve

prices in these margins, and these differentials we've been talking about not only here but everywhere else with Texaco, are more or less controlled by our independent dealers and operators, who for the most part price their products based on what their markets dictate they must do in order to make their business function. There are some exceptions but generally that's what happens.

We are opposed to Senate Bill 2881 and 2906 for several reasons. Primarily because -- and I know this is repetitive but it needs for us to enter it-- We feel that safety at full-service versus self-service stations has been proven to be really a non-issue. If, in fact, there is an issue, it's in favor of self-service.

Full-service-- I might make an observation for you to consider that maybe has not been mentioned, so far, today. Full-service actually discriminates against the low income and fixed income citizens of New Jersey by denying them the choice of perhaps a lower self-service price.

Studies have shown that prices tend to go down whenever self-service is enacted. Low income individuals are therefore discriminated against, in your State because self-service is permitted.

The opposite is true here in New Jersey without self-service. Those low income citizens who can least afford to pay more for gasoline and who would use self-service if it were available -- maybe you, maybe I, or maybe someone we know won't -- but these low income people welcome this. They're being forced perhaps to be paying higher prices to subsidize the decision of individuals who may be able to afford to pay for that service or who may prefer to have that service given to them at a cost. Under the current prohibition on self-service, the person on a limited income who pays the disproportionately large percentage of his income for gasoline is therefore unnecessarily disadvantaged.

I will also mention that we feel that studies have shown that prices in our neighboring states are in fact netted down to the real price, excluding the taxes, lower than they are here in New Jersey. But in the event the panel does not support that position and even more importantly and perhaps appropriately, I don't think you can go forward and our company doesn't feel that you can go forward with your bill unless you do conduct a current survey. It would be very easily done with your neighboring states of New York and Pennsylvania, and Texaco, for one, would be willing to assist in that survey and it can be done to look at the pumps as they currently are, in New York, in Pennsylvania, and in New Jersey.

Now we not only recommend self-service, we recommend optional split island attendant self-service. There's got to be an attendant on the premises. We even feel that the competitive nature of offering self-service to the motoring public in New Jersey is warranted to the point that if the State initially has to put certain provisos into the regulation such as mandated full-service during certain hours, Texaco as a company and a marketer in this State would support those type of provisos.

Those are the extent of my comments. If you have any questions, I'd be happy to respond.

SENATOR RAND: Thank you very much, Mr. Marroni. I appreciate that.

MR. MARRONI: Thank you, sir.

SENATOR RAND: Mr. Benton is there anybody else from your--

MR. BENTON: No, sir.

SENATOR RAND: Thank you very much. Then we'll go the Exxon dealers for self-service option. Mr. Pascale from Maple Shade, Mr. Mark Meschowski, Pennsauken, and Gary Prendergast from Sayreville.

G U Y P A S C A L E: Thank you, Mr. Chairman.

SENATOR RAND: Good afternoon, gentlemen.

MR. PASCALE: My name is Guy Pascale. I've been an independent dealer now for eight years. I have a bay facility and a motor fuel only facility. I'm going to make this short and sweet since you've listened to a lot today.

My concern as an independent dealer is twofold: One, to be able to serve the public in the manner in which they're used to being served, and also to make money. But the labor market the way it is giving full-service right now, is a problem. We endeavor to give as much of the full-service as we can. It does not always work out that way due to a man problem situation or a manning situation. There have been instances and occasions to where we've either opened a little late or closed a little earlier, or not had sufficient manpower as a safety factor for the men who are working.

I am not in favor of a self-service ban. I feel that the marketplace-- As a dealer, looking at some of the restrictions that may be imposed or some of the limitations or some of the concerns, I personally feel as a dealer that the way the marketplace is out there right now and how it has been that the public would benefit by self-serve basically through attrition. If the guy down the street lowers his price for self-serve, I'm going to have to lower mine if I want to retain my customer base.

As a businessman I'd be a fool not to cater to the handicapped and the elderly. I don't want my customer base to shrink; therefore, as a businessman I will do whatever is necessary to keep my consumer base where it belongs.

I am not a small volume dealer. I don't want to misrepresent that. Each one of my locations pumps a 100,000 gallons or more a month. I give full-service-- As I say, one is a bay facility. As a businessman whether I would be in petroleum or anything else, I do whatever I have to do to make my profit and retain my customer base.

As far as regulations go-- Like I say, as a businessman I feel I will regulate myself at the same time. I like to see to it that the consumer gets what they want or I will no longer have the consumer. If he can get a cheaper price down the road or get better service down the road for the same price, that's where he's going. So, like I say, as a businessman I would like to see full-serve and self-serve combined together because I know that's what I would have to do to stay in business.

That's basically all I have to say at this point.

M A R K M E S C H O W S K I: Senator Rand, my name is Mark Meschowski. I operate a service station/convenience store in Pennsauken Township, Camden County which you're familiar with.

Like myself, we represent many of our fellow Exxon dealers who are independent who are high volume dealers. And when we define high volume, we say over 100,000 gallons in the course of a month.

We are seeing a new tide. We're seeing a company coming out with new facilities -- new stations that they're spending a lot of money on that we want to be a part of; that we want to be proud of. We're not being forced out. But on the same hand we are being led to sell more gasoline. Exxon company is in business to sell gasoline, so is Mark Meschowski. And to operate, our customers are demanding a lot more than they have been. We are open-- Both of our locations are open seven days a week, 24 hours a day. One of the locations happens to be in Camden County -- Pennsauken where it is extremely difficult to find the people to man it.

Now I realize a self-service bill would-- Initially you would come to think that a self-service bill would cut your man-hours down, cut your people down. I can't imagine-- Right now, if self-service today was put into effect, getting rid of any of my employees-- Like many of the other people we're speaking of, we are running a 60% to 65% staff. We do not have the people.

You're familiar with Camden County, I'm sure, and I'm sure you can tell what we're pulling from. We cannot pay a lot of money. We're in the fast food industry as well. They cannot pay a lot of money. They are limited to what they can pay and limited to people they can pool from. I'm sure some of you must have children, and you don't raise your children to become a gas attendant. It's a hard industry. It's a hard job to work and it's a hard place to fill people to put in these positions.

The only thing we can say is this, we are slowly but surely under the gun, under the pressure that if we can't keep these stations open seven days a week and 24 hours a day like our competition can, as well as Pennsauken, which we're only over the bridge from Pennsylvania which has 24-hour stations that are open seven days a week and offer both, self-serve and full-serve. We're going to be forced out of business.

I'm sure as a consumer, if my own mother was driving down the street, she would rather see a station that has self-service that is open than a station that is full-service but closed because they cannot find people to man those pumps. And that's where we stand. And thank you.

MR. PASCALE: Thank you.

SENATOR RAND: Gentlemen, I want to thank you very much for taking time -- and I know that you are business people who are really tied up -- to come down here -- or to come up here. Why, we want you to know that we appreciate it. We're sorry that we had to keep you so long waiting and I want you to know that you have my heartfelt thanks for coming up and giving us your viewpoints, and I do appreciate it.

MR. PASCALE: Thank you, Senator.

MR. MESCHOWSKI: Thank you.

SENATOR RAND: Thank you very much. Gibson LeRoy from Ewing. Slowly but surely we will get to everyone.

G I B S O N L e R O Y: I'd like to borrow this. (refers to nozzle)

SENATOR RAND: Yes, sir. Good afternoon, sir.

MR. LeROY: Good afternoon. I'd like to-- I've already furnished, as you know, a written statement previous to which I would like add, that I am not representing any of the vested interests that you may have heard here today.

SENATOR RAND: Yourself.

MR. LeROY: I'm just a lonely citizen who is concerned about the issue.

SENATOR RAND: You're just as welcome as anyone else, sir.

MR. LeROY: Thank you. I brought this up because it's the first time I had a real good look at it, this gadget. And I'm interested in the fact that there's supposed to be no safety problems, whereas on the top of this in very small print is says, "Warning, hazard of overfill or spillage." This is right on the product topping off and so forth and half of it has been worn off already so you can't read the full warning statement. To me, I think this indicates very clearly that even those who say otherwise, recognize there is a safety factor.

I am thankful for the opportunity to present these opinions and urgings at this hearing. They come as I said, from an ordinary senior citizen, native of New Jersey and motorist since 1924.

If is my fervent hope that the apparent technicalities written into the Constitution, which constitute the basis for the judicial ruling declaring denial of self-service stations discriminatory, may be determined as non-applying. If we were to base an opinion on the provisions of the Constitution of the United States, it would be reasonable to assume that any problems relating to the dispensing of gasoline as fuel for motor vehicles was hardly on the minds of our founding fathers. It is my understanding that that famous document was

intended to serve life, liberty, and the pursuit of happiness for all. Should the aims of our State Constitution be any lower?

Incidentally, I see no problem with allowing self-service in itself provided the public is not penalized financially for the full-service that so many desire and in many cases, require. Let's not discriminate against those who may prefer to: 1) get out in all kinds of weather, 2) walk over to the attendant's booth to ascertain whether one has to pay first or after dispensing, 3) walk back to the car, remove the gas cap, struggle with the hose, stand in the weather and hold the nozzle grip, exercise the expertise, and there is some that comes only with constant practice, place the nozzle properly back in place, and replace the cap, 4) return to the booth to make payment or receive a receipt and back to the car with hands that stink from the fumes.

These exercisings may not seem too troublesome to the younger generation as was expressed previously, but to the senior citizens, a constantly increasing segment of our population, especially among women, they are very troublesome and, to some, impossible. If, for instance, we are to be considerate of the disabled veteran and other handicapped persons, the penalizing of these persons by charging five cents or more per gallon for these services becomes a financial burden and discriminatory.

You have heard the many valid objections from the majority of service station operators in the State: more profits for the oil companies, unemployment in the industry, a safety factor still existing with inexperienced operators at the pumps, elimination in many cases, of other services such as tire repairs, checking oil level, checking battery, inflating tires, etc.

The basic issue, it seems to me, is freedom of choice. That freedom is jeopardized if it is hampered by a financial burden.

I'd like to add that no new legislation to rescind may well have been introduced in other states. But I think that the possible reason is that the people in those states feel frustrated that any effort that they might make to change that situation. And from the gentleman from Mobil, he has said that I want to pay the price, not that I must pay it. I don't want to pay some of these extra charges. And I don't think I'm that much different from anybody else.

I respectfully urge that you support these bills or a similar joint bill that will not allow the discrimination against so large a segment of the public.

Thank you very much for your patience and be assured I shall be happy to answer, to the best of my ability, any questions you may have.

SENATOR RAND: Mr. LeRoy, thank you very much.

MR. LeROY: Thank you, sir.

SENATOR RAND: Appreciate your coming. Mr. Gerald Donofrio from Willingboro. Good afternoon, sir.

G E R A L D D O N O F R I O: Good afternoon, sir. Thank you for the opportunity as a citizen in the State of New Jersey to voice an opinion in such a fashion and in front of such an important board. It's a rare opportunity that a citizen ever gets a chance to address anything pertaining to legislation and it may be by divine providence that this is the second time I had to do it on the very same issue of self-service gas stations.

The first time I was on the road and heard it on my radio that there was going to be a hearing, I think on a New York City radio station -- and I hurried down here. And I think that was 1982. I'm the fellow that Jerry Ferrara made reference to, the salesman that was on the road 60,000 miles a year traveling all through the Northeast.

Now I'm self-employed and have my own business and I don't travel as much, but I still have a very strong opinion on

self-service gas stations, and that is, sir, that they are absolutely ridiculous. I have not a prepared text because I only found out about this, again, by chance by calling the Public Advocate's Office last Tuesday to find out what legislation was going to be perpetrated upon the citizens in the State of New Jersey, because the newspapers and other media had not covered anything in the past month or so about this decision. And I was very interested. It was just by chance that I heard about this meeting today, and I'm pleased to be able to be here.

So I've only prepared a few short notes which characterize that which I find important. I lived in New Jersey until approximately 1966 when I moved to New York State and I lived in Syracuse. References have been made in Syracuse by Amerada Hess.

I lived in New York State in the '70s during the conversion of full-service gas stations to self-service gas stations. Needless to say, it gets cold in Syracuse, down to the 40 below mark several times within every 10-year period and frequently is well below zero.

And during these conversions the price of gasoline truly did go down for whoever wanted to get out of their car and pump it. It went down 5 cents, 6 cents. And Amerada Hess is one of the few people who did not go to self-service. They maintained full-service gas stations. So they enjoyed a lot of people coming to their stations because they were the only full-service station in town.

And after a few months there was a lot of problems because the only people who were able to convert to self-service gas stations were those who had companies who went in and converted them. The independent gas station dealers, on the other hand, who really didn't have the volume to dictate conversions sat idly by, not being able to have the self-service and not enjoying the low prices the way that the

bigger companies did because the bigger companies had these cash booths, or single operator and they were taking in all kind of trade, where the independent was sitting over there. He didn't have those facilities and he had to run out and collect money from people while they stood there and pumped their gas which was really kind of ridiculous. He watched them pump their gas and took their money.

One of the other problems that occurred was that these stations went out of business because they couldn't get the volume that the major oil companies had given to their better stations with these newer converted pumps -- like what they're doing right now with Mr. Kirschner's pumps even before this decision was made; spending a lot of time and energy getting rid of his service -- for instance on Route 541 in Mount Holly -- and converting that station into a convenience store with all kinds of isles for self-service gas. But having you merely get out of your car, go in the convenience store to pay for it while an attendant pumps it. Just a matter of possibly breaking down the psychology of the consumer; forcing them to get out of their car now even though they didn't have to pump it.

I don't see any purpose in anyone getting out of their car to pump gas and watch the prices rise as they did in New York State in the '70s. Shortly after they converted to self-service gas stations they had to raise the price because now they had to put in new equipment. And the new equipment cost millions of dollars as was already testified by some of these outstanding representatives of the oil companies. How do you pay for it? You increase the gas prices.

In my 1982 testimony, I think I testified that I experienced gas price differentials from self-service to full-service in the State of Rhode Island of 60 cents per gallon which already was 40 cents more per gallon than what it was in New Jersey. So we're looking at pretty close to a

dollar or more in Rhode Island than what it was in New Jersey for the very same gas from the very same ship from the very same refineries.

Clearly in my opinion the only person who's going to benefit from any form of self-service is the self-serving interests of the oil companies and those who represent, them and that is their gas station dealers.

Furthermore, recently I noticed several Getty stations in the past few years throughout southern New Jersey were converted from open bay full-service repair facilities. They closed up their bays and just pumped gas.

Now I'm happy to report that they're doing the opposite. They're opening up their bays and they're letting me go in and have my transmission fixed. And around the corner from me now there's four bays operating where in the past four years there have been no bays operating.

Well, certainly if we go to self-service gas stations those bays are going to close up again, just as they tried to do elsewhere. And they did all through New York State. And it's very difficult to get anyone to pump gas for you.

Recently I was over in Pennsylvania, and I don't go there to buy gas, but I did have to get transmission fluid and I had to stand in line with people to buy bubble gum, to buy cigarettes, potato chips, and beer. And there was about 13 people in there and I had to stand in line: 1) to find out if they had it, and 2) to have someone put it in because I didn't want to get dirty.

Another example of safety, and I think these are the criteria that you have to base your bill on, is safety. Similarly a few years ago I left New Jersey getting filled up for 74 cents a gallon, driving to Syracuse to visit a funeral up there. Having to get out, it was about 20 degrees. I had to pump up to fill up again because it just about took the whole gallonage to get there, of the tank. Had to pump my own

gas and as I got toward the end the gas spewed out at me because they don't service their nozzles. They really don't take care for them. There's no one ever to check them. And no one ever reports them bad. A similar suit to this was totally ruined. I had to go to the funeral with a gasoline soaked suit. There was nothing more I could do. There was no place to wash my hands, and when I told the operator about it they really didn't care. Plus the gas was more expensive by about 40 cents a gallon than it was in New Jersey.

And another example of safety, some of my fire was already taken by Renee Borstad, Burlington County Consumer Affairs, when she mentioned the fire on Route 130 about 5 months ago at two o'clock in the morning. I can't emphasize how dangerous gasoline is. It blows up like crazy, the flammability of it, or inflammability of it is high. It caused -- 400 feet away -- the windows on cars to totally melt and shatter, and the paint to peel off of cars 200 feet away. So gasoline is dangerous in any extension of the thought.

An example that my father had, and he asked me to relate this to this board with representation of him from northern New Jersey-- He was at a gas station pump where someone drove away with the nozzle still in the filler and as they drove away the hose let loose and went swinging through the air. He ducked as he saw it coming, and it smashed and landed right inside of his car in through the front windshield. So there's a certain amount of safety there.

As I lived in New Jersey (sic) State and I had to pump my own gas in all sorts of conditions, people do all sorts of things. They do leave their car running, constantly whether it's hot or cold. In the summertime they leave it running because they don't want the air conditioning to be turned off. They want their car to be cool when they get back inside. In the wintertime when it's cold out they want their car to be warm when they get back inside.

Many times what they do is they take the gas cap off and they prop it inside of the handle because they want to keep running and sit in their car and smoke a cigarette while the car is also running.

Now I've seen all these things happen until I moved down here in 1979. When I came to New Jersey it was like a God given paradise because I was able to come to a State with my wife where we didn't have to get dirty. We didn't have to get out in all kinds of weather. We didn't have to compete with people driving in and out to get gas and become traffic cops. We didn't have to compete with slippery conditions under foot from either ice and snow or from spilled oil from people who don't know how to fill their car with oil. And I don't see any reason in this world why the State of New Jersey now should go ahead and not provide its citizens with this continued benefit of pumped gasoline by a person who is knowledgeable of the facilities and also keeping the people in their car where their liability to personal injury is minimally exposed.

If you have any further questions from me, my experiences in my life on pumping gasoline, I'd be more than happy to answer them.

SENATOR RAND: Mr. Donofrio, first let me thank you for your testimony but let me be very appreciative of the fact when a citizen takes his time to come up here having no vested interest either way is much more impressive, to me, at least, than anything else. I would compliment you and say I wish we had ten times as many whether they are for the bill or against the bill. Because to take your time to come up here to express your thoughts, I certainly want to express a vote of thanks from this Committee to you for that.

MR. DONOFRIO: Thank you, sir.

SENATOR RAND: I wish we had more people like you. I do thank you very much.

MR. DONOFRIO: Thank you, Senator.

SENATOR RAND: Peter, will you call the next witness?

DR. MANOOGIAN (Committee Aide): William R. Healey, Director, Governmental Relations, New Jersey State Chamber of Commerce.

W I L L I A M R. H E A L E Y: I appreciate the opportunity to be here today. I'm representing the New Jersey State Chamber of Commerce, our regional affiliated chambers, and their combined membership of about 45,000 business and commercial enterprises in our State. The State Chamber of Commerce supports the introduction of the self-service gasoline option to the marketplace here in New Jersey. Obviously we are only one of two states that currently do not allow this option. It's something that shouldn't be denied any longer even if the recent court decisions had not persuaded the Legislature to look at the issue once again.

We're not "Johnny Come Lately's" to this issue. We've been long supporters of the need for self-serve. Going back to almost four years ago, representatives of the Chamber at that time spoke in favor of this option before both Senate and Assembly committees as we did this past April.

Besides being supportive of the additional marketplace option that self-service would provide, self-service gasoline will also help us address critical issue labor shortages that are prevalent in most areas in this State. Obviously there are fewer younger workers to take the jobs made necessary by our total full-serve system. And how many of us have been kept waiting because we're not allowed to get out of cars and pump our own, so to speak.

As with any kind of consumer's purchase, speed of service is a key factor. That's why we think that legislation that's aimed, such as these bills today, at reinstating the legal ban on self-serve fail to recognize the needs and the capabilities of New Jersey's motorists.

Obviously, I think some of the arguments used by opponents of the option have been weakened by the evolution of the auto service industry. Self-serve is not going to mean the demise of the station that makes car repairs. The presence of our State's dual public and private inspection system, which our Chamber also supported, is a large incentive to remain in the auto repair business. The changing technology of our automobile such as more computerized instrumentation and electronic diagnosis, is determining how and where car owners are having their autos serviced.

Yes, we indeed do have the lowest fuel prices in the nation but that's a function of our -- mostly of our low gasoline taxes. And we should be competitive with our neighboring states who allow self-serve.

The savings should be passed on to consumers by ensuring competition, not by limiting or restricting the choices that our motorists have. As part of the self-service option to be made available for our motorists, the State Chamber supports the disclosure notice that every station would prominently post the differences between any prices. Again, let's give the consumer the option. That's probably the key word I must stress in my testimony, the option that we currently do not have.

About 25% of the fuel that's purchased in this State is purchased by out-of-state residents; people to whom self-serve is an everyday routine. And I think New Jerseyans are also capable of enjoying the benefits of that same option.

If self-service was put into place as we hope it will be someday, the State Chamber would work closely with the Department of Labor and the Department of Environmental Protection and other concerned agencies to formulate regulations that would also best serve New Jersey's motoring public.

Let's meet the changing needs of our marketplace by approving the self-service option. And I'd like to thank everybody for this opportunity to speak before the Committee.

DR. MANOOGIAN: Thank you for your statement. Senator Rand will return in a few minutes at which time we will continue with the hearing. (short pause)

SENATOR RAND: Mr. John Douglas, Consumers Oil.

UNIDENTIFIED MEMBER OF AUDIENCE: They're gone.

SENATOR RAND: They're gone. Mr. McTighue from the Eastern Paralyzed Veterans. Good afternoon, sir.

T H A D D E U S M c T I G U E: Good afternoon, Senator. I'll keep my remarks brief since I think people covered the salient points.

SENATOR RAND: We'll be glad to listen to you, whatever you have to say.

MR. MCTIGHUE: Thank you. Eastern Paralyzed Veterans Association is a service organization for veterans with spinal cord injuries. We advocate in the states of New York, New Jersey, and Pennsylvania for spinal chord injured veterans, as well as other causes of disability. And I thank the Committee today for the opportunity to speak in favor of Senate Bills 2881 and 2906.

As the Senator who was the author of one of the pieces of legislation knows, self-service is just wrought with problems for people with disabilities. First off, it presents safety concerns.

Many of our members have called me and written letters with concern for this legislation. Maneuvering assistive devices around islands is quite a difficult proposition as many of the speakers have said. Now consider when the weather gets bad, those dangers are just intensified. And I don't mean to digress but I noticed Mr. Ferrara's little toy here that seems to be getting a lot of attention.

If you press this down it takes a bit of dexterity. Now as I said many of our members have spinal cord injuries so the dexterity in their hands is not what it would be for you or I. So it's virtually impossible for them to do this. So what's the option for them? The option is to go to the full-service island.

Now that really is economic discrimination for people with disabilities. They have to pay more for it. I know some of the speakers have said a possibility is to-- If self-service legislation is passed is to put some kind of amendment to it that they would haven't to pay the full price.

SENATOR RAND: In due deference, they did say that.

MR. McTIGHUE: Right, they did say that. But I think-- Quite the issue is a little different. You know, you're again treating people with disabilities a little bit differently than you are treating others, and that's not what they're interested in. But I will-- As you said, I want to point that out.

SENATOR RAND: But the spotlight is turned on them, is what you're saying.

MR. McTIGHUE: Right, once again, which--

SENATOR RAND: I--

MR. McTIGHUE: Thank you, Senator. So the economic discrimination factor is very important and I would hope that when the Committee looks at these bills that they take that into consideration. And as I said, EPVA also works in the states of New York and Pennsylvania. Now ideally, it's wonderful that if they can get that at the right price. But in practice it doesn't happen that way.

Oftentimes the attendant on duty is too busy getting change to paying patrons or as another man said, "Letting people pay for bubble gum, cigarettes, and newspapers." So they are forced to go to another service station and if it's late-- I've heard stories from our members late at night being

in places like West Virginia. It's a very difficult proposition, and I would hope that this Committee would, again, consider these problems that self-service brings. And I thank the Committee for being so patient. Thank you.

SENATOR RAND: Mr. McTigue, thank you very much for coming down and spending your time with us. We appreciate that. Is there anybody else that wishes to testify?

And what I will do because we did -- everybody speeded it up, I will allow five minutes for summary from both sides. Really, I just wanted to give an opportunity to reply. I know Mr. Ferrara had something going on while somebody -- Mr. Brandt was testifying. Mr. Benton, is there something you'd like to finish up with or make some comments? You're certainly welcome for the next five minutes. (no response) None whatsoever, sir?

MR. BENTON: Thank you, Senator. Well, no. I think our record is complete.

SENATOR RAND: Well, I just wanted to give you ample opportunity if there's something that you forgot or that you'd like to address, you're certainly welcome to it.

MR. BENTON: Your courtesy is sincerely appreciated, Senator.

SENATOR RAND: Mr. Ferrara, you've got five minutes, sir.

MR. FERRARA: I'll waive it. I think the day is long and everybody wants to go home.

SENATOR RAND: Well, it's not as bad as I thought it would be. Is there anyone else before we close this meeting? (no response)

Let me thank everybody for coming up here. We appreciate everybody who testified. We appreciate everybody who took their time. We tried to do it in an orderly manner as possible. If we made some people wait, we apologize but that's the way this game works. Everybody gets their turn.

Again, let me express our very deep thanks to everybody who came up here and to everybody who testified. Thank you very much. The meeting is adjourned.

(HEARING CONCLUDED)

