

CHAPTER 20

UNFAIR MOTOR FUELS PRACTICES ACT

Authority

N.J.S.A. 54:50-1 and 56:6-24.

Source and Effective Date

R.2006 d.414, effective October 27, 2006.
See: 38 N.J.R. 3286(a), 38 N.J.R. 5176(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 20, Unfair Motor Fuels Practices Act, expires on October 27, 2013. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 20, Unfair Motor Fuels Practices Act, was filed and became effective prior to September 1, 1969.

Chapter 20, Unfair Motor Fuels Practices Act, was readopted as R.2006 d.414, effective October 27, 2006. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

18:20-1.1 General provisions

Unfair Motor Fuels Practices Act was passed by the State Legislature in order to combat unfair competition in marketing practices, prevent waste harmful to the public and improve the supply of motor fuel, and thereby promote the general economic welfare of the people of this State.

18:20-1.2 Words and phrases defined

The following words and terms, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Branded motor fuel” means that motor fuel which a retail dealer sells using the trade name of the refiner or supplier.

“Director” means the Director of the Division of Taxation in the Department of the Treasury.

“Distributor or refiner or supplier” means and includes every person, wherever resident or located, who imports or causes to be imported into this State motor fuels for distribution or sale after the same reaches this State, whether in the original packages or containers in which it is imported or otherwise; and also any person who produces, refines, manufactures, blends, compounds or causes to be produced, refined, manufactured, blended or compounded fuels, and distributes or sells the same within this State.

“Tank wagon price” means the invoice cost of motor fuel to the retailer.

“Wholesaler” means any person who engages in the business of selling motor fuels to other persons who resell the said motor fuel or who place or have the said fuel placed into their containers or storage tanks for future consumption. The words “containers” or “storage tanks” as herein used do not apply to vehicle service tanks used only to carry motor fuels for use in propelling only the vehicle carrying such tanks.

Statutory References

N.J.S.A. 56:6-21.

18:20-1.3 through 18:20-1.10 (Reserved)

SUBCHAPTER 2. VIOLATIONS AND PENALTIES

18:20-2.1 Acts lessening competition may be misdemeanors

(a) It is a violation of the Act, and punishable as a misdemeanor, for any distributor, refiner, wholesaler or supplier, with intent to injure competitors or destroy or substantially lessen competition:

1. To offer, directly or indirectly, a rebate, concession, allowance, discount or benefit, of any kind or nature whatsoever, in connection with the sale or distribution of motor fuel or other products marketed by the distributor, refiner, wholesaler or supplier except that this provision does not apply to discounts uniformly applied for timely payments, quantity, or quality;

2. To lease or make a contract on condition, promise, agreement or understanding, where the effect of such lease, contract on condition, promise, agreement or understanding may be to substantially lessen competition that the lessee or purchaser thereof shall not use or deal in goods, wares, merchandise, supplies or other commodities of a competitor of such distributor, refiner, wholesaler or supplier except that this provision shall not apply to tanks or pumps if furnished by the distributor, refiner, wholesaler or supplier to be used in the distribution of its motor fuel; or

3. To discriminate, either directly or indirectly, in tank wagon price between different retail dealers purchasing the

same grade, quality or quantity of branded motor fuel, except to meet competition.

Amended by R.2006 d.414, effective December 4, 2006.
See: 38 N.J.R. 3286(a), 38 N.J.R. 5176(a).

Added designation (a) to introductory paragraph; recodified former (a) through (c) as (a)1 through (a)3; in (a)1, deleted "or" at the end; and in (a)2, substituted "shall" for "does" two times.

Statutory References

N.J.S.A. 56:6-22.

18:20-2.2 Contracts

(a) Any contract, expressed or implied, made by any person in violation of any of the provisions of this Chapter is an illegal and void contract;

(b) Parties to such contracts will not be permitted any recovery in any court of this State.

Statutory References

N.J.S.A. 56:6-23.

18:20-2.3 Court action

(a) An action may be maintained in any court of equitable jurisdiction to prevent, restrain or enjoin a violation, or threatened violation, of any of the provisions of the Act or regulations made pursuant thereto.

1. Such an action may be instituted by any person injured by any violation or threatened violation of the Act or by the Attorney General, upon the request of the Director;

2. If in such action a violation or threatened violation of the Act is established, the court will enjoin and restrain or otherwise prohibit, such violation or threatened violation;

3. In such action it is not necessary that actual damages to the plaintiff be alleged or proved, but where damages are alleged and proved, the plaintiff, in addition to such injunctive relief and costs of suit, including reasonable attorney's fees, will be entitled to recover from the defendant the actual damages sustained.

(b) In the event that no injunctive relief is sought, or required, any person injured by a violation of the Act may maintain an action for damages and costs of suit in any court of competent jurisdiction.

Statutory References

N.J.S.A. 56:6-25.

18:20-2.4 Penalty for violations

Any distributor, refiner, wholesaler or supplier who violates the provisions of the Act or these regulations shall be guilty of a misdemeanor.

Statutory References

N.J.S.A. 56:6-22.

18:20-2.5 Suspension or revocation of license

(a) In addition to the provisions of the Act, the Director is empowered to suspend or revoke the license or any licenses of any person, licensed under the provisions of N.J.S.A. 54:39-1, et seq.

(b) No such license or licenses will be suspended or revoked except upon notice to the licensee and after an informal or formal hearing as prescribed by the Director. The Director, upon a finding that the license has failed to comply with any provision of the Act or these regulations, will in the case of the first offender, suspend the license or licenses of the said licensee for a period not less than five or more than 20 consecutive business days, and in the case of a second or plural offender, suspend said license or licenses for a period of not less than 20 consecutive business days nor more than 12 months, and, in the event the Director finds the offender has been guilty of willful and persistent violations, he may revoke said person's license or licenses.

(c) Any person whose license or licenses has been revoked may apply to the Director at the expiration of one year for a reinstatement of his license or licenses. Such license or licenses may be reinstated by the Director if it appears to the satisfaction of the Director that the licensee will comply with the provisions of the Act and these regulations (see Section 18:18-2.10 for informal and formal hearing procedure).

Statutory References

N.J.S.A. 56:6-26.

18:20-2.6 Gasoline sales during license suspension

(a) No person whose license has been suspended or revoked shall sell motor fuel or permit motor fuel to be sold during the period of such suspension or revocation on the premises occupied by him or upon other premises controlled by him or others or in any other manner or form whatever.

(b) Nor will any disciplinary proceedings or action be barred or abated by the expiration, transfer, surrender, continuance, renewal or extension of any license, issued under the provisions of N.J.S.A. 54:39-1 et seq.

Statutory References

N.J.S.A. 56:6-27.

18:20-2.7 License suspension review

Any determination by the Director and any order of suspension or revocation of a license or licenses or refusal to reinstate a license or licenses after revocation is reviewable by the Superior Court of this State by proceedings in lieu of the prerogative writs.

Statutory References

N.J.S.A. 56:6-28.