

AN ACT

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Columbia
Official Code

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Retail Service Station Amendment Act of 1976 to make permanent the moratorium on conversion of full service retail service stations, to extend divorcement to jobbers, and to increase the penalty for violations.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Retail Service Station Amendment Act of 2004".

Sec. 2. The Retail Service Station Act of 1976, effective April 19, 1977 (D.C. Law 1-123; D.C. Official Code § 36-301.01 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 36-301.01) is amended by adding a new subsection (f-1) to read as follows:

Amend
§ 36-301.01

“(f-1) “Jobber” means a wholesale supplier or distributor of motor fuel.”.

(b) Section 3-102 (D.C. Official Code § 36-302.02) is amended to read as follows:

Amend
§ 36-302.02

“(a) After April 19, 1977, no jobber, producer, refiner, or manufacturer of motor fuels as the terms are defined in section 2(f-1), (i), and (l), shall open a retail service station in the District of Columbia, irrespective of whether or not the retail service station will be operated under a trademark owned, leased, or otherwise controlled by the jobber, producer, refiner, or manufacturer, unless the retail service station is to be operated by a person or entity other than.

“(1) An employee, servant, commissioned agent, or subsidiary of the jobber, producer, refiner, or manufacturer; or

“(2) A person or entity who operates or manages the retail service station under a contract with the jobber, producer, refiner, or manufacturer which provides for a fee arrangement.

“(b) After January 1, 1981, no jobber, producer, refiner, or manufacturer of motor fuels, as the terms are defined in section 2(f-1), (i), and (l), shall operate a retail service station in the District of Columbia, irrespective of whether or not the retail service station will be operated under a trademark owned, leased, or otherwise controlled by the jobber, producer, refiner, or manufacturer; with employees, servants, commissioned agents, or subsidiaries of the jobber, producer, refiner, or manufacturer; or with a person or entity who operates or manages the retail

service station under a contract with the jobber, producer, refiner, or manufacturer which provides for a fee arrangement; provided, that any entity, which, as of October 9, 1979, operates a retail service station in the District of Columbia, and of which a jobber, producer, refiner, or manufacturer, as defined in section 2(f-1) and (l), only has no more than 49% voting control, may continue to operate the station after January 1, 1981, so long as no jobber, producer, refiner or manufacturer, as defined in section 2(f-1) and (l), only has more than 49% voting control of the entity.

“(c) Any jobber in violation of subsections (a) or (b) of this subsection as of the effective date of the Retail Service Station Amendment Act of 2004, passed on 2nd reading on December 7, 2004 (Enrolled version of Bill 15-914), shall have 2 years following the effective date to come into compliance.”.

(c) Section 3-105(b) (D.C. Official Code § 36-302.05(b)) is amended by striking the phrase “\$300” and inserting the phrase “\$1,000” in its place.

Amend
§ 36-302.05

(d) Section 5-301 (D.C. Official Code § 36-304.01) is amended as follows:

Amend
§ 36-304.01

(1) Subsection (b) is amended by striking the phrase “until October 1, 2005”.

(2) Subsection (c) is amended by striking the phrase “until October 1, 2005”.

(3) Subsection (e)(4) is repealed.

(4) Subsection (g) is amended to read as follows:

“(g)(1) Any person, including the principal officers or agents of a corporation or association, who falsely certifies a petition for exemption, or willfully or knowingly fails to provide information required by this act, or intentionally provides misleading information required by this act, upon conviction, shall be subject to a fine of not less than \$2,000, but not more than \$5,000, for each offense.

“(2) Any owner or operator of a retail service station who converts or causes the conversion of the retail service station without procuring an exemption pursuant to this section shall be guilty of a civil infraction, subject to a penalty of \$20,000, and the license to operate the retail service station shall be suspended or revoked until such time as operation comes into compliance with this act. The Mayor may adjust the fine by rulemaking.

“(3) Any owner or operator of a retail service station which, as of the effective date of the Retail Service Station Amendment Act of 2004, has been converted into a non-full service facility in violation of this section, shall have 90 days to either restore the facility to full service or obtain an exemption from the from the Gas Station Advisory Board pursuant to subsection (d) of this section. Any owner or operator who fails to comply with the provisions of this subsection shall be subject to a penalty of not less than \$5,000 per day.”.

(5) Subsection (h) is amended by striking the phrase “The Mayor” and inserting the phrase “The District of Columbia Office of Energy, unless another agency is designated by the Mayor” in its place.

(6) New subsections (i) and (j) are added to read as follows:

“(i) The Office of Energy or successor agency, unless the Mayor shall direct otherwise,

shall be the agency charged with the civil enforcement of this section. The adjudication of any civil infraction under this section shall be pursuant to the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.01 *et seq.*).

“(j) The Mayor shall notify the Gas Station Advisory Board of any building or construction permit application filed by or on behalf of an owner or operator of a full service retail service station. The Mayor shall provide a copy of the permit application within 10 days of receipt.”.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia