State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 677

02/09/2015   Authored by Lucero, Drazkowski, Smith, Newberger, Pugh and others
    The bill was read for the first time and referred to the Committee on Commerce and Regulatory Reform

1.1   A bill for an act

1.2   relating to commerce; regulating gasoline sales below cost; amending Minnesota

1.3   Statutes 2014, section 325D.01, subdivision 5; repealing Minnesota Statutes

1.4   2014, sections 325D.01, subdivisions 11, 12; 325D.71.

1.5   BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6   Section 1. Minnesota Statutes 2014, section 325D.01, subdivision 5, is amended to read:

1.7   Subd. 5. **Cost.** The term "cost," as applied to the wholesale or retail vendor, means:

1.8   (1) the actual current delivered invoice or replacement cost, whichever is lower,

1.9   without deducting customary cash discounts, plus any excise or sales taxes imposed on

1.10   such commodity, goods, wares or merchandise subsequent to the purchase thereof and

1.11   prior to the resale thereof, plus the cost of doing business at that location by the vendor; and

1.12   (2) where a manufacturer publishes a list price and discounts, in determining such

1.13   "cost" the manufacturer's published list price then currently in effect, less the published

1.14   trade discount but without deducting the customary cash discount, plus any excise or

1.15   sales taxes imposed on such commodity, goods, wares or merchandise subsequent to the

1.16   purchase thereof and prior to the resale thereof, plus the cost of doing business by the

1.17   vendor shall be prima facie evidence of "cost";.

1.18   ~~(3) for purposes of gasoline offered for sale by way of posted price or indicating~~

1.19   ~~meter by a retailer, at a retail location where gasoline is dispensed into passenger~~

1.20   ~~automobiles and trucks by the consumer, "cost" means the average terminal price on~~

1.21   ~~the day, at the terminal from which the most recent supply of gasoline delivered to the~~

1.22   ~~retail location was acquired, plus all applicable state and federal excise taxes and fees,~~

1.23   ~~plus the lesser of six percent or eight cents.~~

2.1 Sec. 2. **REPEALER.**

2.2 Minnesota Statutes 2014, sections 325D.01, subdivisions 11 and 12; and 325D.71,

2.3 are repealed.

2.4 Sec. 3. **EFFECTIVE DATE.**

2.5 Sections 1 and 2 are effective the day following final enactment.

325D.01 DEFINITIONS.

Subd. 11. **Terminal.** "Terminal" means a storage facility to which gasoline is shipped by pipeline, barge, or rail, and from which gasoline is subsequently transferred into motor vehicles for delivery to other locations. For purposes of this chapter, an oil refinery is also a terminal.

Subd. 12. **Average terminal price.** "Average terminal price" means the arithmetic mean of all prices for an individual grade of gasoline at a terminal as published by a nationally recognized petroleum price reporting service.

325D.71 UNLAWFUL GASOLINE SALES.

Any offer for sale of gasoline by a retailer by way of posted price or indicating meter that is below cost, as defined by section 325D.01, subdivision 5, clause (3), is a violation of section 325D.04, except that the criminal penalties in section 325D.071 do not apply. In addition to the penalties for violations and the remedies provided for injured parties set forth elsewhere in this chapter, the commissioner of commerce may use the authority under section 45.027 for the purpose of preventing violations of this section. A retailer who sells gasoline at the same or higher legally posted price of a competitor in the same market area, on the same day, is not in violation of this section.

A retailer who offers gasoline for sale at a price below cost as part of a promotion at an individual location for no more than three days in any calendar quarter is not in violation of this section.