

CHAPTER 252—H.F.No. 3747

An act relating to commerce; modifying regulation of motor fuel franchises; modifying provisions relating to petroleum fund compensation for transport vehicles; amending Minnesota Statutes 2004, section 80C.01, subdivision 4; Minnesota Statutes 2005 Supplement, section 115C.09, subdivision 3j; proposing coding for new law in Minnesota Statutes, chapter 80C.

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

Section 1. Minnesota Statutes 2004, section 80C.01, subdivision 4, is amended to read:

Subd. 4. **Franchise.** (a) "Franchise" means (1) a contract or agreement, either express or implied, whether oral or written, for a definite or indefinite period, between two or more persons:

(i) by which a franchisee is granted the right to engage in the business of offering or distributing goods or services using the franchisor's trade name, trademark, service mark, logotype, advertising, or other commercial symbol or related characteristics;

(ii) in which the franchisor and franchisee have a community of interest in the marketing of goods or services at wholesale, retail, by lease, agreement, or otherwise; and

(iii) for which the franchisee pays, directly or indirectly, a franchise fee; or

(2) a contract, lease, or other agreement, either express or implied, whether oral or written, for a definite or indefinite period, between two or more persons, whereby the franchisee is authorized, permitted, or granted the right to market motor vehicle fuel at retail under the franchisor's trade name, trademark, service mark, logotype, or other commercial symbol or related characteristics owned or controlled by the franchisor; or

(3) the sale or lease of any products, equipment, chattels, supplies, or services to the purchaser, other than the sale of sales demonstration equipment, materials or samples for a total price of \$500 or less to any one person, for the purpose of enabling the purchaser to start a business and in which the seller:

(i) represents that the seller, lessor, or an affiliate thereof will provide locations or assist the purchaser in finding locations for the use or operation of vending machines, racks, display cases, or similar devices, or currency operated amusement machines or devices, on premises neither owned or leased by the purchaser or seller; or

(ii) represents that the seller will purchase any or all products made, produced, fabricated, grown, bred, or modified by the purchaser using, in whole or in part, the supplies, services, or chattels sold to the purchaser; or

(iii) guarantees that the purchaser will derive income from the business which exceeds the price paid to the seller; or

(4) an oral or written contract or agreement, either expressed or implied, for a definite or indefinite period, between two or more persons, under which a manufacturer, selling security systems through dealers or distributors in this state, requires regular payments from the distributor or dealer as royalties or residuals for products purchased and paid for by the dealer or distributor.

(b) "Franchise" does not include any business which is operated under a lease or license on the premises of the lessor or licensor as long as such business is incidental to the business conducted by the lessor or licensor on such premises, including, without limitation, leased departments, licensed departments, and concessions.

(c) "Franchise" does not include any contract, lease or other agreement whereby the franchisee is required to pay less than \$100 on an annual basis, except those franchises identified in paragraph (a), clause (2).

(d) "Franchise" does not include a contract, lease or other agreement between a new motor vehicle manufacturer, distributor, or factory branch and a franchisee whereby the franchisee is granted the right to market automobiles, motorcycles, trucks, truck-tractors, or self-propelled motor homes or campers if the foregoing are designed primarily for the transportation of persons or property on public highways.

(e) "Franchise" does not include a contract, lease, or other agreement or arrangement between two or more air carriers, or between one or more air carriers and one or more foreign air carriers. The terms "air carrier" and "foreign air carrier" shall have the meanings assigned to them by the Federal Aviation Act, United States Code Appendix, title 49, sections 1301(3) and 1301(22), respectively.

(f) For purposes of paragraph (a), clause (2), "franchise" does not include the marketing of motor vehicle fuel in circumstances where all the following are present:

(1) the franchisor or an affiliate of the franchisor is not a refiner of motor vehicle fuel, diesel fuel, or gasoline;

(2) the franchisor's trade name, trademark, service mark, logotype, or other commercial symbol or related characteristics is not used to identify the marketing premises generally, but only the gasoline dispensers, canopy, and gasoline price signage, provided, however, this circumstance is not changed by a voluntary decision by the retailer to identify the buildings on the premises in the manner selected by the retailer;

(3) the franchisor does not impose any requirements or franchise fee on nonmotor vehicle fuel products or sales, provided this circumstance is not changed by a voluntary decision by the retailer to purchase nonmotor vehicle fuel products from the franchisor or an affiliate of the franchisor; and

(4) the facility is not leased from the franchisor or affiliate of the franchisor.

~~(f)~~(g) For purposes of this chapter, a person who sells motor vehicle fuel at wholesale who does not own or control, or is not an affiliate of a person who owns or controls, the trademark, trade name, service mark, logotype, or other commercial symbol or related characteristics under which the motor vehicle fuel is sold at retail, is not a franchisor or a franchisee, and is not considered to be part of a franchise relationship.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 2. **[80C.144] EXEMPT MOTOR FUEL FRANCHISES; ALTERNATIVE COMPLIANCE.**

A motor fuel franchise exempt from regulation under this chapter pursuant to section 80C.01, subdivision 4, paragraph (f), is subject to regulation under chapter 80F.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 3. Minnesota Statutes 2005 Supplement, section 115C.09, subdivision 3j, is amended to read:

Subd. 3j. **Retail locations and transport vehicles.** (a) As used in this subdivision, "retail location" means a facility located in the metropolitan area as defined in section 473.121, subdivision 2, where gasoline is offered for sale to the general public for use in automobiles and trucks. "Transport vehicle" means a liquid

fuel cargo tank used to deliver gasoline into underground storage tanks during 2002 ~~and~~ or 2003 at a retail location.

(b) Notwithstanding any other provision in this chapter, and any rules adopted under this chapter, the board shall reimburse 90 percent of an applicant's cost for retrofits of retail locations and transport vehicles completed between January 1, 2001, and ~~January~~ September 1, 2006, to comply with section 116.49, subdivisions 3 and 4, provided that the board determines the costs were incurred and reasonable. The reimbursement may not exceed \$3,000 per retail location and \$3,000 per transport vehicle.

EFFECTIVE DATE. This section is effective retroactively from August 1, 2003.

Presented to the governor May 22, 2006

Signed by the governor May 31, 2006, 10:37 p.m.