

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

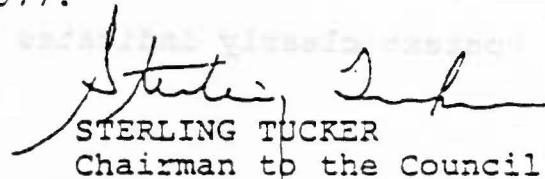
April 7, 1977

D.C. Law 1-123

"Retail Service Station Act of 1976".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, (PL 93-198) the Act, the Council of the District of Columbia adopted Bill No. 1-333 on first and second readings November 23, 1976 and December 7, 1976, respectively. Following expiration of the ten-day period provided the Mayor, in which no action was taken, pursuant to Section 404(e) of the Act, this legislation was assigned Act No. 1-220, published in the February 11, 1977, edition of the D.C. Register and transmitted to both Houses of Congress for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has expired and, therefore cites the following legislation as D.C. Law 1-123, effective April 19, 1977.


STERLING TUCKER
Chairman to the Council

(Ref. 23, D.C. Reg., 5900, February 11, 1977)

D. C. Law

1-123

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 19, 1977

To provide for the registration of persons selling, supplying, or distributing motor fuels, for a prohibition on the operation of retail service stations by producers, refiners, and manufacturers, for non-discriminatory use of voluntary allowances, equipment rental charges, and motor fuel apportionments, for certain non-waiverable conditions in marketing agreements, for certain rights, responsibilities, and remedies relative to the termination, cancellation, and non-renewal of marketing agreements, for a moratorium on conversions to limited service retail service stations, and for other purposes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,
That this act may be cited as the "Retail Service Station
Act of 1976".

DEFINITIONS

Sec. 2. Definitions.

For the purpose of this act, the following words, terms, phrases, and their derivations shall have the meanings respectively ascribed to them in this section unless the context clearly indicates otherwise:

(a) "Automotive Product" means any product or item of merchandise, including any tire, battery, or similar motor vehicle accessory or part, other than motor fuels or petroleum products, which is intended to be or is capable of being used with, in, or on a motor vehicle, whether or not such product is essential for the proper operation and maintenance of a motor vehicle and whether or not such product is also suitable or is actually sold or used for non-motor vehicle purposes;

(b) "Distributor" means any person who is engaged in the business of selling, supplying, or distributing on consignment or otherwise, motor fuels or petroleum products to or through retail service stations which it owns, leases, or otherwise controls and who also maintains a marketing agreement with a retail dealer for the sale or distribution of motor fuels or petroleum products to a retail service station, whether or not such distributor owns, leases, or otherwise controls such retail service station;

(c) "Engaging in the Retail Sale of Motor Fuel" means that at least thirty (30) per centum of the retail dealer's gross revenue, excluding such revenue as is derived from the retail sale of petroleum products and automotive products and from the repair, maintenance, and servicing of motor vehicles, is derived from the retail sale of motor fuel;

(d) "Equipment" means any movable tangible personal property which is used in the business of operating a retail service station, other than property which is either consumed in the business, except through depreciation or amortization, or held for immediate or ultimate sale to customers. The term "equipment" also includes any motor fuel dispensing pump, lift, storage tank, machine, appliance or other similar property which was movable tangible personal property at the time such property was purchased, leased, or otherwise acquired by the operator of a retail service station, whether or not such property was subsequently attached or affixed to any real property;

(e) "Failure to Renew" means any exercise of a right or power created by the marketing agreement or by law to terminate, cancel, or otherwise put an end to a marketing agreement at the expiration of its term, including the exercise of a right or power to put an end to a marketing agreement which would otherwise be extended or renewed automatically for a definite or indefinite term and any failure to extend or renew a marketing agreement which does not provide for automatic extension or renewal. The term "failure to renew" shall also include any termination or cancellation of a marketing agreement which does not specify an expiration date or term;

(f) "Goodwill" means the tendency or habit of customers to return for trade to the retail service station with which they have been previously dealing and includes, with respect to the value of a retail dealer's goodwill, whatever value, advantage, or benefit is added to the value of a retail service station business as a result of the efforts of the retail dealer and his employees during the term or terms of a marketing agreement with the distributor, and of any preceding marketing agreements between the same parties, including, but not limited to, whatever value, advantage, or benefit is added by the reputation of the retail dealer and his employees for competence, skill, quality, ability, reliability, punctuality, personal attention, honesty, integrity, fair dealing, reasonable prices, and other attributes in providing motor fuels, petroleum products, and automotive products and in providing motor vehicle repair, maintenance, and other services, over and above the value of any inventory, equipment, real estate, and other tangible property, of a trademark owned, leased, or otherwise controlled by the distributor, or of advertising or other promotions furnished or financed, in whole or part, by the distributor, which value, advantage, or benefit can reasonably be expected to remain at the retail service station location after the departure of the retail dealer.

In determining the value of a retail dealer's goodwill, any increase in the volume of motor fuel, petroleum product, and automotive product sales, any increase in the volume of repair, maintenance, and other services provided, any increase in the number of customers, any financial or other contributions to advertising or promotions by the retail dealer, the number of years the retail dealer has operated the retail service station, and other similar factors should be taken into account in light of all other factors and circumstances;

(q) "Marketing Agreement" means any written agreement, or combination of agreements, including any contract, lease, franchise, or other agreement, which is entered into between a distributor and a retail dealer and pursuant to which:

(1) the distributor agrees to sell, supply, or distribute motor fuel to the retail dealer for the purpose of engaging in the retail sale of such motor fuel at a retail service station; and .

(2) the retail dealer is granted the right, privilege, or authority, in addition to whatever else may be provided, to:

(i) use any trademark owned, leased, or otherwise controlled by the distributor for the purpose of

engaging in the retail sale of motor fuel at a retail service station; or

(ii) occupy a retail service station owned, leased, or otherwise controlled by the distributor for the purpose of engaging in the retail sale of motor fuel;

(h) "Merchantable Product" means any product which is in such a condition that it is reasonably resalable in the normal course of the operation of a retail service station business at a price normally charged for a new or unused product;

(i) "Motor Fuel" means any gasoline, diesel fuel, special fuel, petroleum distillate, refined petroleum product, natural petroleum liquid product, natural gas liquified product, crude oil product, or other substance or combination of substances which is intended to be or is capable of being used for the purpose of propelling or running any internal combustion engine of a motor vehicle and which is sold or used, alone or blended or compounded with other substances, by any person for such purpose;

(j) "Person" means any natural person, firm, association, business trust, trust, estate, partnership, corporation, two or more persons having a common or joint interest, or other legal or commercial entity. In the case of an entity, the term "person" shall also include any other

entity which is a parent company of the entity; has, directly or indirectly, thirty (30) per centum or more voting control over the entity; manages or effectively controls the entity, other than through a contractual relationship; or is under common control with the entity. In addition, in the case of an entity, the term "person" shall also include any other entity which is a subsidiary or affiliate of the entity; over which the entity has, directly or indirectly, thirty (30) per centum or more voting control; or which is managed or effectively controlled by the entity, other than through a contractual relationship;

(k) "Petroleum Product" means any oil, crude oil, residual fuel oil, grease, lubricant, petroleum distillate, refined petroleum product, natural petroleum product, natural gas product, crude oil product, or similar product, other than motor fuels, which is intended to be or is capable of being used with, in, or on a motor vehicle, whether or not such product is essential for the proper operation and maintenance of a motor vehicle and whether or not such product is also suitable or is actually sold or used for non-motor vehicle purposes;

(l) "Refiner, Producer, or Manufacturer" means any person who is engaged in the business of manufacturing, producing, refining, distilling, blending, or compounding

motor fuels, petroleum products, or precursors of motor fuels or petroleum products, which are ultimately sold, supplied, or distributed to retail service stations in the District of Columbia by such person or any other person, whether or not such manufacturing, producing, refining, distilling, blending, or compounding is performed by such person within the District of Columbia, or who is engaged in the business of importing motor fuels or petroleum products;

(m) "Retail Dealer" means any person, other than an employee of a distributor, who owns, leases, operates, or otherwise controls a retail service station for the purpose of engaging in the retail sale of motor fuel and who also maintains a marketing agreement with a distributor;

(n) "Retail Sale" means the sale of any tangible personal property to the public for any purpose other than for the resale of the property in the form in which it is sold or for the use or incorporation of the property sold as a material or part of other tangible personal property to be produced for sale by manufacturing, assembling, processing, or refining;

(o) "Retail Service Station" means any fixed geographic location, including the real estate and permanent improvements thereon, which is operated for the purpose of storing and selling motor fuel at retail and which has a

dispensing system for delivery of motor fuel into the service tanks of motor vehicles, whether or not such location is also operated for the purposes of selling petroleum products, automotive products, or other products at retail or of repairing, maintaining, or servicing motor vehicles;

(p) "Selling, Sell, or Sale" means selling, offering for sale, keeping for sale, exposing for sale, advertising for sale, trafficking in, bartering, pedaling, or any other transfer, exchange, or delivery in any manner or by any means other than purely gratuitously;

(q) "Trademark" means any trademark, tradename, service mark, brandname, or other identifying mark, symbol, or name, including any identifying mark, symbol, or name associated with any motor fuel; and

(r) "Wholesaler" means any person, including any distributor, who is engaged in the business of selling, supplying, or distributing motor fuels or petroleum products to retail service stations in the District of Columbia.

TITLE I

OPERATION OF RETAIL SERVICE STATIONS

Sec. 3-101. Registration of Intent to Sell.

(a) Notwithstanding anything contained in D.C. Code,

sec. 27-2314 (1973 ed.), all refiners, producers, manufacturers, marketers, wholesalers, distributors, suppliers, jobbers, resellers, retailers, retail dealers, or sellers of motor fuels, including any operator of a retail service station, shall, before selling, supplying, or distributing any motor fuels which may ultimately be used for the purpose of propelling or running any motor vehicle and annually thereafter, file with the Mayor a written declaration that they desire or intend to sell, supply, or distribute motor fuels in the District of Columbia. The declaration shall be filed on such form or forms and in such manner as may be prescribed by the Mayor and shall include, in addition to such other information as the Mayor shall require, a listing of the types and grades of the motor fuels and petroleum products that such person wishes or intends to sell, supply, or distribute; any trademark or trademarks associated therewith; a listing of the names and addresses of the suppliers thereof; a listing of the names and addresses of the persons to whom such motor fuels or petroleum products are or will be sold, supplied, or distributed; and a description, including the location, of any proposed or existing facilities and equipment such

person will utilize in his business. It shall be a violation of this title for any person to sell, supply, or distribute any motor fuel to any person in the District of Columbia, by himself or by his employee, servant, or agent, or as the employee, servant, or agent of any other person, or to have any motor fuel in his custody or possession with intent to sell, supply, or distribute such motor fuel, without having first filed a current valid declaration with the Mayor, provided that any person who is engaged in the business of selling, supplying, or distributing motor fuel in the District of Columbia on the effective date of this act may continue such business for not more than thirty (30) days after the effective date of this act without filing a declaration.

(b) Whenever a person intends to discontinue the business of selling, supplying, or distributing motor fuel in the District of Columbia, whether through a sale or transfer of the business or otherwise, such person shall notify the Mayor in writing of such discontinuance at least ten (10) days prior to the date that such discontinuance will take effect. Such notice shall give the date of the discontinuance, the reason for such discontinuance, and, in the event of a sale or transfer of the business, the

effective date thereof and the name and address of the purchaser or transferee thereof.

Sec. 3-102. Restrictions on Operation.

(a) After the effective date of this act, no producer, refiner, or manufacturer of motor fuels as the terms are defined in sections 2-101(j) and (l) of this act shall open a retail service station in the District of Columbia, irrespective of whether or not such retail service station will be operated under a trademark owned, leased, or otherwise controlled by such producer, refiner, or manufacturer, unless such retail service station is to be operated by a person or entity other than either an employee, servant, commissioned agent or subsidiary of such producer, refiner, or manufacturer or a person or entity who operates or manages such retail service station under a contract with such producer, refiner, or manufacturer which provides for a fee arrangement.

(b) After January 1, 1981, no producer, refiner, or manufacturer of motor fuels as the terms are defined in sections 2-101(j) and (l) of this act shall operate a retail service station in the District of Columbia, irrespective of whether or not such retail service station will be operated under a trademark owned, leased, or otherwise controlled by such producer, refiner, or manufacturer, with employees,

servants, commissioned agents, or subsidiaries of such producer, refiner, or manufacturer or with a person or entity who operates or manages such retail service station under a contract with such producer, refiner, or manufacturer which provides for a fee arrangement.

Sec. 3-103. Non-Discrimination.

(a) Every wholesaler shall extend all voluntary allowances, including, but not limited to, any temporary or permanent price reduction, price allowance, price adjustment, special sale, deal, discount, inducement, incentive, rent rebate, rent abatement, rent relief, premium or other allowance, uniformly, on an equitable basis, to every retail service stations served. In the event that an exceptional or undue hardship has been imposed on a specific retail service station by the occurrence or existence of special or unusual circumstances, including, but not limited to, loss by fire or a temporary road closing, a non-uniformly extended voluntary allowance may be extended to such retail service station.

(b) Every wholesaler shall apply all equipment rental charges for equipment of a comparable age, condition, grade, or quality uniformly, on an equitable basis, to every retail service station served.

(c) Every wholesaler shall, during periods of shortage affecting such wholesaler, apportion uniformly all motor fuels, including all grades of motor fuel, and all petroleum products affected by such shortage, on an equitable basis, to every retail service station served. No wholesaler shall unreasonably discriminate between retail service stations in their allotments. For the purpose of this subsection, a shortage shall exist when any wholesaler is unable or unwilling for any reason, on either a permanent or temporary basis, to sell, distribute, or supply any specific motor fuels or petroleum products to all retail service stations previously served in a quantity equivalent to that previously sold, distributed, or supplied to such retail service stations.

Sec. 3-104. Rules and Regulations; Exemptions.

(a) Upon finding that enforcement of section 3-102 of this Title would imposed on exceptional or undue hardship upon any refiner, producer, or manufacturer as a result of the existence of special or unusual circumstances, the Mayor may grant permission to such producer, refiner, or manufacturer to temporarily operate a retail service station for a period of not longer than ninety (90) days. Within sixty (60) days following the effective date of this act, the Mayor shall promulgate rules and regulations specifying

the special or unusual circumstances during which a producer, refiner, or manufacturer may temporarily operate a retail service station, including, but not limited to, the abandonment of a retail service station by a retail dealer, the termination of, cancellation of, or failure to renew a marketing agreement other than a wrongful or illegal termination, cancellation, or failure to renew, and other emergencies. Any producer, refiner, or manufacturer who desires the permission provided for in this subsection shall submit a written request for such permission to the Mayor, on such form or forms and in such manner as may be prescribed by the Mayor, prior to operating any retail service station. Such request shall include a statement of the special or unusual circumstances that exist and of the exceptional or undue hardship which would result from the enforcement of section 3-102 of this Title. Nothing contained in this subsection shall be construed as authorizing any producer, refiner, or manufacturer to operate any retail service station in violation of this Title during the pendency of a request for permission to temporarily operate such retail service station.

(b) The Mayor may grant an exemption of not longer than one (1) year to the divorce date specified in section 3-102(b) of this Title to any producer, refiner, or

manufacturer who is unable, after reasonable effort, to either sell, transfer, or otherwise dispose of any retail service station which he owns, leases, or otherwise controls or enter into a satisfactory marketing agreement or lease with a qualified retail dealer or other person who is authorized to operate such retail service station under section 3-102 of this Title.

(c) The Mayor is authorized to promulgate all other rules and regulations necessary for the proper implementation and enforcement of Titles I and III of this act.

(d) The Mayor may require any person subject to the provisions of section 3-101 of this Title to maintain such written records and to file with the Mayor written reports containing such information as the Mayor shall deem necessary for the proper implementation and enforcement of Titles I and III of this act.

Sec. 3-105. Violations - Notice, Order, Injunction, and Penalties

(a) Whenever the Mayor has reason to believe that any person has violated or is violating any provision of Title I or III of this act or the rules and regulations promulgated pursuant thereto, he shall cause written notice to be served upon such person in the manner provided for by law. Such

notice shall specify the provision or provisions that the Mayor has reason to believe that the person has violated or is violating and the ultimate facts or actions upon which the Mayor bases his belief. The Mayor shall also cause a written order to be served upon such person directing such person to immediately cease and desist from continuing such violation. If the person so ordered refuses or fails to comply with such order, the Mayor shall be authorized to apply to any court of competent jurisdiction for a temporary restraining order, preliminary injunction, or permanent injunction restraining such person from continuing such violation. The court shall have jurisdiction to grant such temporary restraining order, preliminary injunction, permanent injunction, or other relief as may be appropriate under the circumstances.

(b) Any violation of any provision of Titles I or III of this act or the rules and regulations promulgated pursuant thereto, shall constitute a misdemeanor and shall, upon conviction thereof, be punishable by a fine of not more than \$300 or by imprisonment for not more than ninety (90) days or both. In the event of any violation of any provision of Titles I or III of this act or the rules and regulations promulgated pursuant thereto, each and every day of such violation shall constitute a separate offense and

the penalties provided for herein shall be applicable to each such separate offense.

TITLE II

MARKETING AGREEMENTS

Sec. 4-201. Conditions Affecting Marketing Agreements.

All marketing agreements shall be in writing and shall be subject to the non-waiverable conditions set forth in this section, whether or not such conditions are expressly set forth in such marketing agreements. For the purposes of this section, the term "marketing agreement" shall also include any oral or written collateral or ancillary agreement. No marketing agreement shall:

(a) require a retail dealer to keep his retail service station open for business for any specified number of hours per day, or days per week, or for any specified hours of the day, or days of the week, except as otherwise provided in section 4-203(c)(5);

(b) require a retail dealer to purchase or accept delivery of, on consignment or otherwise, any products from the distributor other than such motor fuels and petroleum products as are specified in the marketing agreement;

(c) fix, maintain, or establish, or grant to the distributor the right, privilege, or authority to fix, maintain, or establish, the prices at which the retail

dealer shall sell any motor fuels, petroleum products, or automotive products;

(d) require the retail dealer to meet any sales quotas for any motor fuels, petroleum products, or automotive products;

(e) prohibit a retail dealer from selling, assigning, or otherwise transferring his marketing agreement or any interest therein to another person;

(f) prohibit a retail dealer from purchasing or accepting delivery of, on consignment or otherwise, any motor fuels, petroleum products, automotive products, or other products from any person who is not a party to the marketing agreement or prohibit a retail dealer from selling such motor fuels or products, provided that if the marketing agreement permits the retail dealer to use the distributor's trademark, the marketing agreement may require such motor fuels, petroleum products, and automotive products to be of a reasonably similar quality to those of the distributor, and provided further that the retail dealer shall neither represent such motor fuels or products as having been procured from the distributor nor sell such motor fuels or products under the distributor's trademark;

(g) require a retail dealer to take part in any promotional or advertising campaign which will require the

retail dealer to use, utilize, or accept any premiums, coupons, posters, stamps, tickets, gifts, bonuses, rebates, or other promotional items;

(h) contain any provision which in any way limits the right of any party to such marketing agreement to a trial by jury or to the interposition of counter-claims or cross-claims;

(i) contain any provision which requires the retail dealer to assent to any release, assignment, novation, waiver, or estoppel which would relieve any person from any liability imposed by this Title or would negate any rights granted to a retail dealer by this Title;

(j) be for a term of less than one (1) year; or

(k) contain any term or condition which, directly or indirectly, violates this Title.

Nothing contained within this subsection shall be construed as prohibiting a distributor from suggesting or advising the retail dealer of appropriate or reasonable hours of operation, days of operation, or prices, provided that the distributor shall in no way or manner attempt to threaten or coerce the retail dealer into following his suggestions or advice. Nothing contained within this subsection shall be construed as prohibiting a retail dealer from agreeing to purchase or accept delivery of other

products or equipment from the distributor or from participating financially or otherwise in any promotional or advertising campaign sponsored by the distributor, provided that the distributor shall in no way or manner attempt to threaten or coerce such actions on the part of the retail dealer.

Sec. 4-202. Disclosures to Prospective Retail Dealers.

Prior to entering into any marketing agreement with any prospective retail dealer, a distributor shall disclose the information set forth in this subsection to such prospective retail dealer in writing. Prior to transferring any marketing agreement or interest therein to any prospective transferee, a retail dealer shall disclose the information set forth in this subsection to such prospective transferee in writing.

- (a) The name and last known address of the previous retail dealer or dealers for the immediately prior three year period or for the entire period during which the distributor has either sold or distributed motor fuels or petroleum products to or through such retail service station location or owned, leased, or otherwise controlled such location, whichever period is shorter, and the grounds or reasons for the termination of, cancellation of, or failure

to renew each marketing agreement with such previous retail dealer or dealers.

(b) The existence of any present commitments, negotiations, or plans for the future sale, demolition, or other disposition of such location.

Sec. 4-203. Termination, Cancellation, and Failure to Renew.

(a) A retail dealer shall have the right to terminate or repudiate any marketing agreement to which he is a party for any reason, without the imposition of any damages or penalties and without any recourse by the distributor for such termination or repudiation, within seven days, not including Saturdays, Sundays, or holidays, after the day on which performance of such marketing agreement commences.

For purposes of this subsection, the term "marketing agreement" shall not include any renewal, extension, modification, amendment, or novation of an existing marketing agreement. For purposes of this subsection, the term "performance" shall mean the granting of a present right, privilege, or authority to use a trademark, the granting of a present right, privilege, or authority to occupy a retail service station, or the actual delivery of any motor fuels, petroleum products, or automotive products to the retail dealer. In order to exercise his right to

terminate or repudiate a marketing agreement pursuant to this subsection, the retail dealer shall:

(1) mail written notice, by registered or certified mail, to the distributor of his intention to exercise his right under this subsection within the period specified in this subsection;

(2) discontinue use of any trademark presently being used by such retail dealer pursuant to the marketing agreement;

(3) deliver or tender, so far as is practical, to the distributor all money, equipment, and merchantable products, including all motor fuels, petroleum products, and automotive products which the retail dealer has not presently sold, which have been loaned, sold, or delivered to the retail dealer pursuant to the marketing agreement within ten (10) days after mailing the notice specified in this subsection; and

(4) deliver or tender to the distributor full possession of any retail service station provided by the distributor pursuant to the marketing agreement within ten (10) days after mailing the notice specified in this subsection.

The retail dealer shall receive full credit, or the cash equivalent, for all money, equipment, and merchantable

products delivered to the distributor pursuant to paragraph (3) of this subsection. Nothing contained within this subsection shall be construed as granting a similar right to terminate or repudiate to the distributor under a marketing agreement or as prohibiting the retail dealer from cancelling a marketing agreement during the period specified in this subsection.

(b) No retail dealer or distributor, except as otherwise provided in subsection (a) of this section, shall terminate, cancel, or fail to renew a marketing agreement unless he furnishes prior written notice to the other party. Such notice shall be sent to the other party by registered or certified mail not less than ninety (90) days prior to the date on which the marketing agreement is to be terminated, cancelled, or not renewed, unless a shorter period is provided for in this subsection. Such notice shall contain a statement of the party's intention to terminate, cancel, or fail to renew the marketing agreement, the date on which such action shall become effective, and a statement of the specific grounds for such action. No distributor shall terminate, cancel, or fail to renew a marketing agreement, or notify a retail dealer of his intention to take such action, unless he reasonably and in good faith believes that the facts and circumstances

existing do, in fact, justify his reliance on the grounds specified in his notice of intention to take such action. Notice furnished pursuant to this subsection shall be effective on the date of the mailing.

In the event that a termination or cancellation is based upon one or more of the grounds specified in paragraphs (1) through (4) and (10) through (17) of subsection (c), the ninety (90) days advance notice shall not be required. However, in such an event, the distributor shall furnish written notice to the retail dealer as far in advance of the effective date of such termination or cancellation as is reasonably practical under the circumstances.

The distributor's failure to furnish prior written notice, as required by this subsection, of his intention not to renew a marketing agreement, whether or not such marketing agreement provides for automatical extension or renewal, shall constitute a renewal of the marketing agreement for a term of one year from its stated expiration date.

(c) No distributor shall terminate or cancel any marketing agreement with a retail dealer, either directly or indirectly, unless such termination or cancellation is based upon one or more of the grounds specified in this subsection. No distributor shall terminate or cancel any

marketing agreement with a retail dealer unless the grounds for such termination or cancellation are expressly set forth in the marketing agreement.

(1) The retail dealer has failed to pay financial obligations due to the distributor under the marketing agreement, including, but not limited to, rents for any equipment or retail service station provided by the distributor and payments for any motor fuels, petroleum products, or automotive products delivered, on consignment or otherwise, to the retail dealer by the distributor pursuant to the marketing agreement, within the time and in the manner prescribed by the marketing agreement.

(2) The retail dealer has filed for or has been declared bankrupt, has petitioned for or has been declared insolvent, or has petitioned for a reorganization or creditor arrangement under the applicable laws.

(3) A termination or dissolution of the partnership, corporation, or other entity operating the retail service station or the death of the retail dealer, provided that a termination or dissolution of a partnership or other entity shall not constitute a ground for the termination or cancellation of a marketing agreement where the remaining partners or individual members of the other entity have notified the distributor of their intention to

operate the retail service station and to acquire the interests of the departing partners or members pursuant to section 4-205 (a) - (d).

(4) The retail dealer has voluntarily abandoned, or has given notice of his intention to voluntarily abandon, his retail service station, other than pursuant to sections 4-203(a) or 4-205 of this Title.

(5) The retail dealer has unjustifiably left his retail service station vacant or unattended for an unreasonable period of time or has unjustifiably failed to open his retail service station for business for an unreasonable number of days during any calendar year. The period of time and number of days which shall be deemed unreasonable shall be expressly set forth in the marketing agreement, but in no event may such period of time be less than nine (9) consecutive days or such number of days be less than eighteen (18) days during any calendar year.

(6) The retail dealer, or some other person over whom the retail dealer has control and was grossly negligent in not exercising such control, has wilfully or maliciously destroyed or damaged the real or personal property, including any equipment that is used in the operation of the retail service station, of the distributor furnished pursuant to the marketing agreement and the retail dealer

has refused to replace or repair such real or personal property.

(7) The retail dealer, or some other person over whom the retail dealer has control and was grossly negligent in not exercising such control, has deliberately adulterated, commingled, misbranded, mislabeled, or misrepresented to his customers any motor fuels, petroleum products, or automotive products delivered to the retail dealer by the distributor pursuant to the marketing agreement in a manner prohibited by the marketing agreement or by Federal or District of Columbia law or contrary to customary practices in the retail service station industry.

(8) The retail dealer has made materially false, deceptive, or misleading representations to the distributor which are related to the operation of his retail service station business.

(9) The retail dealer has failed to comply with any Federal or District of Columbia laws, rules, or regulations relating to the operation of a retail service station, including, but not limited to, laws, rules, or regulations relating to the payment of taxes and the maintenance of any necessary licenses, permits, or registrations, which the marketing agreement made the retail dealer responsible for complying with, and such failure to

comply with such laws, rules, or regulations has or will adversely affect the business relationship between the retail dealer and the distributor or the business of the distributor.

(10) The retail dealer has been convicted of the commission or attempt to commit a felony, criminal misconduct or violations of law involving moral turpitude, fraud, or commercial dishonesty, which is related to the operation of his retail service station business and which would affect the ability of the retail dealer to operate his retail service station business or would tend to defame or seriously damage the reputation of the distributor or his trademark, provided that this subsection shall not apply to convictions that have been disclosed to the distributor by the retail dealer prior to entering into the marketing agreement.

(11) The condemnation, appropriation, or other public taking of the retail service station location covered by the marking agreement, in whole or part, pursuant to the power of eminent domain or the loss of or damage to the retail service station facility by an act of God, to the extent that such taking or damage makes the continued operation of the retail service station completely unfeasible.

(12) The marketing agreement grants the retail dealer the right, privilege, or authority to occupy a retail service station leased by the distributor from another person and such lease is terminated, cancelled, or not renewed by such other person for a cause beyond the reasonable control of the distributor.

(13) The distributor has lost his legal right, for a cause beyond his reasonable control, to grant the retail dealer the right, privilege, or authority to use any trademark provided for in the marketing agreement.

(14) The retail dealer has been afflicted with so severe a physical or mental disability that he is rendered incapable of operating his retail service station for an unreasonable period of time and has been unable to provide for the continued operation of his retail service station by another person.

(15) The retail dealer has failed to substantially comply with any other essential and reasonable requirement, condition, or provision expressly set forth in the marketing agreement.

(16) The existence or occurrence of any cause or circumstance which would make termination or cancellation of the marketing agreement reasonable, just, and equitable in light of the facts and circumstances then existing.

(17) The retail dealer and the distributor have executed a mutual agreement to terminate the marketing agreement in writing.

(d) No distributor shall fail to renew a marketing agreement with a retail dealer, either directly or indirectly, unless such failure to renew is based upon one or more of the grounds specified in this subsection. No distributor shall fail to renew a marketing agreement unless the grounds for such failure to renew are expressly set forth in the marketing agreement.

(1) The existence of any of the grounds which would justify the termination or cancellation of a marketing agreement pursuant to subsection (c) of this section.

(2) The distributor intends to and does in fact withdraw entirely, within one (1) year of the effective date of the notice furnished pursuant to subsection (b) of this section, from the sale in the District of Columbia of motor fuels, petroleum products, and automotive products.

(3) The marketing agreement grants the retail dealer the right, privilege, or authority to occupy a retail service station owned, leased, or otherwise controlled by the distributor and the distributor intends to and does in fact withdraw entirely, within one (1) year of the effective date of the notice furnished pursuant to subsection (b) of

this section, from the business of owning, leasing, controlling, and operating retail service stations in the District of Columbia.

(4) The marketing agreement grants the retail dealer the right, privilege, or authority to occupy a retail service station owned, leased, or otherwise controlled by the distributor and the distributor intends to sell or lease the retail service station location to a person other than a subsidiary, parent, affiliate, or other entity controlled or managed by the distributor or controlling or managing the distributor, for a purpose other than the retail sale of motor fuels or intends to relinquish a leasehold interest in the retail service station location, without any intention or purchasing, executing a new lease for, or otherwise regaining control of the location.

(5) A failure on the part of the distributor and the retail dealer, both parties having acted in good faith in trying to effect a renewal, to agree to any reasonable and essential changes in or additions to the marketing agreement considering the then existing facts and circumstances.

(6) The retail dealer has failed to make reasonable repairs and maintenance to the real or personal property of the distributor furnished pursuant to the

marketing agreement provided that the marketing agreement requires the retail dealer to assume such responsibility for repair and maintenance.

(7) The retail dealer has failed to substantially comply with any reasonable minimum standards for the operation of a retail service station which are expressly set forth in the marketing agreement, including, but not limited to, standards concerning the cleanliness and appearance of the retail service station and the safeness of facilities and services, within a reasonable time after receiving written notice of non-compliance and such failure to comply will damage the integrity of the distributor's trademark or the reputation of either the distributor or other retail service stations operating under the distributor's trademark.

(8) The distributor has received substantiated repeated customer complaints concerning the conduct or practices of the retail dealer, including, but not limited to, repair or maintenance work of a substandard quality, obnoxious or disrespectful behavior towards customers, or dishonest, unethical, or fraudulent practices, and the continuance of such conduct or practices will damage the integrity of the distributor's trademark or the reputation

of either the distributor or other retail service stations operating under the distributor's trademark.

(e) No distributor shall terminate, cancel, or fail to renew any marketing agreement, either directly or indirectly, for any of the following reasons:

(1) refusal of the retail dealer to accept a renewal of a marketing agreement for a term of less than one year;

(2) refusal of the retail dealer to take part in any promotional or advertising campaign, to meet sales quotas suggested by the distributor, to purchase or accept

delivery of any motor fuels or petroleum products not specified in the marketing agreement, or any other products or equipment, to sell motor fuels, petroleum products, or automotive products at a price suggested by the distributor, or to comply with any standard of performance imposed upon such retail dealer by the distributor which exceeds the standards of performance imposed by the marketing agreement;

(3) refusal of the retail dealer to keep his retail service station open and operating during those hours or days which, in the reasonable opinion of the retail dealer, are unprofitable or to follow the suggestions or

advice of the distributor concerning days or hours of operation;

(4) the retail dealer's attempt to exercise his right to sell, assign, or otherwise transfer his marketing agreement or any interest therein to another person; or

(5) the distributor's desire to obtain possession of a retail service station currently leased to the retail dealer in order to engage in the retail sale of motor fuel on its own behalf. No marketing agreement shall specify any of the reasons contained in this subsection as grounds for the termination of, cancellation of, or failure to renew such marketing agreement by the distributor.

Sec. 4-204. Retail Dealer's Remedies Subsequent to Termination, Cancellation, or Failure to Renew.

(a) The remedies provided for in this section are in addition to any and all other remedies available to the retail dealer under this Title, the marketing agreement, any other statute or act, or law or equity.

(b) In the event of any termination of, cancellation of, or failure to renew a marketing agreement, whether by the unilateral action of either the retail dealer or the distributor, by mutual agreement, by the death of the retail dealer, or otherwise, the distributor shall make or cause to

be made an offer in good faith to repurchase from the retail dealer or his legal representative within thirty (30) days after the effective date of such termination, cancellation, or non-renewal, any and all merchantable products, including, but not limited to, any motor fuels, petroleum products, and automotive products, at the full price originally paid or at the then current wholesale price, whichever price shall be lower, and any and all equipment, including any equipment which has been affixed or appended, after the effective date of this act with the permission of the distributor, to a retail service station leased from the distributor, at the current fair market value, which have been purchased by the retail dealer from the distributor and which have been tendered, to the extent that such tender may be practical, by the retail dealer or his legal representative to the distributor. If the distributor does not make or cause to be made a good faith offer to repurchase the retail dealer's products and equipment within the thirty (30) day period provided for in this subsection, the retail dealer or his legal representative may sell the products and equipment for as reasonable a price as may be obtained, may apply the balance owed by the distributor against any existing indebtedness owed by the retail dealer to the distributor, and shall have a cause of action against

or any interest therein to another person by a retail dealer.

(b) No retail dealer shall sell, assign, or otherwise transfer a marketing agreement or any interest therein unless he furnishes prior written notice to the distributor of his intention to make such sale, assignment, or other transfer. Such notice shall be sent to the distributor by registered or certified mail and shall include the prospective transferee's name and address, a statement of the prospective transferee's financial qualifications, a statement of the prospective transferee's business experience during the previous five (5) years, and a statement of the prospective transferee's ability, character, and credit history.

(c) The distributor shall either approve or disapprove such sale, assignment, or other transfer in writing within sixty (60) days after receipt of the notice specified in subsection (b) of this section. A distributor's failure to notify the retail dealer of his approval or disapproval shall be construed as an approval of the proposed sale, assignment, or other transfer.

(d) In order for a sale, assignment, or other transfer of a marketing agreement to be valid, the prospective

requirements, conditions, and provisions of the existing marketing agreement which may be applicable.

(e) A prospective transferee shall have the right to terminate or repudiate any sale, assignment, or other transfer of a marketing agreement or any interest therein for any reason, without the imposition of any damages or penalties for such action and without any recourse by the transferor or distributor for such action, within seven days, not including Saturdays, Sundays, or holidays, after the day on which the sale, assignment, or other transfer is consummated. In order to exercise his right under this subsection, the transferee shall:

(1) mail written notice, by registered or certified mail, to the transferor and the distributor of his intention to exercise his right under this subsection within the period specified in this subsection;

(2) discontinue use of any trademark presently being used by such transferee pursuant to the marketing agreement;

(3) deliver or tender, so far as is practical, to the transferor or distributor, as appropriate, all money, equipment, and merchantable products which have been loaned, sold or delivered to the transferee by either the transferor or the distributor and which the transferee has not already sold,

previously accommodated, into a non-full service facility until January 1, 1979.

(c) No person who is an operator of any "full service retail service station" on or after the effective date of this act, including any person who is a subsequent operator of any such retail service station, or who, in any manner, controls the operation of any such retail service station, shall substantially reduce the number, types, quantity, or quality of the repair, maintenance, and other services, including the retail sale of motor fuels, petroleum products, and automotive products, previously offered until January 1, 1979. Such operators shall maintain the retail service station's existing garages, service bays, work areas, and similar areas in a fully operational condition and reasonably equipped to perform repair, maintenance, and service work on motor vehicles, including the provision of a qualified individual or individuals who is or are capable of performing repair, maintenance, and service work on motor vehicles during a reasonable number of hours per day and of days per week. This subsection shall not be construed as prohibiting any person who operates or controls a "full service retail service station" from discontinuing the retail sale of motor fuels at such retail service station, provided that less than twenty (20) per centum of such

retail service station's gross revenue derived from the retail sale of motor fuels, petroleum products, and automotive products and from the repair, maintenance, and servicing of motor vehicles is derived from the retail sale of motor fuels, and provided further that such discontinuance of the retail sale of motor fuels shall not authorize any other substantial reduction in repair, maintenance, or other services previously offered. This subsection shall not be construed as prohibiting a "full service retail service station" from selling motor fuels on a self-service basis, provided that such retail service station continue to sell motor fuels on a non-self-service basis.

(d) The Mayor is authorized and directed to study the motor vehicle repair, maintenance, and other services being offered by existing "full service retail service stations" and "non-full service retail service stations" to residents, commercial establishments, commuters, and other affected persons in the District of Columbia, both in terms of adequacy and in terms of convenience. This study shall include an analysis of the impact of converting existing "full service retail service stations" to "non-full service retail service stations" in various areas of the District of Columbia. The Mayor is also authorized and directed to

study the adequacy of existing retail service stations to serve the needs and convenience of residents, commercial establishments, commuters, and other affected persons with respect to the retail sale of motor fuels, petroleum products, and automotive products in various areas of the District of Columbia. Such study shall include an examination of the petroleum products and automotive products being offered by commercial establishments other than retail service stations. The Mayor shall, if necessary, present to the Council a preliminary report within thirty (30) days after the effective date of this act detailing the need for any additional funds above and beyond presently budgeted funds which the Mayor deems necessary for performance of such study. This act does not authorize the expenditure of any such additional funds. A final report detailing the findings of such study, including the Mayor's recommendations or proposals with respect to any necessary or desirable legislation or other actions, shall be submitted to the Council no later than June 1, 1978.

TITLE IV

GENERAL PROVISIONS

Sec. 6-401. Statement of Public Policy.

This act shall constitute a statement of the public policy of the District of Columbia. The provisions of this act shall be liberally construed in order to effectively carry out the purposes of this act in the interests of the public health, safety, and welfare.

Sec. 6-402. Severability.

If any provision or part thereof of this act or the application thereof to any person or circumstance is declared unconstitutional or invalid, such invalidity, unconstitutionality, or inapplicability shall not affect any other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end, all provisions of this act are hereby declared to be severable.

Sec. 6-403. Effective Date.

This act shall take effect at the end of the period provided for congressional review of acts of the Council of the District of Columbia in subsection (c) of section 602 of the District of Columbia Self-Government and Governmental Reorganization Act.

William F. Snoddy

Considered in Council November 23, 1976First Vote November 23, 1976**RECORD OF COUNCIL VOTE**

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
TUCKER		X			DIXON	X				SPAULDING	X			
MOORE, D.	X				HARDY	X				WILSON		X		
BARRY	X				HOBSON	X				WINTER	X			
CLARKE	X				MOORE, J.	X								
COATES			X		SHACKLETON	X								

X—Indicates Vote A.B.—Absent N.V.—Not Voting

Robert Williams

(Secretary of the Council)

Final Vote in Council December 7, 1976**RECORD OF COUNCIL VOTE**

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
TUCKER	X				DIXON	X				SPAULDING	X			
MOORE, D.	X				HARDY	X				WILSON				X
BARRY	X				HOBSON	X				WINTER	X			
CLARKE	X				MOORE, J.	X								
COATES			X		SHACKLETON	X								

X—Indicates Vote A.B.—Absent N.V.—Not Voting

Robert Williams

(Secretary of the Council)

Presented to the Mayor DEC 30 1976Robert Williams

(Secretary of the Council)

I hereby certify that Council Bill 1-333 was presented to the Mayor of the District of Columbia on December 30, 1976 and that the Mayor neither approved nor disapproved the bill within the ten day period specified in Section 404(e) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198 of December 24, 1973.

Martin K. Schaller

Martin K. Schaller, Executive Secretary, D.C.

January 14, 1977

Enacted without Mayor's Signature 1/18/77Robert Williams

(Secretary of the Council)

Reconsidered by Council _____

Vote _____

RECORD OF COUNCIL VOTE

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
TUCKER					HOBSON					SPAULDING				
HARDY					MOORE, D.					WILSON				
BARRY					MOORE, J.					WINTER				
CLARKE					ROLARK									
DIXON					SHACKLETON									

X—Indicates Vote A. B.—Absent N. V.—Not Voting

(Secretary of the Council)

Presented to the President _____

(Secretary of the Council)

Sustain Mayor's Veto _____

Not Sustain Mayor's Veto _____

(President of the U. S.)

Submitted to the Congress JAN 26 1977

Robert A. Williams

(Secretary of the Council)

Senate Action _____
Resolution Number _____House Action _____
Resolution Number _____

(Secretary of the Senate)

(Clerk of the House)

Enacted without Congressional action _____

(Secretary of the Council)