

Senate Bill 1026

Sponsored by COMMITTEE ON BUSINESS, TRANSPORTATION AND WORKFORCE DEVELOPMENT

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits refiner from operating as company operated stations more than one-quarter of service stations refiner owns in state.

Prohibits refiner from limiting source from which franchisee may purchase refiner's trademark motor fuel.

Prohibits franchisor from selling or offering to sell motor fuel to franchisee at price that, at time of sale or offer, exceeds price that franchisor sells or offers to sell motor fuel at company operated station.

A BILL FOR AN ACT

1
2 Relating to motor fuel franchises; creating new provisions; and amending ORS 650.210.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. Sections 2 and 3 of this 2007 Act are added to and made a part of ORS 650.200**
5 **to 650.250.**

6 **SECTION 2. A refiner may not operate as company operated stations more than one-**
7 **quarter of the service stations the refiner owns in this state.**

8 **SECTION 3. A refiner may not prohibit a franchisee who is authorized or permitted to**
9 **use the refiner's trademark in this state from purchasing the refiner's trademark motor**
10 **fuel:**

11 **(1) At a location at which the refiner sells the trademark motor fuel; or**

12 **(2) From a franchisee that sells the trademark motor fuel.**

13 **SECTION 4. ORS 650.210 is amended to read:**

14 650.210. Without limiting the other provisions of ORS 650.200 to 650.250, the following specific
15 rights and prohibitions shall govern the relationship between the franchisor and the franchisee. It
16 shall be unlawful and a violation of ORS 650.200 to 650.250 for any franchisor to:

17 (1) Require a franchisee to purchase or lease goods or services of a franchisor or from approved
18 sources of supply unless and to the extent that the franchisor satisfies the burden of proving that
19 such restrictive purchasing agreements are reasonably necessary for a lawful purpose justified on
20 business grounds, and do not substantially affect competition. This subsection does not apply to the
21 initial inventory of the franchise. A determination of whether such restrictive purchasing agree-
22 ments are reasonably necessary for a lawful purpose justified on business grounds and do not sub-
23 stantially affect competition shall be guided by the decisions of the courts of the United States in
24 interpreting and applying the antitrust laws of the United States.

25 (2) Sell, rent or offer to sell or rent to a franchisee any product, service or property at a price
26 not set in good faith as defined in ORS 72.1030 (1)(b).

27 (3) Require a franchisee to assent to a release, assignment, novation or waiver [*which*] **that**
28 **would relieve any person from liability imposed by ORS 650.200 to 650.250.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 (4) Refuse to renew a franchise without fairly compensating the franchisee for the fair market
2 value at the time of expiration of the franchise of the franchisee's resalable inventory, supplies,
3 equipment and furnishings purchased from the franchisor, not including personalized materials that
4 have no value to the franchisor and inventory, supplies, equipment and furnishings not reasonably
5 required in the conduct of the franchise business. A franchisor may offset against amounts owed to
6 a franchisee under this subsection any amounts owed by such franchisee to the franchisor.

7 (5) Impose on a franchisee by contract, rule or regulation, whether written or oral, any standard
8 of conduct unless the person so doing can sustain the burden of proving the standard of conduct to
9 be reasonable.

10 (6) **Sell or offer to sell motor fuel to a franchisee at a price that, at the time of the sale
11 or offer, exceeds the price that the franchisor sells or offers to sell the motor fuel at a
12 company operated station.**

13 **SECTION 5. (1) Section 3 of this 2007 Act applies to a franchise entered into on or after
14 the effective date of this 2007 Act.**

15 (2) **The amendments to ORS 650.210 by section 4 of this 2007 Act apply to a sale or offer
16 to sell motor fuel made on or after the effective date of this 2007 Act.**

17