

HOUSE BILL 862

IN THE HOUSE

February 17, 1979

Introduced and referred to
Committee on Business and
Industry.

February 20, 1979

Committee recommend bill, do
not pass.

February 21, 1979

Report adopted.

1 House BILL NO. 862
 2 INTRODUCED BY Bennett
 3 by request

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE PETROLEUM
 5 PRODUCERS OR REFINERS TO DIVEST THEMSELVES OF THE OPERATION
 6 OR CONTROL OF RETAIL SERVICE STATIONS; PROVIDING COMPLIANCE
 7 DATES; AND PROVIDING FOR EXCEPTIONS DETERMINED AFTER NOTICE
 8 AND OPPORTUNITY FOR A HEARING."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Definitions. As used in this act, the
 12 following definitions apply:

13 (1) "Department" means the department of business
 14 regulation provided for in Title 2, chapter 15, part 18.

15 (2) "Producer" means an individual, partnership, firm,
 16 corporation, or other business entity engaged in extracting
 17 crude oil from the earth.

18 (3) "Refiner" means an individual, partnership, firm,
 19 corporation, or other business entity engaged in refining
 20 crude oil into petroleum products.

21 (4) "Retail service station dealer" means an
 22 individual, partnership, firm, corporation, or other
 23 business entity, except a producer or refiner, maintaining a
 24 place of business where motor vehicle fuel is sold directly
 25 for use in a motor vehicle.

1 Section 2. Prohibition against the opening of retail
 2 service stations by producers or refiners. After July 1,
 3 1979, no producer or refiner may open a retail service
 4 station in this state. This prohibition applies whether the
 5 retail service station is opened by company personnel, a
 6 subsidiary company, a commissioned agent, or under a
 7 contract with any individual, partnership, firm,
 8 corporation, or other business entity to manage the retail
 9 service station on a fee arrangement with the producer or
 10 refiner.

11 Section 3. Notification requirements. (1) On or before
 12 September 1, 1979, every producer or refiner of petroleum
 13 products operating a retail service station in the state
 14 with company personnel, a subsidiary company, a commissioned
 15 agent, or under a contract with any individual, partnership,
 16 firm, corporation, or other business entity to manage a
 17 retail service station on a fee arrangement with the
 18 producer or refiner shall submit to the department a written
 19 notification of the total number of such retail service
 20 stations.

21 (2) The notification shall contain:
 22 (a) the street address and location of each retail
 23 service station;
 24 (b) a description of the method by which each retail
 25 service station is being company-operated, whether it is:

1 (i) company personnel;
 2 (ii) a subsidiary company;
 3 (iii) a commissioned agent; or
 4 (iv) under a contract with any individual, partnership,
 5 firm, corporation, or other business entity managing a
 6 retail service station on a fee arrangement with the
 7 producer or refiner;

8 (c) the total number of retail service stations being
 9 operated by the producer or refiner in the state as of the
 10 date of the notification.

11 Section 4. Prohibition against the operation of retail
 12 service stations by producers or retailers. After December
 13 1, 1979, a producer or refiner of petroleum products may not
 14 operate a retail service station in the state with company
 15 personnel, a subsidiary company, a commissioned agent, or
 16 under a contract with any individual, partnership, firm,
 17 corporation, or other business entity to manage the retail
 18 service station on a fee arrangement with the producer or
 19 refiner.

20 Section 5. Exceptions. (1) Applications for exceptions
 21 to the dates imposed by [section 2] prohibiting the opening
 22 or by [section 4] prohibiting the operation of retail
 23 service stations by producers or refiners will be considered
 24 by the department if:

25 (a) they are made in writing;

1 (b) they set forth:

2 (i) the location of the retail service station;
 3 (ii) the period of time for which the exception is
 4 sought;

5 (iii) the reasons in detail for seeking the exception,
 6 including a statement as to the public convenience and
 7 necessity served by an exception; and

8 (iv) a description of the actions being taken to find a
 9 retail service station dealer for the station, including a
 10 statement of the terms being offered potential dealers that
 11 indicates any terms which are in any way less favorable than
 12 those in effect for other retail service station dealers of
 13 the applicant.

14 (2) A producer or refiner may open or operate a retail
 15 service station beyond the dates imposed by [section 2] or
 16 [section 4], respectively, only while making a good faith
 17 effort to locate and install a replacement retail service
 18 station dealer and only if the public convenience and
 19 necessity are served.

20 (3) The department must approve, reject, or approve
 21 with conditions an application for an exception, after
 22 notice and an opportunity for a hearing at which the
 23 department must determine whether the producer or retailer
 24 has met the conditions imposed by this section.

25 (4) In considering an application for an exception,

1 the department may investigate to the extent it considers
2 necessary and may schedule an informal conference with the
3 applicant.

4 Section 6. Severability. If a part of this act is
5 invalid, all valid parts that are severable from the invalid
6 part remain in effect. If a part of this act is invalid in
7 one or more of its applications, the part remains in effect
8 in all valid applications that are severable from the
9 invalid applications.

-End-

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