

A 3105

AN ACT concerning the dispensing of fuel for motor vehicles, amending and supplementing P.L.1989, c. 263 and repealing section 1 of P.L.1989, c.263.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 2 of P.L.1989, c.263 (C.34:3A-5) is amended to read as follows:

2. As used in **[this act]** P.L.1989, c.263 (C.34:3A-4 et seq.):

"Attendant" means a retail dealer or employee of a retail dealer.

"Commissioner" means the Commissioner of Labor and Workforce Development.

"Dispenser" means a device that dispenses gasoline through one or more nozzles for retail sale.

"Fuel" means any liquid commonly or commercially known or sold as gasoline, or other **[inflammable liquid]** motor fuel, which is sold for use as fuel in the internal combustion engines of motor vehicles.

"Full-service" means dispensed exclusively by an attendant.

"Gasoline station" or "station" means a place of business located in the State and used for the retail sale and dispensing of fuel into the tanks of motor vehicles.

"Retail dealer" means a person operating a gasoline station.

"Self-service" means dispensed by a person other than an attendant.

(cf: P.L.1989, c.263, s.2)

2. Section 3 of P.L.1989, c.263 (C.34:3A-6) is amended to read as follows:

3. It shall be unlawful for any attendant or any other person to:

a. Dispense fuel into the tank of a motor vehicle while the vehicle's engine is in operation;

b. Dispense fuel into any portable container not in compliance with regulations adopted pursuant to section 8 of **[this act]** P.L.1989, c.263 (C.34:3A-11); or

c. Dispense fuel while smoking **[; or]** .

d. **[Permit any person who is not an attendant to dispense fuel into the tank of a motor vehicle or any container.]** (Deleted by amendment, P.L. ., c. .)

(cf: P.L.1989, c.263, s.3)

3. Section 4 of P.L.1989, c.263 (C.34:3A-7) is amended to read as follows:

4. No **[person]** attendant shall dispense fuel at a gasoline station, unless the **[person is an]** attendant **[who]** has received instructions regarding the dispensing of fuel, had practical

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

experience dispensing fuel under the direct supervision of an experienced operator for a period of not less than one full working day, and, upon examination at the end of that period, has demonstrated **[this]** understanding of those instructions. The instructions shall include a full explanation of the prohibitions of section 3 of **[this act]** P.L.1989, c.263 (C.34:3A-6) and any emergency procedures established pursuant to section 8 of **[this act]** P.L.1989, c.263 (C.34:3A-11).
(cf: P.L.1989, c.263, s.4)

4. Section 5 of P.L.1989, c.263 (C.34:3A-8) is amended to read as follows:

5. There shall be available at each station for inspection by the commissioner a certificate for each **[person]** attendant who dispenses fuel at the station certifying that the **[person]** attendant meets the requirements of section 4 of **[this act]** P.L.1989, c.263 (C.34:3A-7). The certificate shall be signed by the **[person]** attendant and the retail dealer who operates the station.
(cf: P.L.1989, c.263, s.5)

5. Section 6 of P.L.1989, c.263 (C.34:3A-9) is amended to read as follows:

6. Each gasoline station shall be equipped, at a location remote from the dispensing pumps, with a clearly identified and easily accessible switch or circuit breaker to shut off the power to all dispensing pumps in the event of an emergency **[or of a customer or other unauthorized person operating or attempting to operate the pump]**.
(cf: P.L.1989, c.263, s.6)

6. Section 7 of P.L.1989, c.263 (C.34:3A-10) is amended to read as follows:

7. A violator of any provision of **[this act]** P.L.1989, c.263 (C.34:3A-4 et seq.) shall be liable for a penalty of not less than \$50.00 and not more than \$250.00 for a first offense and not more than \$500.00 for each subsequent offense. Each day that a gasoline station operates in violation of the provisions of section 5 or 6 of **[this act]** P.L.1989, c.263 (C.34:3A-8 or C.34:3A-9) or sections 7 or 8 of P.L. . c. (C.) (pending before the Legislature as this bill) is a separate violation by the retail dealer who operates the station. The penalties shall be sued for and recovered by the commissioner, in summary proceedings pursuant to **[“the penalty enforcement law,”** N.J.S.2A:58-1 et seq., in the county or municipality where the offense occurred**]** the “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.).

There is established a nonlapsing dedicated account to be known as the Retail Gasoline Dispensing Safety Account. Penalties collected pursuant to this section shall be credited to the account

and appropriated to fund expenses of effectuating the purposes of **[this act]** P.L.1989, c.263 (C.34:3A-4 et seq.). If, at the close of a fiscal year, moneys are available beyond the funds necessary to meet those expenses, the commissioner shall determine an appropriate amount to be returned to the General Fund for general State purposes.

(cf: P.L.1989, c.263, s.7)

7. (New section) a. Except as provided in subsections b. of this section, a gasoline station may offer only full-service fuel, only self-service fuel, or a combination of full-service and self-service fuel.

b. A gasoline station with more than four dispensers shall offer for sale full-service fuel between the hours of 8 a.m. and 8 p.m., provided that the station is open to the public during those hours.

8. (New section) A gasoline station may offer a discount to customers who purchase motor fuel of like grade and quality that is dispensed by self-service at the station, provided that the motor fuel shall not be sold at a price which in violation of section 201 of P.L.1938, c.163 (C.56:6-2).

9. (New section) a. A gasoline station shall provide service by an attendant in the dispensing of every grade of fuel offered at self-service at no additional charge, if requested to do so by a person with a disability who is operating a motor vehicle bearing a placard or wheelchair symbol license plate, as authorized by the New Jersey Motor Vehicle Commission pursuant to P.L.1949, c.280 (C.39:4-204 et seq.).

b. Every gasoline station offering exclusively self-service gasoline shall either:

(1) provide at least one refueling site with a calling device which allows a person with a disability, as described in subsection a. of this section, to signal an employee that refueling assistance is needed. A "calling device" shall meet the following minimum specifications:

(a) provide a recognizable signal inside the retail establishment that a driver needs refueling assistance;

(b) be able to be operated from the vehicle using only one hand;

(c) have at least one sign next to it which identifies the device and specifies the hours when refueling assistance is available; and

(d) be able to be operated from the vehicle in accordance with all requirements of the Americans with Disabilities Act Standards for Accessibility Guidelines; or

(2) on every dispenser there shall be a decal, at least 15 square inches, which clearly displays the international symbol of accessibility, a working telephone number for the station, and the words "Call for Assistance."

c. A gasoline station is not required to provide refueling

assistance during those times that the station is being operated on a remote control basis by only one employee.

10. (New section) A franchisor or owner of a gasoline station shall not, as a condition of the franchise or lease for the gasoline station, as the case may be, require the gasoline station to be operated as a self-service only station, a full-service only station, or a station which offers both.

11. (New section) a. The governing body of a county or municipality shall not adopt any ordinance, resolution, law, rule or regulation requiring or prohibiting gasoline stations to offer self-service dispensing of motor fuel in any capacity.

b. The provisions of this act shall preempt any ordinance, resolution, law, rule or regulation adopted by the governing body of a county or municipality prior to the effective date of this act regarding the availability of self-service of motor fuel.

12. (New section) The Legislature finds and declares that:

a. New Jersey is the only state in nation that maintains a full statewide prohibition on self-service gasoline sales. Since 1949, New Jersey has adhered to the full-service gasoline dispensing model, despite 49 other states fully or partially allowing self-service without negative repercussions;

b. New Jersey motorists who prefer to pump their own gas rather than wait for service from an attendant should not be denied this option by State law;

c. Motorist convenience will be enhanced with voluntary self-service dispensing of fuel as it will result in more stations being open in the evening, thus providing greater access and availability of motor fuel sources to customers;

d. New Jersey already has self-service dispensing for vehicles powered with diesel, battery electric, and other non-gasoline fuels;

e. Allowing motorists who choose self-service to benefit from a lower price will incentivize more consumers to purchase their gasoline from stations located in New Jersey, which will increase revenues dedicated to the Transportation Trust Fund.

f. By moving to a hybrid fueling model that includes both full-service and self-service dispensing, New Jerseyans and all commuters will have the freedom to choose how to fuel their vehicle, taking into account costs and wait times;

g. The Legislature further finds and declares, in concurrence with the findings of the staff of the Federal Trade Commission that:

(1) The current ban on self-service stations in New Jersey appears to impose substantial costs on consumers that are not likely to be offset by justifiable safety-related concerns;

(2) Voluntary self-service is no longer a threat to fire safety, with the advent of significant technological and safety improvements in self-service dispensing, such as nozzle valves that

automatically shut off and the installation of emergency shut-off switches near the pumps;

(3) As the conclusion of the Federal Trade Commission findings declare: Evidence indicates that safety problems associated with self-service stations do not appear significant, and that self-service gasoline retailing offers large potential savings to consumers. For these reasons, we believe that consumers and visitors in New Jersey would benefit substantially if the ban on self-service were repealed and we moved to a hybrid fueling model that allows for both full-service and self-service fueling.

13. Section 1 of P.L.1989, c.263 (C.34:3A-4) is repealed.

14. This act shall take effect on the 90th day next following enactment, except that the commissioner may promulgate regulations pursuant to sections 9 and 10 before the effective date.

STATEMENT

This bill allows the act of pumping one's own gas when a consumer voluntarily chooses to do so. The bill requires gasoline stations with more than four dispensers to continue to offer full-service gasoline between the hours of 8 a.m. and 8 p.m., provided that the station is open to the public during those hours.

The bill also stipulates that a gasoline station may offer a discount to customers who purchase motor fuel of like grade and quality that is dispensed by self-service at the station, provided that the motor fuel shall not be sold at a price which is below the net cost of that motor fuel to the gasoline station plus all selling expenses.

Furthermore, the bill states that a gasoline station shall provide service by an attendant in the dispensing of every grade of fuel offered at self-service at no additional charge, if requested to do so by a person with a disability who is operating a motor vehicle bearing a placard or wheelchair symbol license plate.

The bill also provides that gasoline stations offering only self-service gasoline shall provide assistance to motorists with a disability at the self-service price. In order to enhance access for motorists, the bill gives gasoline stations the option of either outfitting at least one dispenser with a special call button or outfitting every dispenser with a sign listing a phone number that can be used to alert an employee of the gasoline station that assistance is needed.

Consistent with federal law, the bill provides that a gasoline station is not required to provide refueling assistance when there is only one employee present.

“Motorist Fueling Choice and Convenience Act.”