

108TH CONGRESS  
1ST SESSION

# S. 1639

To amend the Petroleum Marketing Practices Act to extend certain protections to franchised refiners or distributors of lubricating oil.

---

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 22, 2003

Mr. REID (for himself, Mr. BURNS, and Mr. ENSIGN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

## A BILL

To amend the Petroleum Marketing Practices Act to extend certain protections to franchised refiners or distributors of lubricating oil.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. PROTECTION OF FRANCHISED DISTRIBUTORS**  
4 **OF LUBRICATING OIL.**

5 (a) DEFINITIONS.—Section 101 of the Petroleum  
6 Marketing Practices Act (15 U.S.C. 2801) is amended—

7 (1) in paragraph (1)(B)—

8 (A) in clause (ii)(II), by striking “and” at  
9 the end;

1 (B) by redesignating clause (iii) as clause  
2 (iv); and

3 (C) by inserting after clause (ii) the fol-  
4 lowing:

5 “(iii) any contract under which a re-  
6 finer authorizes or permits a distributor to  
7 use, in connection with the sale, consign-  
8 ment, or distribution of lubricating oil, a  
9 trademark that is owned or controlled by  
10 the refiner; and”;

11 (2) in paragraphs (2), (5), and (6), by inserting  
12 “or lubricating oil” after “motor fuel” each place it  
13 appears;

14 (3) by striking paragraphs (3) and (4) and in-  
15 serting the following:

16 “(3) FRANCHISEE.—The term ‘franchisee’  
17 means—

18 “(A) a retailer or distributor that is au-  
19 thorized or permitted, under a franchise, to use  
20 a trademark in connection with the sale, con-  
21 signment, or distribution of motor fuel; or

22 “(B) a distributor that is authorized or  
23 permitted, under a franchise, to use a trade-  
24 mark in connection with the sale, consignment,  
25 or distribution of lubricating oil.

1           “(4) FRANCHISOR.—The term ‘franchisor’  
2 means—

3           “(A) a refiner or distributor that author-  
4 izes or permits, under a franchise, a retailer or  
5 distributor to use a trademark in connection  
6 with the sale, consignment, or distribution of  
7 motor fuel; or

8           “(B) a refiner that authorizes or permits,  
9 under a franchise, a distributor to use a trade-  
10 mark in connection with the sale, consignment,  
11 or distribution of motor fuel.”; and

12           (4) by adding at the end the following:

13           “(20) LUBRICATING OIL.—The term ‘lubri-  
14 cating oil’ means any grade of paraffinic or naph-  
15 thenic lubricating oil stock that is refined from  
16 crude oil or synthetic lubricants.”.

17           (b) PROTECTION OF FRANCHISED DISTRIBUTORS OF  
18 LUBRICATING OIL.—Section 102(b)(2) of the Petroleum  
19 Marketing Practices Act (15 U.S.C. 2802(b)(2)) is  
20 amended by inserting after subparagraph (E) the fol-  
21 lowing:

22           “(F) FRANCHISED DISTRIBUTORS OF LU-  
23 BRICATING OIL.—In the case of a franchise be-  
24 tween a refiner or a distributor for the sale, dis-  
25 tribution, or consignment of trademarked lubri-

1           cating oil, a determination made by the  
2           franchisor in good faith and in the normal  
3           course of business to withdraw from the mar-  
4           keting of the lubricating oil in the relevant geo-  
5           graphic market in which the franchised lubri-  
6           cating oil is distributed, if—

7                   “(i) the determination is made—  
8                           “(I) after the date on which the  
9                           franchise is entered into or renewed;  
10                          and

11                         “(II) on the basis of a change in  
12                         relevant facts or circumstances relat-  
13                         ing to the franchise that occurs after  
14                         the date specified in subclause (I);  
15                         and

16                         “(ii) the termination or nonrenewal is  
17                         not for the purpose of converting any ac-  
18                         counts subject to the franchise to the ac-  
19                         count of the franchisor.”.

○