

109TH CONGRESS  
1ST SESSION

# H. R. 3926

To prohibit certain transfers or assignments of franchises, and to prohibit certain fixing or maintaining of motor fuel prices, under the Petroleum Marketing Practices Act.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 27, 2005

Mr. WYNN introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To prohibit certain transfers or assignments of franchises, and to prohibit certain fixing or maintaining of motor fuel prices, under the Petroleum Marketing Practices Act.

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. TRANSFER OR ASSIGNMENT OF FRANCHISE.**

4       Section 102 of the Petroleum Marketing Practices  
5       Act (15 U.S.C. 2802) is amended by adding at the end  
6       the following new subsection:

7       “(e) A franchisor of leased marketing premises shall  
8       not transfer or assign its interests in the franchise during

1 the term of the franchise unless the franchisor, at least  
2 45 days before the proposed transfer or assignment, has—

3 “(1) made a bona fide offer to sell, transfer, or  
4 assign to the franchisee the franchisor’s interests in  
5 the leased marketing premises; or

6 “(2) if applicable, offered the franchisee a right  
7 of first refusal of at least 45 days duration of an  
8 offer, made by another, to purchase or acquire the  
9 franchisor’s interests in the leased marketing prem-  
10 ises.”.

11 **SEC. 2. FEE SHIFTING PROVISIONS.**

12 Section 105(d) of the Petroleum Marketing Practices  
13 Act (15 U.S.C. 2805(d)) is amended by adding at the end  
14 the following new paragraph:

15 “(4)(A) Any provision of a franchise or marketing  
16 agreement whereby, in the event of litigation under this  
17 section between the parties, either party to the agreement  
18 must pay for the prevailing party’s legal fees and expenses  
19 is null and void and shall not be enforced.

20 “(B) This paragraph shall apply to any litigation  
21 commenced after the date of the enactment of this sub-  
22 section, regardless of when the franchise or marketing  
23 agreement was entered into.

24 “(C) For purposes of this paragraph, the term ‘legal  
25 fees and expenses’ includes attorney fees, expert witness

1 fees, electronic research expenses, copying expenses, para-  
 2 legal expenses, courier and messenger expenses, travel ex-  
 3 penses, deposition expenses, postage and shipping ex-  
 4 penses, overtime expenses, telephone and facsimile ex-  
 5 penses, court services expenses, document services ex-  
 6 penses, litigation support expenses, and consultant ex-  
 7 penses.”.

8 **SEC. 3. RETAIL PRICE SETTING.**

9 (a) AMENDMENT.—Title I of the Petroleum Mar-  
 10 keting Practices Act (15 U.S.C. 2801 et seq.) is amended  
 11 by adding at the end the following new section:

12 “RETAIL PRICES

13 “SEC. 107. It shall be a violation of this title for a  
 14 refiner or distributor to fix or maintain the retail price  
 15 of motor fuel at a retail outlet supplied by that refiner  
 16 or distributor. This section shall not apply to retail outlets  
 17 operated by the refiner or distributor.”.

18 (b) CONFORMING AMENDMENTS.—Subsections (a),  
 19 (b), and (d) of section 105 of the Petroleum Marketing  
 20 Practices Act (15 U.S.C. 2805(a), (b), and (d)) are  
 21 amended by striking “102 or 103” each place it appears  
 22 and inserting “102, 103, or 107”.

23 (c) TABLE OF CONTENTS AMENDMENT.—The table  
 24 of contents of the Petroleum Marketing Practices Act is

- 1 amended by inserting after the item relating to section
- 2 106 the following new item:

“Sec. 107. Retail prices.”.

