

TESTIMONY

SAL RISALVATO

Executive Director

New Jersey Gasoline, C-Store, Automotive Association

A-3726

An Act concerning motor fuel franchises.

Support with Amendments

May 18, 2009

Testimony of Sal Risalvato
A-3726—Support

Chairwoman Pou, Vice-Chair Vainieri-Huttle, and honorable members of the committee, my name is Sal Risalvato, Executive Director of the New Jersey Gasoline, C-Store, and Automotive Association. NJGCA represents over 1500 small businesses most of whom are gasoline service stations. Gasoline service stations are the quintessential small businesses of America, and they will be irreparably harmed if we fail to quickly pass A-3726. More commonly known as the First Right of Refusal Act, A-3726 is a law that places a courtesy in our statutes. Had ExxonMobil and other big oil companies been willing to sit at the table with the franchisees who built the businesses the company wants to sell out from under them, then I doubt I would be before this committee today. Do not be mistaken, this is a small business bill, but it is more than that; A-3726 will preserve competition, allow franchisees to purchase the stations many have spent their life building, provide a new level of fairness in the New Jersey Franchise Act, but equally important it will protect consumers.

On April 28, 2009, ExxonMobil announced that Couche-Tard, a Canadian-based convenience store chain, will be the new franchisor of Exxon's *On The Run* convenience stores, and that they deal would be completed by the end of this month. Independent Franchisees need this legislation NOW. We can no longer sit idle and allow any more time to pass before this legislation is voted upon and enacted by the Governor. If we fail to pass this legislation by Thursday, then many small business owners will be faced with an uncertain future, as a foreign operated becomes the new Franchisor for their convenience stores. I will not mislead you into believing that this legislation will be able to stop the *On the Run* assignment, but the language provided in this legislation allows Franchisees the right to challenge ExxonMobil's decision to undermine their franchisees, by denying them a first right of refusal for the *On the Run* locations. Furthermore, this sale is only the Camel's Nose Under the Tent, because we all know that ExxonMobil, Shell, and soon all major refiners will leave the retail marketing chain and focus on the major profits they accumulate farther up the production ladder.

Make no mistake, the livelihood of many small businesses is in your hands today, and any plea from Big Oil's representatives that a sale is not eminent is a clear distortion of the truth. A-3726 MUST become law by the end of May.

Finally, it is necessary to discuss the concessions on this legislation. All of the concessions have been one sided. NJGCA and the franchisees we represent have given concessions to distributors that prevent a trigger of this legislation for those small distributors that have less than 40 locations. NJGCA and the franchisees we represent already conceded to Big Oil, that anyone who exercises their rights under this legislation has to place a major deposit in order to exercise these rights and to show good faith. NJGCA and the franchisees we represent already conceded to family operated distributors that a broad definition of family may be used in transferring a company from one generation to the next. Finally, NJGCA and the franchisees we represent conceded

that no rights guaranteed under this Act shall be granted to any agent of Big Oil or Distributors who only acts as a consignee or commissioned agent for said distributor or refiner. The record is clear, since the hearing in Assembly Transportation, NJGCA and the franchisees we represent have given every concession possible, without destroying the intent of this legislation, but we conceded because we needed show this legislature how committed we are to the timely passing of A-3726.

An attack on small business is occurring across the United States, and this is New Jersey's chance to lead the way, as we did by passing the Franchise Practices Act, in ensuring that a viable, healthy, and competitive market will always exist in the retail sale of gasoline in our state. This is the most comprehensive protection granted to consumers of gasoline and those who sell gasoline in decades.

Now is the time to pass A-3726. Please refer this legislation out of committee and ask the Speaker to post the bill for a vote on Thursday.

Thank you.