

ASSEMBLY, No. 3105

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED MARCH 7, 2022

Sponsored by:

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District 7 (Burlington)

Assemblyman EDWARD H. THOMSON

District 30 (Monmouth and Ocean)

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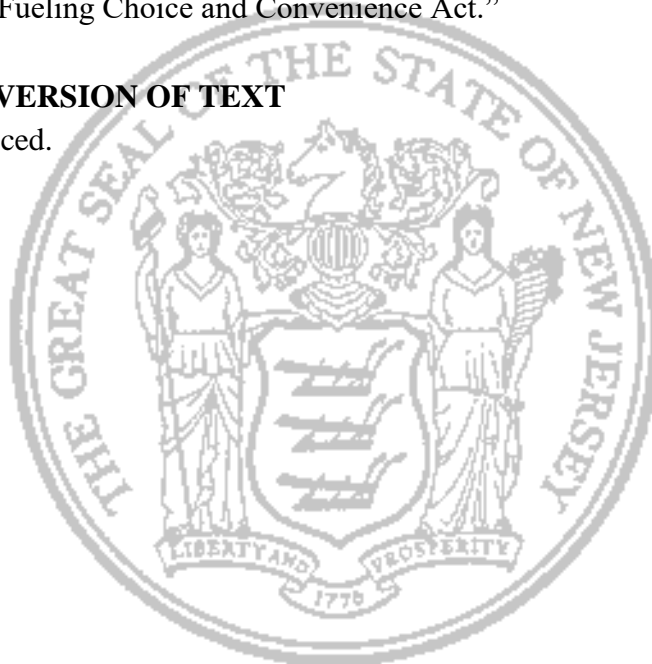
Assemblymen Clifton, DeAngelo, Rooney, Assemblywomen Jimenez, Flynn, Assemblyman Scharfenberger, Assemblywomen Sumter, Reynolds-Jackson, Timberlake and Assemblyman Mejia

SYNOPSIS

“Motorist Fueling Choice and Convenience Act.”

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/9/2022)

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

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. Section 2 of P.L.1989, c.263 (C.34:3A-5) is amended to read
9 as follows:

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

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

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

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

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

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

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

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

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

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

28
29 2. Section 3 of P.L.1989, c.263 (C.34:3A-6) is amended to read
30 as follows:

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

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

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

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

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

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

42
43 3. Section 4 of P.L.1989, c.263 (C.34:3A-7) is amended to read
44 as follows:

45 4. No **[person]** attendant shall dispense fuel at a gasoline

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.

1 station, unless the **person is an** attendant **who** has received
2 instructions regarding the dispensing of fuel, had practical
3 experience dispensing fuel under the direct supervision of an
4 experienced operator for a period of not less than one full working
5 day, and, upon examination at the end of that period, has
6 demonstrated **his** understanding of those instructions. The
7 instructions shall include a full explanation of the prohibitions of
8 section 3 of **this act** P.L.1989, c.263 (C.34:3A-6) and any
9 emergency procedures established pursuant to section 8 of **this**
10 **act** P.L.1989, c.263 (C.34:3A-11).

11 (cf: P.L.1989, c.263, s.4)

12

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

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

21 (cf: P.L.1989, c.263, s.5)

22

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

25 6. Each gasoline station shall be equipped, at a location remote
26 from the dispensing pumps, with a clearly identified and easily
27 accessible switch or circuit breaker to shut off the power to all
28 dispensing pumps in the event of an emergency **or of a customer or**
29 **other unauthorized person operating or attempting to operate the**
30 **pump**.

31 (cf: P.L.1989, c.263, s.6)

32

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

35 7. A violator of any provision of **this act** P.L.1989, c.263
36 (C.34:3A-4 et seq.) shall be liable for a penalty of not less than
37 \$50.00 and not more than \$250.00 for a first offense and not more
38 than \$500.00 for each subsequent offense. Each day that a gasoline
39 station operates in violation of the provisions of section 5 or 6 of
40 **this act** P.L.1989, c.263 (C.34:3A-8 or C.34:3A-9) or sections 7
41 or 8 of P.L. , c. (C.) (pending before the Legislature as this
42 bill) is a separate violation by the retail dealer who operates the
43 station. The penalties shall be sued for and recovered by the
44 commissioner, in summary proceedings pursuant to **“the penalty**
45 **enforcement law,”** N.J.S.2A:58-1 et seq., in the county or
46 municipality where the offense occurred **the “Penalty Enforcement**
47 **Law of 1999,”** P.L.1999, c.274 (C.2A:58-10 et seq.).

1 There is established a nonlapsing dedicated account to be known
2 as the Retail Gasoline Dispensing Safety Account. Penalties
3 collected pursuant to this section shall be credited to the account
4 and appropriated to fund expenses of effectuating the purposes of
5 **【this act】** P.L.1989, c.263 (C.34:3A-4 et seq.). If, at the close of a
6 fiscal year, moneys are available beyond the funds necessary to
7 meet those expenses, the commissioner shall determine an
8 appropriate amount to be returned to the General Fund for general
9 State purposes.
10 (cf: P.L.1989, c.263, s.7)

11
12 7. (New section) a. Except as provided in subsections b. of
13 this section, a gasoline station may offer only full-service fuel, only
14 self-service fuel, or a combination of full-service and self-service
15 fuel.

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

19
20 8. (New section) A gasoline station may offer a discount to
21 customers who purchase motor fuel of like grade and quality that is
22 dispensed by self-service at the station, provided that the motor fuel
23 shall not be sold at a price which in violation of section 201 of
24 P.L.1938, c.163 (C.56:6-2).

25
26 9. (New section) a. A gasoline station shall provide service by
27 an attendant in the dispensing of every grade of fuel offered at self-
28 service at no additional charge, if requested to do so by a person
29 with a disability who is operating a motor vehicle bearing a placard
30 or wheelchair symbol license plate, as authorized by the New Jersey
31 Motor Vehicle Commission pursuant to P.L.1949, c.280 (C.39:4-
32 204 et seq.).

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

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

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

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

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

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

48 (2) on every dispenser there shall be a decal, at least 15 square

1 inches, which clearly displays the international symbol of
2 accessibility, a working telephone number for the station, and the
3 words "Call for Assistance."

4 c. A gasoline station is not required to provide refueling
5 assistance during those times that the station is being operated on a
6 remote control basis by only one employee.

7
8 10. (New section) A franchisor or owner of a gasoline station
9 shall not, as a condition of the franchise or lease for the gasoline
10 station, as the case may be, require the gasoline station to be
11 operated as a self-service only station, a full-service only station, or
12 a station which offers both.

13
14 11. (New section) a. The governing body of a county or
15 municipality shall not adopt any ordinance, resolution, law, rule or
16 regulation requiring or prohibiting gasoline stations to offer self-
17 service dispensing of motor fuel in any capacity.

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

22
23 12. (New section) The Legislature finds and declares that:

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

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

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

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

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

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

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

48 (1) The current ban on self-service stations in New Jersey

1 appears to impose substantial costs on consumers that are not likely
2 to be offset by justifiable safety-related concerns;

3 (2) Voluntary self-service is no longer a threat to fire safety,
4 with the advent of significant technological and safety
5 improvements in self-service dispensing, such as nozzle valves that
6 automatically shut off and the installation of emergency shut-off
7 switches near the pumps;

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

16
17 13. Section 1 of P.L.1989, c.263 (C.34:3A-4) is repealed.

18
19 14. This act shall take effect on the 90th day next following
20 enactment, except that the commissioner may promulgate
21 regulations pursuant to sections 9 and 10 before the effective date.

22 23 24 STATEMENT

25
26 This bill allows the act of pumping one's own gas when a
27 consumer voluntarily chooses to do so. The bill requires gasoline
28 stations with more than four dispensers to continue to offer full-
29 service gasoline between the hours of 8 a.m. and 8 p.m., provided
30 that the station is open to the public during those hours.

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

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

42 The bill also provides that gasoline stations offering only self-
43 service gasoline shall provide assistance to motorists with a
44 disability at the self-service price. In order to enhance access for
45 motorists, the bill gives gasoline stations the option of either
46 outfitting at least one dispenser with a special call button or
47 outfitting every dispenser with a sign listing a phone number that

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1 can be used to alert an employee of the gasoline station that
2 assistance is needed.

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