



**House  
Legislative  
Analysis  
Section**

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**MOTOR FUEL FRANCHISE ACT**

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House Bill 4244  
Sponsor: Rep. Curtis Hertel  
Committee: Transportation

Complete to 3-27-89

**A SUMMARY OF HOUSE BILL 4244 AS INTRODUCED 2-21-89**

The bill would create the Motor Fuel Distribution Act to regulate the termination and transfer of motor fuel franchises and to provide for certain business practices. Specifically, the bill would prohibit a franchisor from withholding its consent to any sale, assignment, or other transfer of the franchise to a qualified third party by a franchisee unless the franchisor could demonstrate that the proposed new franchisee would be unable to adequately function as a franchisee or would normally not be granted a franchise if the party was an applicant for a new franchise. Under the bill, a qualified third party would become a franchisee immediately upon the sale, assignment or other transfer of the franchise.

Following the death of a motor fuel retailer franchisee, the franchisor would enter into a new franchise with the designee of the motor fuel retailer franchisee on the terms and conditions then generally being extended by the franchisor to similar franchisees. This transaction could only take place if the franchisee had notified the franchisor of the designee 90 days prior to renewal of the leased marketing premises (and prior to death) and the designee was the surviving spouse, adult child, adult stepchild, son-in-law, or daughter-in-law of the franchisee who would be a qualified third party. The designee, who met all requirements of the bill, would become the franchisee immediately upon the death of the designator franchisee.

The bill would prohibit a franchisor from preventing the sale, assignment or other transfer of a franchise to a corporation in which the franchisee had and maintained a controlling interest if the franchisee offered in writing to personally guarantee the performance of the obligations under the franchise. In the event of a transfer the franchisor could require the corporation to assume, in writing, all of the franchisee's obligations to the franchisor and require the franchisee to maintain a controlling interest in the corporation and actively operate the marketing premises during the time that the franchise with the corporation continued.

A franchisor could not prevent a franchisee from closing on Sunday or the Sabbath, Christmas eve (after 9:00 p.m.), Christmas day, New Year's eve, New Year's day, Thanksgiving day (after 4:00 p.m.), Easter Sunday or Yom Kippur.

Under the bill, a person who sustained injury to his or her business or property by reason of a violation of the bill could bring an action in any court having jurisdiction in the county where the defendant resided or was found, or where service could be obtained, for injunctive relief or to recover damages sustained, and could be awarded attorney fees together with the costs of the action.

House Bill 4244 (3-27-89)