

§ 199-j. Dealer's right to deal with suppliers other than his distributor.

1. Any provision of a franchise which requires a dealer to purchase or sell products of the distributor other than motor fuel, or which prohibits a dealer from purchasing or selling such products of persons or firms other than the distributor, shall be null and void. Any person or firm who is a distributor, or an officer, agent or employee of a distributor, who shall threaten, harass, coerce or attempt to coerce a dealer for the purpose of compelling the dealer to purchase or sell such products of the distributor or to refrain from purchasing or selling such products of persons or firms other than the distributor shall be guilty of a violation and shall be subject to a fine in an amount up to five hundred dollars for each violation.
2. (a) Any provision of a franchise which prohibits a dealer from purchasing or selling any of the alternative motor fuels set forth in paragraph (b) of this subdivision from a person or firm other than the distributor, or limits the quantity of such motor fuel to be purchased from such other person or firm, or any provision of a franchise which directly or indirectly discourages a dealer from purchasing or selling such alternative motor fuels from such other person or firm, shall be null and void as it pertains to that particular alternative motor fuel if the distributor does not supply or offer to supply to the dealer such alternative motor fuel. Nothing contained in this paragraph, however, shall grant to any dealer any rights, authority or obligation with respect to the permissible uses of the premises or facilities owned, leased or controlled by a distributor pursuant to the terms of the franchise.
 - (b) For the purposes of this section, the term "alternative motor fuel" shall mean any of the following: (i) a blend of eighty-five percent ethanol and fifteen percent gasoline; (ii) a blend of at least two percent methyl-ester, commonly referred to as "bio-diesel", and diesel motor fuel; (iii) motor fuel comprised primarily of methane, stored in either a gaseous or liquid state and suitable for use and consumption in the engine of a motor vehicle, commonly referred to as "compressed natural gas"; or (iv) hydrogen.
 - (c) Any person or firm who is a distributor, or an officer, agent or employee of a distributor, who threatens, harasses, coerces or attempts to coerce a dealer for the purpose of compelling such dealer to refrain from purchasing or selling alternative motor fuel from a person or firm other than the distributor shall be guilty of a violation and be subject to a fine in an amount up to one thousand dollars for each violation.
3. Franchise provisions. Any provision of a franchise with a refiner which prohibits a dealer, who either directly or through an affiliate owns a service station including the tanks and pumps and who dedicates a tank for sale of unbranded motor fuel, or a distributor from purchasing or selling unbranded motor fuel from a person or firm other than the

refiner or limits the quantity of such unbranded motor fuel to be purchased from another person or firm or any provision of a franchise which directly or indirectly discourages a dealer or distributor from purchasing or selling such unbranded motor fuels from another person or firm, shall be null and void. For purposes of this subdivision and subdivisions four, five and six of this section the following terms shall have the following meanings:

(a) "refiner" means any person, firm or corporation who owns, leases, operates, controls or supervises a commercial entity producing gasoline or diesel motor fuel;

(b) "distributor" means any person other than a refiner or dealer who purchases motor fuel at a terminal facility and supplies motor fuel to service stations; and

(c) "unbranded motor fuel" means motor fuel which does not use a trademark, trade name, service mark, or other identifying symbol or name owned by a refiner.

4. Labeling of unbranded motor fuels. Under any circumstances where a dealer sells unbranded motor fuel, the dealer shall display a sign which will be visible to consumers before entering the station which states that unbranded fuel is available for sale. The dealer shall also post a sign disclosing that such supply is unbranded on each pump dispensing this fuel. The sign shall be at least eight inches by ten inches with letters not less than three inches in height. The sign shall be legible to the consumer from any point where a vehicle may be refueled. The dealer shall cover all logos, trademarks, or other identifying insignia of the refiner on each dispenser used to dispense the product from such tank or pump. The dealer shall not be required to deface or cover any other logo, trademark, or insignia at his place of business.
5. Sale of unbranded product. A dealer who is entitled to sell unbranded product shall have the right to mix in any storage tank motor fuel produced or supplied by two or more refiners, including his or her refiner, as long as such mixture is stored separately from the refiner's supply and is sold as unbranded. A dealer who is entitled to sell unbranded product shall have the right to mix motor fuel purchased from a source other than his or her refiner without regard to whether said motor fuel was sold under or carries any brand, trademark, tradename, or other similar designation. A dealer shall retail such a mixture as "unbranded", "no brand", or other similar designation indicating that the motor fuel does not carry a brand, trademark, tradename, or other similar designation. A franchisee who markets such a mixture shall be subject to the posting and labeling requirements of this article and article sixteen of the agriculture and markets law. Any violation of section one hundred ninety-two-b of the agriculture and markets law by a dealer in regards to the marketing of unbranded fuel under this section shall not be deemed a violation of the refiner under subdivision six of such section.
6. Sale of refiner's product. A dealer who has sold motor fuel other than that of the refiner by dispensing such motor fuel from a storage

tank, underground or otherwise, or container or receptacle, shall follow the procedures set forth in this section before using such storage tank, container, or receptacle for dispensing the branded motor fuel of the refiner. Before using such tank to dispense the refiner's fuel, the dealer shall first empty the tank. The dealer may then use such tank to dispense motor fuel represented to be the product of such refiner. With respect to retail gasoline stations, the term "empty the tank" as used in this section means that the pump, dispenser, device, or other equipment normally used to dispense or pump motor fuel from the storage tank into a motor vehicle has reduced the fluid level in the storage tank to the point where any additional special equipment, such as a vacuum pump, would be necessary to draw out the remaining residue of motor fuel in the tank. The refiner, or his or her employee or agent, shall have the right to inspect the tank to ensure that it is empty in accordance with this section and that the labeling requirements of this section are met.