

PROPOSED AMENDMENTS TO SENATE BILL NO. 2389

Page 1, line 1, replace "four new sections to chapter 51-10" with "a new chapter to title 51"

Page 1, line 2, replace "unfair trade practices" with "below-cost sales" and remove "; and to"

Page 1, remove line 3

Page 1, line 4, remove "relating to unfair trade practices"

Page 1, line 6, replace "**AMENDMENT.** Subsection 1 of section 51-10-01" with "A new chapter to title 51"

Page 1, line 7, replace "amended and reenacted" with "created and enacted"

Page 1, remove lines 8 through 13

Page 1, line 14, replace "'cost'." with "**Definitions.** 1." and remove the underscore under "For motor fuel offered for sale by posted pricing or indicating meter by a"

Page 1, remove the underscore under lines 15 through 24

Page 2, remove the underscore under lines 1 through 10

Page 2, replace lines 11 and 12 with:

2. "Retailer" means any person engaged in the business of making sales at retail within this state. In the case of a person engaged in the business of making sales at retail and sales at wholesale, the term applies only to the retail portion of such business.
3. "Sell at retail", "sales at retail", and "retail sale" mean any transfer for a valuable consideration, made in the ordinary course of trade or in the usual prosecution of the seller's business, of title to tangible personal property to the purchaser for consumption or use other than resale or further processing or manufacturing.
4. "Sell at wholesale", "sales at wholesale", and "wholesale sales" mean any transfer for valuable consideration made in the ordinary course of trade or the usual conduct of the seller's business, of title to tangible personal property to the purchaser for purposes of resale or further processing or manufacturing.
5. "Wholesaler" means any person engaged in the business of making sales at wholesale in this state. In the case of a person engaged in the business of making both sales at wholesale and sales at retail, the term applies only to the wholesale portion of the business."

Page 2, line 13, remove the underscore under "**Certain motor fuel marketing practices**", replace "**as unfair trade practice**" with "**prohibited**", and remove the underscore under ". An offer for resale"

Page 2, remove the underscore under line 14

Page 2, replace lines 15 and 16 with "this chapter, is a violation of this chapter"

Page 2, line 17, remove "section 51-10-05.1 to prevent any violation of this section" and remove the underscore under ". A retailer that sells motor fuel at the"

Page 2, remove the underscore under line 18

Page 2, line 19, remove the underscore under "not in violation of this" and replace "section. Unfair competition in the marketing of motor fuel occurs when a" with "chapter. A"

Page 2, line 20, remove the underscore under "marketer with more than one location", replace "uses" with "may not use", and remove the underscore under "profits from one location to cover losses from"

Page 2, line 21, remove the underscore under "below-cost selling of motor fuel at another location", replace ", when refiners use" with ". Refiners may not use", and remove the underscore under "profits from refining crude"

Page 2, line 22, remove the underscore under "oil to cover below normal or negative returns earned from motor fuel marketing operations" and replace ", and" with a period

Page 2, line 23, replace "when a business uses" with "A business may not use" and remove the underscore under "profits from nonmotor fuel sales to cover losses from below-cost selling"

Page 2, remove the underscore under line 24

Page 2, remove lines 25 and 26

Page 2, remove the underscore under lines 27 through 31

Page 3, remove the underscore under lines 1 through 11

Page 3, line 12, remove the underscore under "making its award. An action under this", replace "section" with "chapter", and remove the underscore under "must be brought within two years"

Page 3, remove the underscore under line 13

Page 3, line 14, remove the underscore under "3. In making an award under", replace "subsection 2" with "this chapter", and remove the underscore under ", the court may award court costs and"

Page 3, remove the underscore under lines 15 through 17

Page 3, remove lines 18 and 19

Page 3, remove the underscore under lines 20 through 25

Page 3, remove lines 26 and 27

Page 3, remove the underscore under lines 28 and 29

Page 3, line 30, remove the underscore under "service and is selling the same article at", remove "cost to", remove the underscore under "the competing", replace "wholesaler" with "wholesaler's cost", and remove the underscore under "as defined in this"

Page 3, remove the underscore under line 31

Page 4, line 1, remove the underscore under "meet the price of a competitor that is selling the same article at", remove "cost to", remove the underscore under "the competing", replace "retailer" with "retailer's cost", and remove the underscore under "as"

Page 4, remove the underscore under line 2

Renumber accordingly