PETROLEUM RETAIL MARKETING SITES AMENDMENT BILL 1984

Date Introduced: 22 August 1984
House: Senate
Presented by: Senator, the Hon. John N. Button
Minister for Industry and Commerce

Short Digest of Bill

Purpose

To amend the Petroleum Retail Marketing Sites Act 1980 (Sites Act) in order to simplify its administration and to clarify its application to retail sites operated by prescribed corporations.

Background

This digest is to be read in conjunction with the digest for the Petroleum Retail Marketing Franchise Bill 1984.

Prior to the introduction of the Sites Act in 1980, there had been an increasing trend by some oil companies to sell motor fuel directly to the public through stations operated by a commission agent, rather than through lessee and independent service station operators. The company operated stations have generally been established as self-serve outlets in high volume metropolitan areas, and have been able to undercut the prices charged by conventional sellers.

Lessee operators and independent owners have claimed that the oil companies were competing unfairly at the retail level by indulging in price discrimination and called for functional "divorcement i.e., legislation prohibiting oil companies from direct retailing. The Trade Practices Commission in its Report on Price Discrimination in the Petroleum Retailing Industry (1980) concluded that for most retail operators the problem was not price discrimination but rather it was one of price competition.

If the trend to oil company operated sites continued it was feared that the resulting increased
vertical integration by the major oil companies would have long-term anti-competitive effects. The former Government decided that total "divorcement" would not be necessary to arrest the trend. The Sites Act was introduced in 1980 to provide for a 50 per cent reduction, over a two-year period, in the number of retail petrol stations operated by major oil companies. Each integrated oil group would be allocated a quota of site numbers. The Schedule to the Sites Act lists the corporations with their quota allocations. The number of sites would be reduced to 401 compared with just over 800 as at 31 May 1980.

The allocation formula chosen by the Government was based on the role of each company in the market, the needs of smaller companies, and those which were heavily committed to direct retail site operation. The allocation formula was to be revised between companies after 5 years. A company would not suffer a reduction in its quota if it did not operate its full quota entitlement in that 5 years.

On 25 February 1982, the then Minister for Business and Consumer Affairs (Hon. J. Moore) introduced the Petroleum Retail Marketing Sites Amendment Bill 1982 into the House of Representatives to change the definition of sites operated by oil companies. This Bill was never enacted.

In a Press Release, dated 18 May 1983, the Minister for Industry and Commerce announced that the Government would undertake a limited review of some aspects of the Sites and Franchise Acts. Service station dealer associations, oil companies, State Government officials and consumer groups provided input to the review. On 18 April 1984, in a Press Release, the Minister announced details of the Government's decisions following from the review. A new quota ceiling of 425 sites is to be introduced to be allocated on the basis of the oil company's market share over a three-year period. Individual allocations are to be reviewed at three-yearly intervals. Oil companies may achieve their final quotas in six-monthly phasing periods to 1 July 1986.

The Minister also announced, in this Press Release, that legislation would be introduced giving effect to amendments to the Sites Act. In addition, current quota allocations would be extended to 1 January 1985 when the amending legislation comes into effect. The new quota allocations are set out in the attachment to the Press Release.
Proposed Quota Phasing Schedule

<table>
<thead>
<tr>
<th></th>
<th>Quota at 1/7/84</th>
<th>Quota at 1/1/85</th>
<th>Quota at 1/7/85</th>
<th>Quota at 1/1/86</th>
<th>Quota at 1/7/86</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shell</td>
<td>173</td>
<td>155</td>
<td>137</td>
<td>119</td>
<td>101</td>
</tr>
<tr>
<td>Caltex</td>
<td>141</td>
<td>125</td>
<td>109</td>
<td>93</td>
<td>78</td>
</tr>
<tr>
<td>BP</td>
<td>130</td>
<td>116</td>
<td>102</td>
<td>88</td>
<td>74</td>
</tr>
<tr>
<td>Mobil</td>
<td>90</td>
<td>82</td>
<td>74</td>
<td>66</td>
<td>57</td>
</tr>
<tr>
<td>Ampol/Total</td>
<td>142</td>
<td>120</td>
<td>98</td>
<td>76</td>
<td>55</td>
</tr>
<tr>
<td>Esso</td>
<td>20</td>
<td>23</td>
<td>26</td>
<td>29</td>
<td>33</td>
</tr>
<tr>
<td>Amoco</td>
<td>53</td>
<td>47</td>
<td>41</td>
<td>34</td>
<td>27</td>
</tr>
<tr>
<td>Totals</td>
<td>749</td>
<td>668</td>
<td>587</td>
<td>505</td>
<td>425</td>
</tr>
</tbody>
</table>


Outline

For the purposes of the Sites Act, a prescribed corporation means a prescribed oil company, any other corporation that refines petroleum or a corporation that is related to either of these.

This Bill will replace the current percentage-based application test with a volume-based test to determine whether a particular site is subject to the Sites Act. Market research and training sites will no longer be exempt from quota. The Act will apply from a basis of sales made during a particular month rather than on a particular day.

Main Provisions

The Bill will come into operation on 1 January 1986 (clause 2).

Clause 3 will introduce a volume-based test whereby a site will be regarded as a diesel fuel site, and thereby exempt, if more than 100,000 litres of diesel fuel is sold per month and less than 100,000 litres of petrol is sold by retail per month.
The definition of "motor fuel" excludes diesel fuel and liquefied gas.

Clause 5 covers provisions relating to the operation of retail sites. The Sites Act will apply on a basis of retail sales made during a particular month rather than on a particular day. Sites operated by a company whose retail sales of motor fuel exceeds 30,000 litres in any month will be included in quota. Retail sales of motor fuel to government account customers will be exempt from the volume test. This test will replace the former percentage-based test.

A retail site will not be taken to be company operated during a month if a franchise agreement relating to the site is in effect at any time during that month.

The current exemption from quota for temporarily operated retail sites will continue.

By clause 7, prescribed oil companies will be required to submit, annually, a consolidated statement of the retail sites which are subject to the Sites Act and which are operated by it or by members of its group.

Clause 9 amends the pecuniary penalty provisions to ensure that each site operated in excess of quota, and each contravention of the reporting requirements constitutes a separate contravention, liable to a separate pecuniary penalty. There will be maximum fine of $10,000 for a breach of the quota provisions and $5,000 for a breach of the reporting requirements.

Clause 13 is a transitional clause to protect incumbent commission agents at sites which a prescribed corporation ceases to operate directly during the 18 month phasing period (1 January 1985 to 30 June 1986) effected by the new quota allocation scheme.

For further information, if required, contact:

5 September 1984

Economics and Commerce Group
LEGISLATIVE RESEARCH SERVICE