

Overview of Motor Fuel Marketing Act

Prepared for the Business and Labor Interim Committee
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Summary of basic provisions

Below cost sales: It is unlawful to sell motor fuel below cost if the intent or effect is to:

- injure competition
- induce the buying of other merchandise
- unfairly divert trade from a competitor; or
- otherwise injure a competitor

Discriminatory pricing: It is unlawful to:

- sell motor fuel through an affiliate at a price lower than the price charged to another, if the intent or effect is to injure competition; or
- sell motor fuel for resale at a price lower than the seller charges others, if the intent or effect is to injure competition

Exceptions:

- good faith effort to meet competitor's price
- close out sale
- sale of deteriorated goods
- court ordered sale
- meeting prices established by interstate commerce
- price differences resulting from making allowances for differences in manufacturing, transportation, marketing, and other costs (applies only to discriminatory pricing provision)

History

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| 1981 | <ul style="list-style-type: none">• enacted into law |
| 2001 | <ul style="list-style-type: none">• last time statute was amended• Attorney General given direct enforcement authority (previously the Division of Consumer Protection had to request the AG or county attorney to bring a civil enforcement action) |
| 2005 | <ul style="list-style-type: none">• last sunset review |
| 2012 | <ul style="list-style-type: none">• scheduled for repeal July 1, 2012 |

Other law

- Utah Constitution, Article XII, Section 20
"It is the policy of the state of Utah that a free market system shall govern trade and commerce in this state to promote the dispersion of economic and political power and the general welfare of all the people. Each contract, combination in the form of trust or otherwise, or conspiracy in restraint of trade or commerce is prohibited. Except as otherwise provided by statute, it is also prohibited for any person to monopolize, attempt to monopolize, or combine or conspire with any other person or persons to monopolize any part of trade or commerce."

- Utah's Unfair Practices Act (Title 13, Chapter 5)
It is unlawful to discriminate in price between different purchasers of commodities if the effect may be:
 - substantially to lessen competition;
 - to tend to create a monopoly in any line of commerce;
 - or
 - to injure, destroy, or prevent competition

- Utah Antitrust Act
 - Every contract, combination, or conspiracy in restraint of trade or commerce is illegal
 - It is unlawful for any person to monopolize or attempt or conspire to monopolize any part of trade or commerce

- Federal law
 - Sherman Act
 - Prohibits every contract, combination, or conspiracy in restraint of trade or commerce
 - Prohibits a monopoly or an attempt, combination, or conspiracy to monopolize any part of trade or commerce
 - Clayton Act and Robinson-Patman Act
 - Prohibits any person engaged in commerce to discriminate in price where the effect may be:
 - substantially to lessen competition;
 - to tend to create a monopoly in any line of commerce;
 - or
 - to injure, destroy, or prevent competition