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Consumer Protection; franchising automobile service stations

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letter of credit or certificate of deposit is obtained, a statement that the buyer has a right to proceed against the fund; and (3) a statement that the buyer may cancel the contract for the services within 5 days after its execution by written notice mailed or delivered to the organization.

A violation of Chapter 649 or a breach of the contract by the organization will result in the buyer being able to recover actual damages plus reasonable attorney’s fees and costs. Chapter 649 adds that any waiver of the provisions of this act is contrary to public policy. Further, any attempt by an organization to have a buyer waive those rights is an unlawful act.

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Existing law regulates business dealings between suppliers and service station operators. Under Chapter 796, a refiner must not


2. Nev. Rev. Stat. §§ 598.655 1-10 (amended by 1987 Nev. Stat. ch. 796, sec. 17, at ____) (definition of a supplier). Suppliers are banned from: (1) interfering with the lawful exercise of the right to free association among service station operators and wholesale purchasers; (2) failing to act in good faith in performing or complying with any term or condition of a franchise agreement or contract with a wholesale purchaser; (3) terminating or cancelling a franchise or wholesale purchaser’s contract without good cause; (4) using undue influence to compel a service station operator to surrender a right under a franchise agreement; (5) terminating or threatening to terminate a franchise because the operator failed to comply with a requirement to exclusively sell the supplier’s product or goods when such a requirement would violate a United States or Nevada law, regulation, or rule; (6) changing or modifying restrictions on non-petroleum

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directly or indirectly: (1) interfere with the lawful exercise of the right to free association among retailers and wholesale purchasers; (2) change or modify restrictions on a retailer’s business activities during the period of a franchise agreement that are not associated with selling motor vehicle fuel or other petroleum products; (3) unreasonably reduce, limit, or curtail the supply of motor vehicle fuel or other petroleum products to any retailer or wholesale purchaser; or (4) place unreasonable restrictions on business activities of a retailer that are not unrelated to the selling of motor vehicle fuel or other petroleum products.

Except as provided in Chapter 796, a refiner must not commence the direct operation of a service station or the sale of motor vehicle fuel at a service station after July 1, 1987. Furthermore, a refiner cannot engage in the direct operation of more than 15 service stations in Nevada after July 1, 1988.

3. A refiner is a person or affiliate who produced over 30 percent of the crude oil processed into motor vehicle fuel at a person’s or an affiliate’s refinery which has a total refinery capacity of over 175,000 barrels a day. 1987 Nev. Stat. ch. 796, sec. 8, at (enacting Nev. Rev. Stat. § 598.). An affiliate is a person who controls, is controlled by, or is under common control with any other person. Id. sec. 2, at (enacting Nev. Rev. Stat. § 598.). Control is the direct or indirect ownership or right to exercise a directing influence over more than 50 percent of the beneficial interest in any other person. Id. sec. 3, at (enacting Nev. Rev. Stat. § 598.).


9. Id. (enacting Nev. Rev. Stat. § 598.) (this limitation includes service stations operated not only by the refiner but the refiner’s employees, subsidiaries, commissioned agents, or a person working for a fee).
Chapter 796, however, permits a refiner to operate a service station for a limited period if the retailer voluntarily terminates or agrees not to renew the franchise, or if the refiner terminates the franchise. 10 In addition, Chapter 796 prohibits a refiner from directly or indirectly acting in bad faith during the performance of a franchise agreement or wholesale purchaser contract. 11 Similarly, Chapter 796 prevents the use of undue influence to induce a retailer to surrender rights contained in the franchise. 12

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10. Id. (enacting Nev. Rev. Stat. § 598.__) (not longer than ninety days). A refiner is permitted to sell motor vehicle fuel to other retailers within the marketing area of the temporarily operated service station but the price of the motor vehicle fuel may not be less than four cents below the retail price charged at the refiner’s service station. See id. sec. 14, at ___ (enacting Nev. Rev. Stat. § 598.__). A marketing area is the zone within a five mile radius of a franchise service station. Id. sec. 5, at ___ (enacting Nev. Rev. Stat. § 598.__).

11. Id. sec. 15, at ___ (amending Nev. Rev. Stat. § 598.__).

12. Id.