

1 [Alternative Access Fuels Ordinance]

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3 **Draft Ordinance amending the San Francisco Police Code to Add Article 42C, Sections**
4 **4200C.9 to 4200C.11, to prohibit franchise and fuel supply agreements from limiting the**
5 **ability of franchisees and independent service station dealers to purchase motor fuel**
6 **from any location or through any vendor in the refiner’s wholesale network and to**
7 **prohibit franchise and fuel supply agreements from limiting the ability of independent**
8 **service station dealers and franchisees to purchase alternative motor fuel from any**
9 **source other than the supplier or refiner if the supplier or refiner is unable to provide**
10 **the alternative motor fuel.**

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Note: This entire section is new.

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Be it ordained by the People of the City and County of San Francisco:

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Section 1. The San Francisco Police Code is hereby amended by adding Article 42C
14 thereto, to read as follows:

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Sec. 4200D.9. DEFINITIONS.

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(a) “Affiliate” means any person who directly or indirectly controls, is controlled by, or
17 is under common control with any other person.

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(b) “Alternative motor fuel” means a non petroleum fuel or other energy source
19 including: biologically synthesized natural gas (biogas), methanol, ethanol, propanol, and
20 butanol; hydrogen; or any other fuel derived from a renewable resource suitable for use in a
21 motor vehicle.

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(c) “Control” means the direct or indirect power to direct or cause the direction of the
23 management and policies of a person, whether through the ownership of voting securities, by
24 contract, or otherwise.

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1 (d) "Independent service station dealer" means a person who is not an affiliate of a
2 refiner and who buys motor fuel primarily for resale to end-users and ultimate consumers at a
3 retail service station, including franchisees of a refiner.

4 (e) "Motor fuel" means any liquid petroleum product used for the propulsion of motor
5 vehicles, not including airplanes, trains, or marine vessels, and excluding propane.

6 (f) "Refiner" means any person or affiliate engaged in the refining of petroleum into
7 motor fuel, whether such refining occurs in the City and County of San Francisco or
8 elsewhere.

9 (g) "Retail service station" or "service station" means a facility, including land and
10 improvements, where the motoring public purchases fuel at retail prices.

11 (h) "Set or attempt to set" includes but is not limited to actions that put an independent
12 service station dealer at an economic disadvantage if the dealer fails to comply with a
13 suggested price or margin.

14 (i) "Supply agreement" means any agreement between a franchisee or an independent
15 service station dealer and a refiner or wholesale supplier that addresses the dealer's
16 purchase of motor fuel from a refiner for sale to the public.

17 **SEC. 4200D.10 PURCHASE OF MOTOR FUEL.** A franchise-related document or
18 supply agreement between an independent service station dealer and refiner or franchisor
19 and franchisee entered into or renewed on or after the date of enactment of this section may
20 not contain any provision allowing a franchisor to restrict the franchisee or any affiliate of the
21 franchise or independent service station dealer operating in San Francisco from purchasing
22 the refiner's branded motor fuel from any location or through any vendor in the refiner's
23 wholesale network.

1 **SEC. 4200D.11 PURCHASE OF ALTERNATIVE MOTOR FUEL.** A franchise-related
2 document or supply agreement between a motor fuel refiner or supplier and an independent
3 service station dealer or franchisee, formed after the effective date of this ordinance, may not
4 prohibit or limit the ability of the franchisee or independent service station dealer to purchase
5 or sell alternative motor fuel from any other source other than the supplier or refiner if the
6 supplier or refiner is unable to provide the alternative motor fuel. This section shall not be
7 applied in any manner that would render its application pre-empted by the Petroleum
8 Marketing Practices Act or by other state or federal law.

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10 APPROVED AS TO FORM:
11 DENNIS J. HERRERA, City Attorney

12 By: _____
13 BURK E. DELVENTHAL
14 Deputy City Attorney