

cialization for which financial obligation guarantees may be useful or appropriate and shall contain such legislative recommendations as may be necessary.

(Pub. L. 95-238, title III, §310, Feb. 25, 1978, 92 Stat. 83.)

REFERENCES IN TEXT

Section 5914 of title 42, referred to in subsec. (a), was omitted from the Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2703 of this title.

§ 2710. Authorization of appropriations

There is authorized to be appropriated to carry out the purposes of this chapter, in addition to any amounts made available for such purposes pursuant to title I of this Act, the sum of \$12,500,000 for the fiscal year ending September 30, 1978.

(Pub. L. 95-238, title III, §312, Feb. 25, 1978, 92 Stat. 83.)

REFERENCES IN TEXT

Title I of this Act, referred to in text, is title I (§§101-107) of Pub. L. 95-238, Feb. 25, 1978, 92 Stat. 47. For complete classification of this title to the Code, see Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2703 of this title.

CHAPTER 55—PETROLEUM MARKETING PRACTICES

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- (d) Actual and exemplary damages and attorney and expert witness fees to franchisee; determination by court of right to exemplary damages and amount; attorney and expert witness fees to franchisor for frivolous actions.
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- 2823. Administration and enforcement provisions.
 - (a) Procedural, investigative, and enforcement powers of Federal Trade Commission.
 - (b) Testing, certification, and notice requirements of Environmental Protection Agency; interagency enforcement agreements between Federal Trade Commission and Environmental Protection Agency and other Federal agencies.
 - (c) Promulgation of rules by Federal Trade Commission; contents; requirements for compliance with rules.
 - (d) Statutory provisions applicable for promulgation of rules.
 - (e) Acts or practices constituting violations.
- 2824. Relationship of statutory provisions to State and local laws.

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SUBCHAPTER III—SUBSIDIZATION OF MOTOR FUEL MARKETING

2841. Study by Secretary of Energy.
- (a) Consultation with Chairman of Federal Trade Commission, Attorney General, and other agencies deemed appropriate by Secretary.
 - (b) Scope.
 - (c) Notice to interested parties and opportunity to present written and oral data, views and arguments.
 - (d) Report to Congress; contents and time for submission; Presidential promulgation of rules establishing interim measures; submission date and duration of interim measures; Congressional approval of interim measures.
 - (e) Authorization of appropriations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 5611 of this title.

SUBCHAPTER I—FRANCHISE PROTECTION

§ 2801. Definitions

As used in this subchapter:

- (1)(A) The term “franchise” means any contract—
- (i) between a refiner and a distributor,
 - (ii) between a refiner and a retailer,
 - (iii) between a distributor and another distributor, or
 - (iv) between a distributor and a retailer,

under which a refiner or distributor (as the case may be) authorizes or permits a retailer or distributor to use, in connection with the sale, consignment, or distribution of motor fuel, a trademark which is owned or controlled by such refiner or by a refiner which supplies motor fuel to the distributor which authorizes or permits such use.

(B) The term “franchise” includes—

(i) any contract under which a retailer or distributor (as the case may be) is authorized or permitted to occupy leased marketing premises, which premises are to be employed in connection with the sale, consignment, or distribution of motor fuel under a trademark which is owned or controlled by such refiner or by a refiner which supplies motor fuel to the distributor which authorizes or permits such occupancy;

(ii) any contract pertaining to the supply of motor fuel which is to be sold, consigned or distributed—

(I) under a trademark owned or controlled by a refiner; or

(II) under a contract which has existed continuously since May 15, 1973, and pursuant to which, on May 15, 1973, motor fuel was sold, consigned or distributed under a trademark owned or controlled on such date by a refiner; and

(iii) the unexpired portion of any franchise, as defined by the preceding provisions of this paragraph, which is transferred or assigned as authorized by the provisions of such franchise or by any applicable provision of State law which permits such transfer or assignment without regard to any provision of the franchise.

(2) The term “franchise relationship” means the respective motor fuel marketing or distribution obligations and responsibilities of a franchisor and a franchisee which result from the marketing of motor fuel under a franchise.

(3) The term “franchisor” means a refiner or distributor (as the case may be) who authorizes or permits, under a franchise, a retailer or distributor to use a trademark in connection with the sale, consignment, or distribution of motor fuel.

(4) The term “franchisee” means a retailer or distributor (as the case may be) who is authorized or permitted, under a franchise, to use a trademark in connection with the sale, consignment, or distribution of motor fuel.

(5) The term “refiner” means any person engaged in the refining of crude oil to produce motor fuel, and includes any affiliate of such person.

(6) The term “distributor” means any person, including any affiliate of such person, who—

(A) purchases motor fuel for sale, consignment, or distribution to another; or

(B) receives motor fuel on consignment for consignment or distribution to his own motor fuel accounts or to accounts of his supplier, but shall not include a person who is an employee of, or merely serves as a common carrier providing transportation service for, such supplier.

(7) The term “retailer” means any person who purchases motor fuel for sale to the general public for ultimate consumption.

(8) The term “marketing premises” means, in the case of any franchise, premises which, under such franchise, are to be employed by the franchisee in connection with sale, consignment, or distribution of motor fuel.

(9) The term “leased marketing premises” means marketing premises owned, leased, or in any way controlled by a franchisor and which the franchisee is authorized or permitted, under the franchise, to employ in connection with the sale, consignment, or distribution of motor fuel.

(10) The term “contract” means any oral or written agreement. For supply purposes, delivery levels during the same month of the previous year shall be prima facie evidence of an agreement to deliver such levels.

(11) The term “trademark” means any trademark, trade name, service mark, or other identifying symbol or name.

(12) The term “motor fuel” means gasoline and diesel fuel of a type distributed for use as a fuel in self-propelled vehicles designed primarily for use on public streets, roads, and highways.

(13) The term “failure” does not include—

(A) any failure which is only technical or unimportant to the franchise relationship;

(B) any failure for a cause beyond the reasonable control of the franchisee; or

(C) any failure based on a provision of the franchise which is illegal or unenforceable under the law of any State (or subdivision thereof).

(14) The terms “fail to renew” and “non-renewal” mean, with respect to any franchise relationship, a failure to reinstate, continue, or extend the franchise relationship—