

SECOND REGULAR SESSION

# HOUSE BILL NO. 1575

## 92ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE MAYER.

Read 1<sup>st</sup> time February 26, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4677L.011

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### AN ACT

To repeal section 416.615, RSMo, as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house bill no. 414, eighty-eighth general assembly, first regular session, and to reenact section 416.615, RSMo, as enacted by house committee substitute for senate bill no. 374, eighty-seventh general assembly, first regular session, and section 416.640 as repealed by conference committee substitute for senate substitute for senate committee substitute for house substitute for house bill no. 414, eighty-eighth general assembly, first regular session, for the sole purpose of the republication of sections 416.615 and 416.640.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 416.615, RSMo, as enacted by conference committee substitute for  
2 senate substitute for senate committee substitute for house substitute for house bill no. 414,  
3 eighty-eighth general assembly, first regular session, is repealed, and sections 416.615, RSMo,  
4 as enacted by house committee substitute for senate bill no. 374, eighty-seventh general  
5 assembly, first regular session, and 416.640, RSMo, as repealed by conference committee  
6 substitute for senate substitute for senate committee substitute for house substitute for house bill  
7 no. 414, eighty-eighth general assembly, first regular session, are reenacted, to read as follows:

416.615. 1. It is unlawful for any person engaged in commerce within this state to sell  
2 or offer to sell motor fuel below cost as defined in subdivision (2) of section 416.605, if:

3 (1) The intent or effect of the sale or offer is to injure competition; or

4 (2) The intent or effect of the sale or offer is to induce the purchase of other  
5 merchandise, to unfairly divert trade from a competitor, or otherwise to injure a competitor.

6 2. It is unlawful for any person engaged in commerce within this state to sell or offer to  
7 sell motor fuel at a price lower than the seller charges other persons at the same time and on the

8 same level of distribution, if the intent or effect of the sale or offer is to injure competition.

9 3. It is unlawful for a person engaged in commerce in this state to sell or transfer motor  
10 fuel to itself or an affiliate for resale in this state on a different marketing level of distribution  
11 at a transfer price lower than the price it charges a person who purchases for resale at the same  
12 time and on the same level of distribution, if the intent or effect of the sale or transfer is to injure  
13 competition.

416.640. In any action brought pursuant to sections 416.600 to 416.640, the burden of  
2 proof, upon a prima facie showing of a violation, shall shift to the defendant to show  
3 justification. Unless justification is shown, the court shall award judgment for the plaintiff.