

FLORIDA DEPARTMENT OF AGRICULTURE & CONSUMER SERVICES

MOTOR FUEL MARKETING COMPLAINT FORM

DIVISION OF CONSUMER SERVICES
Bureau of Mediation & Enforcement
2005 Apalachee Parkway
Tallahassee, Florida 32399-6500

Telephone: (800) 435-7352

Fax: (850) 410-3826

SECTION I

Complaint Filed Against:

(Name of Business)

(Complete Physical Address)

(City)

(Zip)

(Area Code/Telephone Number)

The business this complaint is filed against appears to be in violation of Florida's Motor Fuel Marketing Practices Act (Section 526.301 - 526.313, Florida Statutes) by selling their motor fuel as follows (use additional pages if necessary):

Table with 4 columns: Grade, Dates Sold, at \$, per gallon. It contains 7 rows of blank entries for reporting fuel sales data.

This business is located a distance of _____ from my business location.

SECTION II

Complaint Filed By:

(Corporate Name)

(Corporate Address)

(City)

(State)

(Zip)

(Contact Person)

(Area Code/Telephone Number)

(Area Code/Fax Number)

(Email)

If different from above, list the business name, physical address, and telephone number of your business which is in direct competition with the business of which you are complaining: (Must be in the same geographical area of effective competition)

Name of Business:

Physical Address:

City:

Zip:

Manager:

Telephone Number with Area Code:

Fax Number with Area Code:

SECTION III - PROOF OF INJURY

Section 526.304, Florida Statutes, states that it is unlawful for a refiner or nonrefiner engaged in commerce in this state to sell any grade or quality of motor fuel at a retail outlet below refiner or nonrefiner cost, where the effect is to injure competition. When submitting this complaint form, attach a completed "Injury To Business Worksheet" to show how your business was injured as a result of the motor fuel pricing by the business listed in Section I.

SECTION IV

I understand a copy of this complaint will be provided to the business this complaint is filed against, and the information received in response to this complaint will be treated by the Department as proprietary and confidential, and will not be provided to me. I have attached the completed "Injury To Business Worksheet" and the "Daily Price Survey of Competitors Worksheet".

(Print or Type Name)

(Signature)

(Date Signed)

INSTRUCTIONS FOR FILING MOTOR FUEL MARKETING COMPLAINTS

Before filing a complaint for below cost selling of motor fuel, make certain the business you wish to file a complaint against does not meet an exemption to sell motor fuel below cost as provided in the "Motor Fuel Marketing Practices Act." Those exemptions are:

1. A bona fide clearance sale for the purpose of discontinuing trade in such motor fuel.
2. A final business sale liquidation sale.
3. A sale of the refiner's motor fuel by a fiduciary or other officer under the order or direction of any court.
4. Sales made during a grand opening to introduce a new or remodeled business not to exceed 3 days, which grand opening shall be held within 60 days from the date the new or remodeled business begins operations.

Section 526.305(3), Florida Statutes, states in part that a sale made in good faith to meet an equally low price of a competitor selling motor fuel of like grade which can be used in the same motor vehicle is not a violation.

If the business appears not to meet an exemption listed above to sell motor fuel below cost, you may proceed with submitting a complaint. The "Motor Fuel Marketing Complaint Form" is divided into four sections and must be completed in its entirety. Information needed in each section is explained below.

Section I - List the name of the business, complete physical address, city and zip code, no post office box or intersecting streets, of the business in which you are filing the complaint against. If possible, please include their telephone number with area code. Include the grade of motor fuel, the dates in the complaint period, and the retail price(s) for this grade. If your complaint involves different grades, and/or prices of motor fuel, please list accordingly. Use additional pages if necessary.

Example: Grade: Regular Unleaded Dates Sold: 1/1/2014 - 1/5/2014 at \$ 3.259 per gallon.
 Grade: Regular Unleaded Dates Sold: 1/6/2014 - 1/15/2014 at \$ 3.279 per gallon.
 Grade: Mid-Grade (Plus) Dates Sold: 1/1/2014 - 1/15/2014 at \$ 3.399 per gallon.

Be sure to list the distance the business in your complaint is located from your business location.

Section II - List the name of your corporation and mailing address in this section. Please include your corporate telephone and fax numbers, and your email address. Also, list a contact person with your business that may be able to answer any questions we may have regarding your complaint. Include the name of your retail business in direct competition with the business in which you are filing the complaint. Your retail business location **must** be in direct competition with the business in which you are complaining.

Section III - Section 526.304, Florida Statutes, states that it is unlawful for a refiner or nonrefiner engaged in commerce in this state to sell any grade or quality of motor fuel at a retail outlet below refiner or nonrefiner cost, where the effect is to injure competition. When submitting the complaint form, be sure to attach a completed "Injury To Business Worksheet" to show how your business was injured as a result of the motor fuel pricing by the business listed in Section I.

Section IV - Complete the name and signature portion of the form. You may fax the complaint and attachments to our office at (850) 410-3826, or mail to the following address: Florida Department of Agriculture and Consumer Services, Division of Consumer Services, Mediation & Enforcement Section, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500. Choose only one method (fax or mail) to submit your complaint, unless you are specifically asked to do both.

- ◆ Important: Daily pricing surveys of your area of competition are also to be submitted with the complaint form. The daily surveys should cover the dates mentioned in your complaint plus seven (7) days prior to the complaint period. All businesses (not just the business the complaint is filed against) in your competitive market area are to be listed on the survey forms.

DAILY PRICE SURVEY OF COMPETITORS WORKSHEET

This survey should include all businesses in the same geographical area and in direct competition with your business. Use as many sheets as needed to cover all competitors. Use a separate form for each date surveyed.

YOUR BUSINESS NAME: _____

Date Of Survey: _____

STREET ADDRESS: _____

Surveyed By: _____

CITY/ZIP: _____

TELEPHONE: () _____

Title: _____

COMPETITOR NAME & STREET ADDRESS (Give Actual Address, Not Intersecting Streets)	TIME OF SURVEY	REGULAR Price Per Gallon	MID (Plus) Price Per Gallon	PREMIUM Price Per Gallon	DIESEL Price Per Gallon	Time Of Price Change	New Price - Regular-Grade Price/Gallon	New Price - Mid-Grade Price/Gallon	New Price - High-Grade Price/Gallon	New Price - Diesel Price/Gallon
Distance from your business: _____										
Distance from your business: _____										
Distance from your business: _____										
Distance from your business: _____										
Distance from your business: _____										
Distance from your business: _____										
Distance from your business: _____										

YOUR RETAIL MOTOR FUEL PRICES ON THIS DATE

INSTRUCTIONS FOR COMPLETING THE “DAILY PRICE SURVEY OF COMPETITORS” WORKSHEET

This worksheet should be completed on a daily basis and kept in your files as part of your regular business practices. Should you file a complaint against a competitor for below cost selling of motor fuel, these worksheets must be submitted with the complaint form covering a period of seven (7) days prior to the complaint period through the end of the complaint period. After our office reviews the complaint form and survey worksheets, there could be a request for you to furnish additional surveys going back further than the seven (7) days prior to the complaint period. If these worksheets are completed on a daily basis, you will have the surveys we request.

All businesses listed on the survey worksheets must be in the same geographical area with your business. Complete a different survey worksheet for each day surveyed. The left side of the worksheet is for your first survey of the day. The right side of the worksheet is for changes in retail prices that occur on that same day. There are spaces for two price changes during the day. The retail prices your business charges for motor fuel must also be listed on the bottom of the worksheet in the appropriate area.

As soon as your competitor makes changes in their retail prices, list the time of the changes and their new retail prices. If you did not see your competitor change their prices, but noticed it later in the day, be sure to list the time you noticed the change and note it accordingly. If you change your prices, you must list the time of your price changes and the new motor fuel prices you are charging for motor fuel.

There are exemptions in the Motor Fuel Marketing Practices Act that allows for below cost selling of motor fuel. You should familiarize yourself with these exemptions so you can recognize when a competitor is selling below cost while staying within the boundaries of the Act. Those exemptions are:

1. A bona fide clearance sale for the purpose of discontinuing trade in such motor fuel.
2. A final business sale liquidation sale.
3. A sale of the refiner's motor fuel by a fiduciary or other officer under the order or direction of any court.
4. Sales made during a grand opening to introduce a new or remodeled business not to exceed 3 days, which grand opening shall be held within 60 days from the date the new or remodeled business begins operations.

Section 526.305(3), Florida Statutes, states in part, a sale made in good faith to meet an equally low price of a competitor selling motor fuel of like grade which can be used in the same motor vehicle is not a violation.

Be sure to complete the survey worksheet in its entirety. Do not take shortcuts by completing only certain portions of the worksheet. All information requested on the survey worksheet is required in order to file a complaint with the Department.

15. Is your business filed as a fictitious name? Is yes, give the fictitious name, and the name of the owner, including address and telephone number.

I affirm the information provided is true and correct, and an accurate reflection of the records and documents on file with this business.

(Type or Print Name)

(Title)

(Signature)

(Date Signed)