GPM INVESTMENTS

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January 23, 2023

Virginia House of Delegates
General Laws Committee
Pocahontas Building Room
900 E. Main St,
Richmond, Virginia 23219

SENT VIA HAND DELIVERY AND ELECTRONIC MAIL

RE: HB 2363 Virginia Petroleum Products Franchise Act; definition of refiner.

Dear Delegate,

We ask that you oppose House Bill 2363 and any efforts to impose additional regulations on an industry that is already highly regulated, fragmented, and subject to the forces of a very competitive marketplace. Supplying fuel is highly competitive and is not dominated by any one company in the Commonwealth or across the country, where there are approximately 3,000 suppliers. Independent fuel suppliers like GPM Investments are not refiners.

Suppliers lower the barrier to entry into a growing and attractive industry for lessee-dealers, the entrepreneurial operators who lease gas stations and/or convenience stores and purchase motor fuel from suppliers.

HB 2363 will fundamentally alter the relationship between suppliers and lessee-dealers. Suppliers who offer lessee-dealers an advantageous entry into the growing convenience store market will not want to take on the risks this legislation creates. This will harm businesses and consumers across the Commonwealth.

Lessee-dealers increase competition for Virginians who benefit from a robust marketplace for fuel, with numerous options throughout the Commonwealth. Convenience stores have always been an attractive business for entrepreneurs. In fact, single-store operators grew by 1,087 stores in 2022, to a total of 90,423 stores, or 60.2 percent of all U.S. convenience stores. The remaining approximately 39.8 percent of the industry is composed of hundreds of operators across the country.

Fuel suppliers are essential to ensure smaller operators have a dependable supply of motor fuel products at a competitive price. Lessee-dealers lack the scale necessary to negotiate directly with refiners and major oil companies, and major oil companies do not contract with companies that do not have a minimum number of stores and/or gallonage.

Non-refiner suppliers, like GPM, also bear otherwise onerous capital requirements that might otherwise create high barriers to entry to the industry, often paying to modernize vital equipment like fuel pumps and for the upkeep of fuel storage, which is highly regulated and must be compliant with local, state, and federal laws and regulations.

We believe GPM offers lessee-dealers flexible lease terms to help them establish themselves in the industry. These leases are generally for periods of up to 10 years, with an option or series of renewal options. These lease terms are similar to many others across a variety of businesses. They are negotiated, transparent, and have set timeframes. Lessee-dealers are thus given ample time to plan should a lease not be renewed, an instance in which they are given ample warning according to contracted terms. This is no different than many other retail businesses.

Lessee-dealers are also given options to control how they earn money from fuel sales in this highly competitive marketplace. Many lessee-dealers choose a consignment supply relationship where a supplier owns, bears the carrying costs and prices the fuel to the retail consumer, and split the profit with the dealer at a pre-negotiated rate. In that model, the lessee-dealer benefits from being less capital constrained, because they do not need to pay for fuel inventory in the tanks, and both parties benefit from pricing fuel competitively.

Other lessee-dealers choose to purchase and own their fuel inventory and sell the fuel to the retail consumer at a price they choose. The costs to these dealers are transparent; typically starting from a published price such as a NYMEX or rack price with a fixed adder, often $0.01-$0.02 per gallon. In this case, the dealer is solely in control of the pricing to the consumer and the supplier receives a fixed margin regardless of the dealer's pricing at the station. It is important to note that every supplier is already restricted by law from discussing retail pricing with its dealers. In fact, the supplier benefits in this situation when a lessee-dealer sells more fuel -- because it does not share in the fuel profits at the site but earns more money when volumes at such locations are higher.

The proponents of HB 2363 have chosen not to articulate why they have submitted this bill, nor what they seek to accomplish for suppliers and lessee-dealers across the Commonwealth. Without this important context, HB 2363 appears to be an end-run around the Federal Petroleum Marketing Practices Act for a select group of constituents. Lessee-dealers have robust protections under the Federal Petroleum Marketing Practices Act to bring suit in Federal court should they have valid grievances.

For these reasons we ask that you oppose HB 2363.

Thank you,

Ross Parman
Vice President, Government Affairs
GPM Investments