WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1983

ENROLLED
Committee Substitute for
SENATE BILL NO. 558

(BY MR. Nelson)

PASSED March 3, 1983
In Effect sixty days from Passage
AN ACT to amend and reenact section two, article eleven-c, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section five-a, relating to petroleum products franchise agreements; permitting franchise dealer to designate certain successors to his interests in the franchise under certain conditions; defining certain terms; establishing the conditions under which such succession may occur; and permitting change of the designated successor.

Be it enacted by the Legislature of West Virginia:

That section two, article eleven-c, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article eleven-c be further amended by adding thereto a new section, designated section five-a, all to read as follows:

ARTICLE 11C. WEST VIRGINIA PETROLEUM PRODUCTS FRANCHISE ACT.

§47-11C-2. Definitions.

1 As used in this article:

2 (1) "Adult" means any person who is not a minor;

3 (2) "Dealer" means any person, other than an agent or employee of a producer, who is engaged in the retail sale
of petroleum products under a franchise agreement as defined by this section;
(3) "Designated family member" means the adult spouse or the adult child or stepchild of the dealer or any other adult person related to the dealer by either the half or whole blood or the adult spouse of the other adult person, who has experience in the service station business and who, in the case of the dealer's death or retirement, is designated in the franchise agreement for a service station as the successor to the dealer's interest under the agreement and who shall become the dealer upon the completion of the succession;
(4) "Franchise" or "franchise agreement" means a written agreement between a producer and a dealer under which the dealer is granted the right to use a trade-mark, trade name, service mark, or other identifying symbol or name owned by the producer, or a written agreement between a producer and a dealer by which the dealer is granting the right to occupy premises owned, leased or controlled by the producer, for the purpose of engaging in the retail sale of petroleum products of the producer;
(5) "Good cause" means failure of the dealer to make good faith effort to comply with any material requirement of a franchise agreement;
(6) "Producer" means every person who produces, refines, manufactures, processes or otherwise alters any motor fuel and other petroleum products for sale or use in this state; and
(7) "Service station" means any filling station, store, garage or other place of business in this state for the retail sale of motor fuel and other petroleum products.

(a) Effective the first day of July, one thousand nine hundred eighty-three, every franchise agreement entered into between a producer and dealer shall contain provisions comply with this section.
(b) A dealer shall have the right, effective upon his death or retirement, to have his interests under a fran-
chise agreement assigned to a designated family member
who has been approved by the producer in accordance
with the producer's reasonable standards for personal
and financial condition unless the producer shows that
the designated family member no longer meets the rea-
sonable standards set at the time of the previous approv-
al. All franchise agreements shall contain a provision
identifying the designated family member who is entitled
to succeed to the interests of the dealer under the agree-
ment upon his death or retirement. The foregoing shall
not prohibit a producer from requiring as a condition to
honoring the succession that the designated family mem-
er accept a trial franchise within thirty days of the
dealer's death or retirement and that the designated fam-
ily member attend a training program offered by the
producer. As used herein, the term "trial franchise" shall
have the same meaning as the same is defined in the
federal petroleum marketing practices act (15 USC, para-
graph 2801, et seq.).

(c) A dealer and producer may mutually agree to
change the designated family member entitled to succeed
to the dealer's interests under a franchise agreement. The
designated family member shall provide, upon the re-
quest of the producer, personal and financial data that is
reasonably necessary to determine whether the succession
should be honored. The producer shall not be obligated
to accept a designated family member under this subsec-
tion who does not meet the producer's reasonable stan-
dards but any refusal to accept the designated family
member as a successor dealer shall be given by the
producer in writing to the dealer and shall fairly state
the reason therefor.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis
Chairman Senate Committee

Donald Cravens
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

Joel C. Yulee
Clerk of the Senate

Donald L. Kepp
Clerk of the House of Delegates

Wama P. McEwan
President of the Senate

W. L. Lee
Speaker House of Delegates

The within is approved this the 16th day of March, 1983.

John Douglas
Governor