



State of South Carolina Office of the Governor

MARK SANFORD
GOVERNOR

Post Office Box 12267
COLUMBIA 29211

March 31, 2010

The Honorable Robert W. Harrell, Jr.
Speaker of the House of Representatives
Post Office Box 11867
Columbia, South Carolina 29211

Dear Mr. Speaker and Members of the House:

I am hereby vetoing H. 3707, R. 160, which requires gasoline suppliers to offer retailers and distributors raw gas that can be blended with ethanol. The purpose of this bill is to ensure that gas distributors and retailers have the opportunity to obtain federal tax credits for blending ethanol.

Commerce would literally come to an end in our state were it not for the work of our in-state gas distributors and retailers. Their work is invaluable and all things being equal, we would have an overwhelming bias to support them over out-of-state oil; unfortunately they are not and as a consequence we are vetoing H. 3707 - as we did with similar legislation passed in 2008. We do so because we believe it amounts to government coercion that interferes with the freedom to contract and the protection of property rights, including private investments and trademarks. As explained more fully below, this bill compels gas suppliers to surrender control over their product and trademarks and forfeit the fruits of their investment merely to benefit another business group. The preservation of a free society requires that the rule of law protect the freedom to contract and private property rights for all individuals and businesses, and we are vetoing this legislation because it interferes with these rights in the following ways.

First, H. 3707 mandates that suppliers surrender part of their control over the supply of gas by prohibiting them from contracting to sell only blended gas to retailers and distributors in South Carolina. As a result, this bill will harm suppliers by reducing the amount of blending tax credits that they can obtain under the federal program and by imposing unnecessary transaction costs associated with acquiring the credits needed to meet the federal production requirements for blended gas. This means that gas suppliers must forfeit a portion of their expected return on the considerable investment that they have made to locate, drill, refine, and transport the gas they put into the stream of commerce. Ultimately, gas suppliers will seek to recover these losses from other sources, which could mean higher gas prices for the consumers across South Carolina.

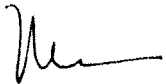
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Second, this bill limits the gas suppliers' ability to protect their property interests in investments that they have made to meet federal blending requirements. Regardless of who receives the tax credits for blending ethanol, the gas suppliers are ultimately responsible for meeting the federal blending requirements. To meet these requirements, gas suppliers have invested valuable resources in the technology and infrastructure needed to blend the required 12 billion gallons in 2010 and 15 billion gallons in 2015. For example, in South Carolina alone, gas suppliers have invested over \$1 million in blending equipment at each of their in-state terminals. On the national level, ExxonMobil opened a \$3.1 billion blending facility in Washington in 2008, and just last week Shell and Virent Energy Systems opened a biofuel blending plant in Wisconsin that employs 80 people. Given the significant investments made by gas suppliers to meet these federal mandates, it would be wrong to deny them the ability to recover these costs by limiting their ability to maximize the tax credits as this bill does.

Third, H. 3707 limits the gas suppliers' ability to control the quality of the gas bearing their trademark by allowing distributors and retailers to sell their gas without their oversight and without control of the blending process. Accordingly, distributors and retailers would be able to market under the suppliers' trademarks gas that may not have been blended according to proper specifications. Deficient gas on the market can cause engine and other car damage that will injure consumers and, consequently, the reputation of the gas suppliers. To protect their reputations, gas suppliers should be able to control the quality of the final product sold to the consumer, and this bill limits their ability to do this.

For these reasons, we are vetoing H. 3707, R. 160.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Sanford', with a stylized, cursive script.

Mark Sanford