

[AS REPORTED FROM THE COMMERCE AND MINING
COMMITTEE]

House of Representatives, 17 October 1979.

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

Hon. Mr Adams-Schneider

MOTOR SPIRITS DISTRIBUTION AMENDMENT

ANALYSIS

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A BILL INTITULED

An Act to amend the Motor Spirits Distribution Act 1953

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same,
5 as follows:

1. Short Title and commencement—(1) This Act may be cited as the Motor Spirits Distribution Amendment Act 1979, and shall be read together with and deemed part of the Motor Spirits Distribution Act 1953* (hereinafter referred
10 to as the principal Act).

(2) This Act shall come into force on the 1st day of January 1980.

2. Extension of functions of Licensing Authority—Section 9 of the principal Act is hereby amended by inserting, after
15 subsection (2A) (as inserted by section 3 of the Motor Spirits Distribution Act 1963), the following subsection:

*Reprinted 1972, Vol. 3, p. 2631
Amendment: 1975, No. 92

No. 79—2

“(2B) In the exercise of its functions the Licensing Authority may, of its own volition, investigate and review the distribution of retail licences and the availability to members of the public of motor spirits in any locality, but in so doing shall have regard to the necessity in the national interest of encouraging the rational distribution of such licences throughout New Zealand.” 5

3. Matters to be considered in determining application for licence—(1) Section 15 (1) of the principal Act is hereby amended by repealing paragraph (b), and substituting the following paragraph: 10

“(b) The necessity in the national interest of encouraging the rational distribution of licences throughout New Zealand:”.

(2) The said section 15 (1) is hereby further amended by inserting, after paragraph (c), the following paragraph: 15

“(ca) The desirability of providing for the relocation of licences within a locality:”.

4. Restrictions on selling motor spirits otherwise than through pumps—(1) Section 16 (4) (c) of the principal Act is hereby amended by omitting the words “To sell”, and substituting the words “Where the applicant is already the holder of a retailer’s licence authorising the sale of motor spirits exclusively through pumps under paragraph (b) of this subsection, to sell” 20 25

(2) Section 16 of the principal Act is hereby amended by adding, as subsection (6), the following subsection:

“(6) No wholesaler’s licence shall be granted which authorises the sale of motor spirits otherwise than through pumps.” 30

(3) Nothing in this section shall affect any licence which authorises the holder to sell motor spirits otherwise than through pumps, being a licence which was granted before this Act came into force.

5. What shall be prescribed in retailer’s licence—(1) Section 17 of the principal Act is hereby amended by repealing paragraph (b), and substituting the following paragraph: 35

“(b) In the case of a licence authorising the retailer to sell motor spirits through pumps, *(the layout (including access ways but excluding the number and location of any pumps) of the site from which* 40

motor spirits are to be sold.”.) the area or areas within which pumps may be located on the site from which the motor spirits are to be sold, and the access ways serving that area or those areas:”.

5 (2) Section 18 (2) of the principal Act (as substituted by section 3 of the Motor Spirits Distribution Amendment Act 1958) is hereby consequentially amended by repealing paragraph (c).

10 **6. Advances to retailers**—(1) Section 18B of the principal Act (as added by section 6 of the Motor Spirits Distribution Amendment Act 1963) is hereby amended by adding the following subsections:

15 “(5) Notwithstanding the provisions of this Act, the Licensing Authority may, on the application in writing of a wholesaler or his nominee or a retailer (being in each case a party to an advance or guarantee under this section), vary the terms and conditions of any advance or guarantee made or given in accordance with this section, subject to—

20 “(a) The Licensing Authority consulting with the other party to the advance or guarantee and having regard to any representations that party may make; and

“(b) Such conditions as the Licensing Authority may think fit to impose.

25 “(6) Notwithstanding the provisions of this Act, where a wholesaler or his nominee proposes to make advances to a retailer subject to that retailer (*covenanting to accept supplies of motor spirits from that wholesaler only (in this section referred to as a future supply covenant)*) entering into a
30 future supply covenant with that wholesaler, the terms and conditions of (*every*) the future supply covenant shall first be approved by the Licensing Authority which, in considering any application for approval, shall—

35 “(a) Limit the future supply covenant to the supply of motor spirits and to no other product:

40 “(b) Limit the term of the future supply covenant either to the time of cessation by the wholesaler of a continued supply of motor spirits (*from the wholesaler*) or to the time of repayment of the principal sum advanced, whichever occurs sooner;

“(c) Impose such other conditions not inconsistent with the provisions of this Act as it thinks fit.”

New

(1A) The said section 18B is hereby consequentially amended by inserting, in subsection (1) after the word “secured”, the words “or subject to the retailer covenanting to accept supplies of motor spirits from that wholesaler only (in this section referred to as a future supply covenant)”. 5

(2) Section 18B (5) of the principal Act (as added by subsection (1) of this section) shall also apply in respect of an advance or guarantee made or given before the 25th day of October 1963 (being the date on which the Motor Spirits Distribution Amendment Act 1963 came into force). 10

7. Revocation and suspension of licences—Section 23 of the principal Act is hereby amended by repealing subsection (5), and substituting the following subsections: 15

“(5) The Licensing Authority may revoke any licence if it is satisfied that the business to which the licence relates—

“(a) Is not being carried on; or

“(b) Is being carried on with such a low annual volume of sales of motor spirits that revocation may, in the opinion of the Licensing Authority, promote the general purposes of this Act. 20

“(5A) Before any licence is revoked under subsection (5) (b) of this section, the Licensing Authority shall consider the following matters: 25

“(a) If the business to which the licence relates is being carried on together with any other commercial activity on the same premises, whether revocation of the licence would seriously affect the financial stability of the overall business: 30

“(b) The availability of motor spirits to members of the public if the licence was revoked:

“(c) Such other matters not inconsistent with the provisions of this Act as the Licensing Authority thinks fit.” 35

8. Increase in penalties for offences—(1) The principal Act is hereby amended in the manner indicated in the Schedule to this Act.

(2) Any proceedings commenced (whether before or after the commencement of this Act) for an offence against the principal Act or any regulations made under it arising out of any act done or omitted before the passing of this Act shall be heard and determined as if subsection (1) of this section had not been passed.

SCHEDULE

Section 8

INCREASE IN PENALTIES FOR OFFENCES

Provision of Principal Act (as amended by section 7 of the Decimal Currency Act 1964)	Amendment
Section 11 (2)	By omitting the expressions "\$100" and "\$10", and substituting respectively the expressions "\$1,000" and "\$100".
Section 11 (3)	By omitting the expressions "\$400" and "\$40", and substituting respectively the expressions "\$5,000" and "\$500".
Section 11 (4)	By omitting the expression "\$20", and substituting the expression "\$250".
Section 18 (5) (as substituted by section 3 of the Motor Spirits Distribution Amendment Act 1958)	By omitting the expression "\$20", and substituting the expression "\$250".
Section 18A (3) (as inserted by section 4 (1) of the Motor Spirits Distribution Amendment Act 1958)	By omitting the expression "\$400", and substituting the expression "\$5,000".
Section 40A (as inserted by section 13 of the Motor Spirits Distribution Amendment Act 1963)	By omitting the expressions "\$1,000" and "\$200", and substituting respectively the expressions "\$10,000" and "\$2,000".