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The motor fuel industry is not the same as the one that existed when the Unfair Sales Act was enacted.

# Small gas retailers thrive across the country

Marketplace for fueling stations and convenience stores has evolved since 1939

By Mike Nichols

The vast majority of states do not have minimum mark-up laws on gasoline, yet independent small businesses that sell gas have flourished across the country, according to industry statistics and observers.

There are more than 150,000 “fueling stations” in the United States, according to the National Association of Convenience Stores. The group’s website says more than 127,000 convenience stores sell fuel, and those stores account for about 80% of the fuel sales in this country. A majority of those stores, more than 70,000, are owned by single-store operators, and many others are owned by people or groups with less than 50 outlets.

Of those 127,000, conversely, less than 1% are owned by one of the five major oil companies. Big Oil has almost entirely exited the retail gas business, according to both the statistics and those who work in the industry.

Ron Wyden, the Democratic U.S. senator from Oregon, noted this in blunt fashion during a hearing of the Senate Committee on Energy and Natural Resources that he

chaired on July 16, 2013. He pointed out during an analysis of gas prices at the pump in America that there have been major structural changes in the oil and gas industry over time, including the fact that “oil companies no longer own their own service stations.”

At the same hearing, William R. Klesse, chairman and CEO of Valero Energy Corp., the world’s largest independent petroleum refiner, testified that most retail gas outlets “are operated by independent business people (who) set their retail price.”

## Supply contracts abound

Many Americans don’t realize this fact because many of those small business owners sell under the brand of a refiner with whom they have a supply contract. Under those contracts, the retailer pays the wholesaler a premium of a few cents per gallon more for the branded fuel. The contracts — and the signs above their businesses — forge a connection of sorts to refiners, but, according to NACS, the small businesses don’t share in the profits or losses of their suppliers.

The industry is not the same one that existed when the Unfair Sales Act was enacted in 1939 as a way to protect small businesses in danger of going bankrupt during the

## MINIMUM MARKUP LAW

In 1971, only 6.8% of all convenience stores sold fuel.  
Today, about 83% of convenience stores sell fuel.

Depression. Nor is it the same one that existed 30, 40 or 50 years ago.

A brief history of fuel marketing on the NACS website says that when the group was founded in 1961, very few convenience stores sold motor vehicle fuel. By 1971, only 6.8% of all convenience stores sold fuel; today, about 83% of convenience stores sell fuel.

There are, it is true, other types of “fueling stations” that are not convenience stores. Some of those are also small businesses, traditional service stations doing auto repair work or marinas selling gas to boaters on a lake someplace. About 12% of the fuel sold in America, meanwhile, comes through the big-box or mass-merchandising stores such as Wal-Mart, Costco or Kroger — places that the Federal Trade Commission says have helped keep gas prices down for consumers. (See story on *FTC opinions on Page 18.*)

In sum, there is a thriving and very competitive market for gas in the United States that is dominated by smaller companies and individuals. If there is a threat from bigger entities, it is not from Big Oil or refineries. They have very little interest in the retail gas business. The mass merchandisers are the real competition, as they are in the grocery business or the hardware business or the furniture business or countless other businesses in the country.

While an exact breakdown of who owns all the so-called fuel stations in Wisconsin is not readily available, it appears that the landscape is quite similar to elsewhere.

Of the 3,000 or so gas stations and convenience stores in the state, the Wisconsin Petroleum Marketers & Convenience Store Association estimates that half are single-store opera-

tions, almost all of which are independently owned and operated. Other than Marathon Speedway, major oil companies no longer own or operate stations in Wisconsin.

A partial check of a Wisconsin Department of Agriculture, Trade and Consumer Protection database of underground

gasoline tanks, a good source of information on gas station ownership, supports the contention that most gas station owners in the state have just a few locations each — with Kwik Trip being a clear exception.

There’s some debate over exact numbers of states with anything similar to what Wisconsin requires for a markup on gas — and the issue is further clouded by the fact that some states that have laws don’t enforce them aggressively. Twenty-one states have general restrictions on sales below cost, and 11 have laws specific to motor vehicle fuel, according to the Wisconsin Legislative Reference Bureau. The National Conference of State Legislatures says Wisconsin is one of 16 states with minimum markup laws. Whatever the exact number, there is no doubt the Badger State is part of a distinct minority.

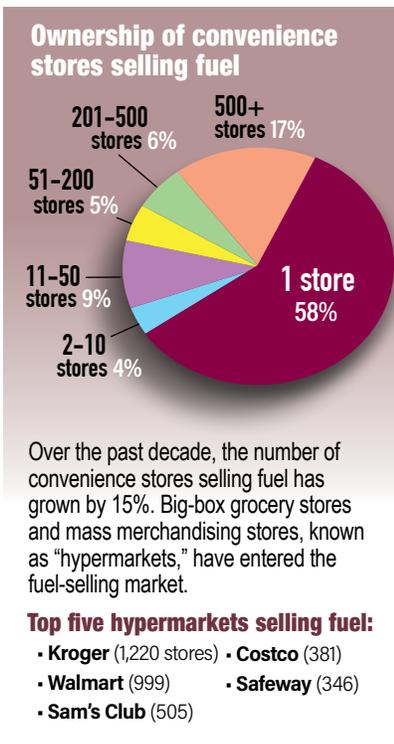
The minimum markup law on gasoline has been around for so long in Wisconsin that it is impossible to definitively determine what the marketplace would look like here without it. But it is easy to look elsewhere — places without such laws — and see that small business owners have thrived while Big

Oil has gotten out and the big national, mass merchandisers control only a portion of the market.

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### Small businesses fuel America

Americans fuel up their cars about four to five times every month at more than 150,000 fueling stations across the country. But who owns these fueling locations? It’s highly unlikely that it’s an oil company and very likely it’s a one-store local business.



Source: NACS Retail Fuel Reports, 2015