

HOUSE BILL NO. 68

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES PETERSEN, GARA, TUCK, GRUENBERG, AND KAWASAKI

Introduced: 1/20/09

Referred: Labor and Commerce, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act making sales of and offers to sell certain energy resources by a refiner at prices
2 that are exorbitant or excessive an unlawful act or practice under the Alaska Unfair
3 Trade Practices and Consumer Protection Act."

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** AS 45.50.471(b) is amended by adding a new paragraph to read:

6 (56) violating AS 45.50.483 (sales of certain energy resources by
7 refiners).

8 * **Sec. 2.** AS 45.50 is amended by adding a new section to read:

9 **Sec. 45.50.483. Sales of certain energy resources by Alaska refiners.** (a) A
10 refiner may not sell or offer to sell an energy resource at a price that is exorbitant or
11 excessive.

12 (b) The provisions of this section apply only to sales of

13 (1) motor fuel used in an engine for the propulsion of a motor vehicle,
14 as that term is defined in AS 28.90.990, or an aircraft;

1 (2) fuel for space heating; and

2 (3) diesel fuel.

3 (c) For purposes of this section, it is prima facie evidence that a price is
4 exorbitant or excessive if the price exceeds by more than 10 percent the average
5 wholesale price of the comparable energy resource charged by refiners in the state of
6 Washington. A refiner may rebut the presumption by providing evidence that the
7 amount charged by the refiner was attributable to additional reasonable costs incurred
8 by the refiner in connection with the refiner's sale of the energy resource.

9 (d) If the attorney general believes that a refiner has engaged in or is engaging
10 in a violation of (a) of this section, the attorney general shall initiate an investigation
11 under AS 45.50.495.

12 (e) Notwithstanding the penalties authorized by AS 45.50.551, the attorney
13 general may recover, on behalf of the state, a civil penalty of not less than the greater
14 of

15 (1) 10 times the economic benefit obtained by the refiner through the
16 refiner's conduct that violated or violates this section; or

17 (2) \$50,000,000.

18 (f) In this section, "refiner" means a company, corporation, or individual who
19 owns or controls, or controls through a substantially owned subsidiary, partnership, or
20 joint venture, a refinery used for the production of an energy resource described in (b)
21 of this section having total annual sales that exceed 1,000,000 gallons of all of those
22 energy resources.