

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSSB 54(JUD)
 (S) Publish Date: 4/14/09

Identifier (file name): SB054CS(RES)-LAW-CIV-4-2-09 Dept. Affected: LAW
 Title An Act related to refiner price gouging for motor fuel, diesel, and RDU CIVIL
heating fuels. Component COMMERCIAL & FAIR BUSINESS
 Sponsor Senator(s) Wielechowski, Ellis, French, Thomas
 Requester Judiciary Component Number 2717

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	Appropriation Required	Information					
	FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Personal Services							
Travel							
Contractual							
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	***	***	***	***	***	***	***
CAPITAL EXPENDITURES							
CHANGE IN REVENUES ()							

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	***	***	***	***	***	***	***

Estimate of any current year (FY2009) cost: _____

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

See attached page...

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Phone 907.465.5427
 Date/Time 4/2/09 9:00 AM
 Date 4/2/2009

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BILL NO. CSSB 54(JUD)

ANALYSIS CONTINUATION

CSSB 54 (RES) amends AS 45.50 to add a new section that prohibits a refiner, distributor, or retailer from selling an energy resource at a price that is exorbitant or excessive. The bill only applies to motor fuel, diesel, and heating fuel. Violations of this law would become violations of the consumer protection act, and enforceable only by the attorney general. The bill requires the attorney general to initiate an investigation upon belief that a refiner, distributor, or retailer has engaged in a violation of the statute. Penalties under the statute are set at 10 times the economic benefit obtained through the refiner's conduct. Because it is difficult to predict when a refiner may be engaging in illegal conduct under this bill, the resources required to investigate and enforce this bill are unknown. The two recent gasoline pricing investigations undertaken by the attorney general required significant time and resources, including the retention of an expert economist. Petroleum pricing investigations are much more complicated than other kinds of consumer protection investigations because they require retention of experts, review of voluminous and complicated data, and take several months if not years. The most recent investigation spanned five months, and required a contract with an economic expert for \$250,000. The prior investigation took three years, and significant resources.

The bill attempts to alleviate this financial burden by allowing the attorney general to recover the costs of an "action to enforce this section." This authority already exists at AS 45.50.537(d). It is rare that formal action is required in consumer protection and antitrust cases. The overwhelming majority are resolved at the investigative stage, which is where significant time and expense is incurred. If formal action is required, the recovery of attorney's fees and costs is still uncertain depending on the nature and financial condition of the defendant.

Accordingly, the fiscal impact of this legislation on the department of law is indeterminate, and would depend on the number of investigations required, whether formal action is initiated, and the success of recovering the costs from the defendant.