

HOUSE BILL NO. 25

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

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

Introduced: 1/18/11

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 in this state by a
2 refiner at prices that are exorbitant or excessive an unlawful act or practice under the
3 Alaska Unfair 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 (58) 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 in this state at a price that is
11 exorbitant or excessive.

12 (b) The provisions of this section apply only to sales in this state 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) In this section,

4 (1) a price is excessive or exorbitant if it is unreasonably high given
5 the reasonable costs incurred by the refiner in the state in connection with the refiner's
6 sale of the energy resource, taking into account the

7 (A) reasonable cost to refine the product;

8 (B) reasonable cost of transporting the product to the point of
9 sale; and

10 (C) reasonable transaction costs; and

11 (2) it is prima facie evidence that a price is exorbitant or excessive if
12 the price exceeds by more than 10 percent the average wholesale price of the
13 comparable energy resource charged by refiners in the states of Idaho, Oregon, and
14 Washington.

15 (d) A refiner may rebut the presumption set out in (c)(2) of this section by
16 providing evidence that the amount charged by the refiner was attributable to
17 additional reasonable costs incurred by the refiner in connection with the refiner's sale
18 of the energy resource in this state or that additional reasonable costs incurred by the
19 refiner were caused by a natural disaster. In this subsection, "natural disaster" has the
20 meaning given in AS 38.05.870.

21 (e) If the attorney general believes that a refiner has engaged in or is engaging
22 in a violation of (a) of this section, the attorney general shall initiate an investigation
23 under AS 45.50.495.

24 (f) Notwithstanding the penalties authorized by AS 45.50.551, the attorney
25 general may recover, on behalf of the state, a civil penalty of not less than the greater
26 of

27 (1) 10 times the economic benefit obtained by the refiner through the
28 refiner's conduct that violated or violates this section; or

29 (2) \$50,000,000.

30 (g) In this section, "refiner" means a company, corporation, or individual who
31 owns or controls, or controls through a substantially owned subsidiary, partnership, or

1 joint venture, a refinery used for the production of an energy resource described in (b)
2 of this section having total annual sales that exceed 1,000,000 gallons of all of those
3 energy resources.