

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version SB 28
 Fiscal Note Number 1
 (S) Publish Date 3/16/12

Identifier (file name) SB028-LAW-CIV-03-09-12 Dept. Affected Law
 Title An Act making sales of and offers to sell certain energy Appropriation Civil
resources at prices that are unconscionable an... Allocation Commercial and Fair Business
 Sponsor Senator(s) Wielechowski, Ellis, French
 Requester (S) Labor & Commerce OMB Component Number 2717

Expenditures/Revenues (Thousands of Dollars)

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

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates					
			FY13	FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES								
Personal Services	***	***	***	***	***	***	***	***
Travel								
Services								
Commodities								
Capital Outlay								
Grants, Benefits								
Miscellaneous								
TOTAL OPERATING	***	***	***	***	***	***	***	***

FUND SOURCE (Thousands of Dollars)

1002	Federal Receipts	***	***	***	***	***	***	***
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
TOTAL		***	***	***	***	***	***	***

POSITIONS

Full-time								
Part-time								
Temporary								

CHANGE IN REVENUES

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Estimated SUPPLEMENTAL (FY12) operating costs _____ (separate supplemental appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs _____ (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Not applicable, initial version.

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 Approved by Michael C. Geraghty, Attorney General
Department of Law

Phone 465-5427
 Date/Time 3/9/12 12:30PM
 Date 3/9/2012

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BILL NO. SB 28

Analysis

SB 28 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 unconscionable. 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 for a violation of the new statute would include the penalties currently allowed by AS 45.50.551 plus 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 bill attempts to alleviate this financial burden by allowing the attorney general to recover the costs of enforcement, under AS 45.50.537(d), which only allows recovery if the attorney general "prevails" in an action brought by the attorney general. 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.