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HOUSE

JUDICIARY

power to influence prices in the market on its own. Also where there are many sellers, it is difficult for sellers to coordinate their behavior or agree to volume or price restrictions without being detected.

In a competitive market, sellers are motivated to lower their prices in order to increase their sales, while buyers are motivated to seek out the best deal. Prices will tend to drop over time until they are close to sellers' costs. If prices begin to rise above costs, sellers will try to take advantage of the opportunity to increase profits by making more of the product available in the market. This increase in supply will in turn drive prices down to the point where they again are close to the sellers' costs. If prices fall to a level that does not cover sellers' costs, some sellers will go out of business. Those that are left will offer less of the product until prices start to increase again.

On the other end of the spectrum are highly concentrated markets, where there are relatively few sellers of a particular product. Economists call such a market an "oligopoly." Oligopolies do not always lead to higher prices, however. Prices in an oligopoly can be competitive even when there are very few sellers if, for example, potential new sellers are ready, willing, and able to enter the market in the event of even a small increase in price. In this situation, the threat of additional competition may tend to keep prices low. However, if there are relatively high costs associated with entering a market (entry barriers), existing sellers may be able to increase prices without much concern about attracting new competition.

When there are few sellers in a market, it is, presumably, easier for each to observe how its competitors react to decisions regarding output and prices, and each may take into account the potential impact of its own actions on market prices and the potential responses from other sellers. This type of competitive behavior, which is dependent in part on the expected actions or reactions of other sellers, is often referred to as "oligopolistic pricing" or "oligopolistic interdependence." In this environment, it is easy for sellers to develop a "live and let live" attitude toward their rivals that would not be possible to maintain in a competitive market. As a result, oligopolistic behavior can result in prices that are above competitive levels over extended periods of time.³

This type of interdependent behavior on the part of sellers is not generally regarded as a violation of antitrust laws so long as each business develops and implements its pricing and output decisions independently. That is, in determining what volumes to produce or what prices to offer, businesses can incorporate their expectations about a rival's likely reactions as long as those expectations are developed independently and without the aid of other sellers. If the sellers communicate about price setting or enter into

³ Not all economists agree with this theory, and some would require empirical evidence supporting the theory before considering it valid for a particular market. In any event, whether higher-than-competitive prices in a market can be explained by oligopolistic interdependence is highly dependent on the facts.

an agreement that affects prices, it is considered collusion and a violation of the antitrust laws.

Economists believe collusion is more likely when certain conditions are present in a market, especially in markets for a relatively homogenous product like gasoline. These conditions include (1) the presence of only a few sellers (oligopoly), (2) inelastic demand, (3) relatively static or declining demand over time, (4) easy detection of sales by competitors, (5) price visibility, (6) difficulty of entry by potential new competitors, (7) frequent contact between sellers, and (8) few "fringe" or smaller sellers. All of these conditions are present in Alaska. But their presence, together with gas prices higher than one would expect in a competitive market, do not in themselves constitute a legal basis for an antitrust enforcement action. There must also be evidence of an illegal agreement or evidence that would allow the inference of such an agreement.

Additional Information on the Investigation

The companies have recently finished producing documents to the state. The state is in the process of reviewing and analyzing those documents to determine whether any laws or regulations have been violated.

Under Alaska's antitrust law, many aspects of this case are to be kept confidential. In particular, documents and their contents provided to the state in response to the Civil Investigative Demands (CIDs) issued by the Office of the Attorney General are to be kept confidential in the absence of a court order authorizing their disclosure to the public. AS 45.50.592(e). Such an order might be requested by the state if the investigation leads to an enforcement action. If the state finds no evidence of a violation of the antitrust laws, CID information may not be disclosed to the public in the absence of express authorization by the firm that provided the documents. AS 45.50.592(e). Because of the lawsuits filed against the state by some of the companies being investigated, court pleadings have been filed in the public record that contain some information about the investigation that would normally not be available to the public.

The state's initial CIDs were served upon several dealers of wholesale petroleum products in June, July, and August of 1999. Shortly thereafter, Tesoro, Chevron, and Texaco filed suit in Alaska Superior Court in Anchorage protesting the scope of the CID questions and the state's intended use of the produced documents. Those cases were consolidated under case number 3AN-99-8544CI. In an order issued October 7, 1999, the Superior Court upheld the propriety of the CIDs, with minor modification to a small number of questions, and the right of the state to share the documents with contract counsel without permission of the producing companies.

On October 13, 1999, Tesoro filed an appeal of the Superior Court's decision in the Alaska Supreme Court (Case No. S9379). Tesoro appealed both the scope of the CIDs and the state's right to share documents with contract counsel. The Alaska Supreme Court heard oral argument on November 15, 2000, but has yet to issue a decision.

The initial petition filed by Tesoro in the Superior Court explains Tesoro's contentions with respect to the scope of the CID. The CID, attached to the petition as an exhibit, lists the issues being examined by the Department of Law. Likewise, the state's opposition to Tesoro's petition outlines the issues that are the focus of the CID. The state's brief in the Alaska Supreme Court analyzes the issues being pursued and gives a brief history of the case proceedings. These documents are available at the state court clerk's office in Anchorage.

Other Resources

Interested persons may obtain gasoline pricing information from a number of sources on the Internet. The Energy Information Agency of the Federal Department of Energy tracks petroleum-related information nationwide. It compiles retail and wholesale gasoline pricing data and maintains reference documents about petroleum economics and various aspects of the energy markets:
<http://www.eia.doe.gov/>

There is information on average wholesale prices at:
http://www.eia.doe.gov/pub/oil_gas/petroleum/data_publications/petroleum_marketing_monthly/current/pdf/pmmtab35.pdf

The following article discusses the reasons that West Coast prices tend to be higher than those in the rest of the country:
http://www.eia.doe.gov/pub/oil_gas/petroleum/presentations/2001/senate_testimony/index.htm

The following article explains the many factors influencing the costs of refining:
<http://www.eia.doe.gov/emeu/finance/usi&to/downstream/index.html>

In August 2001, the Federal Trade Commission conducted a hearing regarding factors influencing the price of refined petroleum products. Testimony and information regarding that hearing can be found at:
<http://www.ftc.gov/bc/gasconf/>

The American Automobile Association publishes daily average gasoline prices at:
<http://www.fuelgaugereport.com/>

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10



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Price Gouging Legislation
May 6, 2008

Compiled by Kate Marks, Energy Program Director

CT S 521 INTRODUCER: Joint Committee on General Law
TITLE: Price Gouging
INTRODUCED: 02/27/2008
LAST AMEND: 03/27/2008
DISPOSITION: Pending
LOCATION: Joint Committee on Finance, Revenue and Bonding
SUMMARY:
Concerns price gouging; protects consumers in the event of an energy resource market
disruption emergency.
STATUS:
04/07/2008 To JOINT Committee on FINANCE, REVENUE AND
BONDING.

2008 CT S 521
AUTHOR: Joint Committee on General Law
VERSION: Substituted
VERSION DATE: 03/27/2008

STATE OF CONNECTICUT

General Assembly Substitute Bill No. 521
February Session, 2008 • SB00521GL 031108 •

AN ACT CONCERNING PRICE GOUGING AND THE PETROLEUM PRODUCTS
GROSS EARNINGS TAX.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 42-234 of the general statutes is repealed and the following is substituted in lieu thereof (Effective from passage):

(a) As used in this section:

(1) "Energy resource" shall include, but not be limited to, middle distillate, residual fuel oil, motor gasoline, propane, aviation gasoline and aviation turbine fuel, natural gas, electricity, coal and coal products, wood fuels and any other resource yielding energy;

(2) "Seller" shall include, but not be limited to, a supplier, wholesaler, distributor or retailer involved in the sale or distribution in this state of an energy resource;

~~(3) "Abnormal market disruption" refers to any stress to an energy resource market resulting from weather conditions, acts of nature, failure or shortage of a source of energy, strike, civil disorder, war, national or local emergency, oil spill or other extraordinary adverse circumstance.~~

(3) "Additional costs" means all replacement and transportation costs and taxes incurred by a person within the chain of distribution;

(4) "Gross disparity" means an increase of more than fifteen per cent in the price of an energy resource;

(5) "Unconscionably excessive" means a price that represents a gross disparity between the price of an energy resource when compared to the highest price such energy resource was sold or offered for sale by the seller in the usual course of business during the seven days immediately prior to the declaration by the Governor of an energy resource market disruption emergency pursuant to subsection (c) of this section.

~~(b) No seller during any period of abnormal market disruption energy resource market disruption emergency declared by the Governor pursuant to subsection (c) of this section, or during any period in which an imminent abnormal market disruption such emergency is reasonably anticipated shall sell or offer to sell an energy resource for an amount that represents an unconscionably excessive price.~~

(c) Evidence that (1) the amount charged represents a gross disparity between the price of an energy resource that was the subject of the transaction and the price at which such energy resource was sold or offered for sale by the seller in the usual course of business immediately prior to ~~(A) the onset of an abnormal market disruption, or (B) an energy resource market disruption emergency declared by the Governor pursuant to subsection (c) of this section, or any period in which an imminent abnormal market disruption such emergency is reasonably anticipated,~~ and (2) the amount charged by the seller was not attributable to additional costs incurred by the seller in connection with the sale of such product, shall constitute prima facie evidence that a price is unconscionably excessive.

(d) This section shall not be construed to limit the ability of the Commissioner of Consumer Protection or the courts to establish certain acts or practices as unfair or unconscionable in the absence of ~~abnormal market disruptions~~ an energy resource market disruption emergency declared by the Governor pursuant to subsection (c) of this section.

(e) In the event of a state-wide or regional shortage or threatened shortage of an energy resource due to an abnormal market disruption resulting from a natural disaster, weather conditions, acts of nature, strike, civil disorder, war, national or local emergency or other extraordinary adverse circumstance, the Governor may proclaim that an energy resource market disruption emergency exists. Upon the declaration of such emergency, the Governor may, in connection therewith, issue orders designating an energy resource to be in short supply or in danger of becoming in short supply in the state or in a specific region of the state and imposing price restrictions or rationing with respect thereto. Prior to the issuance of such an order, the Governor shall make written findings that there is

an abnormal market disruption, that the energy resource is in short supply or is in danger of becoming in short supply due to such disruption, that the energy resource is essential to the health, safety and welfare of the people of the state, and that the imposition of price restrictions on the energy resource or rationing of such resource is necessary to assure the health, safety and welfare of the people of the state.

(f) Any proclamation or order issued pursuant to this section shall become effective upon its filing in the office of the Secretary of the State and with the clerks of the Senate and the House of Representatives. Such proclamation or order shall be published in full at least once in a newspaper having general circulation in each county, provided failure to publish shall not impair the validity of such proclamation or order. Unless disapproved in accordance with the provisions of subsection (g) of this section, any proclamation or order shall remain in effect until the Governor proclaims an end to the emergency or until ninety days after the date of the proclamation of the emergency, whichever occurs first.

(g) Any proclamation or order issued pursuant to this section may be disapproved by a majority vote of each house of the General Assembly. Any such disapproval shall become effective upon filing notice of such action with the office of the Secretary of the State.

(h) A natural person, trade association, corporation or other entity may register with the Commissioner of Consumer Protection as an agent for the purpose of being notified by said commissioner or said commissioner's agent in the event the Governor declares an energy resource market disruption emergency pursuant to subsection (e) of this section. Such natural person, trade association, corporation or other entity shall be notified of such emergency by said commissioner or said commissioner's agent in an expeditious manner when the Governor declares an energy resource market disruption emergency.

(i) A violation of the provisions of subsection (b) of this section shall be deemed an unfair or deceptive trade act or practice under subsection (a) of section 42-110b.

Sec. 2. Section 12-587 of the 2008 supplement to the general statutes is repealed and the following is substituted in lieu thereof (Effective from passage):

(a) As used in this chapter: (1) "Company" includes a corporation, partnership, limited partnership, limited liability company, limited liability partnership, association, individual or any fiduciary thereof; (2) "quarterly period" means a period of three calendar months commencing on the first day of January, April, July or October and ending on the last day of March, June, September or December, respectively; (3) "gross earnings" means all consideration received from the first sale within this state of a petroleum product; (4) "petroleum products" means those products which contain or are made from petroleum or a petroleum derivative; (5) "first sale of petroleum products within this state" means the initial sale of a petroleum product delivered to a location in this state; (6) "export" or "exportation" means the conveyance of petroleum products from within this state to a location outside this state for the purpose of sale or use outside this state; and (7) "sale for exportation" means a sale of petroleum products to a purchaser which itself exports such products.

(b) (1) Except as otherwise provided in subdivision (2) of this subsection, any company which is engaged in the refining or distribution, or both, of petroleum products and which distributes such products in this state shall pay a quarterly tax on its gross earnings derived from the first sale of petroleum products within this state. Each company shall on or before the last day of the month next succeeding each quarterly period render to the commissioner a return on forms prescribed or furnished by the commissioner and signed by the person performing the duties of treasurer or an authorized agent or officer, including the amount of gross earnings derived from the first sale of

petroleum products within this state for the quarterly period and such other facts as the commissioner may require for the purpose of making any computation required by this chapter. Except as otherwise provided in subdivision (3) of this subsection, the rate of tax shall be (A) five per cent with respect to calendar quarters prior to July 1, 2005; (B) five and eight-tenths per cent with respect to calendar quarters commencing on or after July 1, 2005, and prior to July 1, 2006; (C) six and three-tenths per cent with respect to calendar quarters commencing on or after July 1, 2006, and prior to July 1, 2007; (D) seven per cent with respect to calendar quarters commencing on or after July 1, 2007, and prior to July 1, 2008; (E) seven and one-half per cent with respect to calendar quarters commencing on or after July 1, 2008, and prior to July 1, 2013; and (F) eight and one-tenth per cent with respect to calendar quarters commencing on or after July 1, 2013.

(2) Gross earnings derived from the first sale of the following petroleum products within this state shall be exempt from tax: (A) Any petroleum products sold for exportation from this state for sale or use outside this state; (B) the product designated by the American Society for Testing and Materials as "Specification for Heating Oil D396-69", commonly known as number 2 heating oil, to be used exclusively for heating purposes or to be used in a commercial fishing vessel, which vessel qualifies for an exemption pursuant to section 12-412 of the 2008 supplement to the general statutes; (C) kerosene, commonly known as number 1 oil, to be used exclusively for heating purposes, provided delivery is of both number 1 and number 2 oil, and via a truck with a metered delivery ticket to a residential dwelling or to a centrally metered system serving a group of residential dwellings; (D) the product identified as propane gas, to be used exclusively for heating purposes; (E) bunker fuel oil, intermediate fuel, marine diesel oil and marine gas oil to be used in any vessel having a displacement exceeding four thousand dead weight tons; (F) for any first sale occurring prior to July 1, 2008, propane gas to be used as a fuel for a motor vehicle; (G) for any first sale occurring on or after July 1, 2002, grade number 6 fuel oil, as defined in regulations adopted pursuant to section 16a-22c, to be used exclusively by a company which, in accordance with census data contained in the Standard Industrial Classification Manual, United States Office of Management and Budget, 1987 edition, is included in code classifications 2000 to 3999, inclusive, or in Sector 31, 32 or 33 in the North American Industrial Classification System United States Manual, United States Office of Management and Budget, 1997 edition; (H) for any first sale occurring on or after July 1, 2002, number 2 heating oil to be used exclusively in a vessel primarily engaged in interstate commerce, which vessel qualifies for an exemption under section 12-412 of the 2008 supplement to the general statutes; (I) for any first sale occurring on or after July 1, 2000, paraffin or microcrystalline waxes; (J) for any first sale occurring prior to July 1, 2008, petroleum products to be used as a fuel for a fuel cell, as defined in subdivision (113) of section 12-412 of the 2008 supplement to the general statutes; (K) a commercial heating oil blend containing not less than ten per cent of alternative fuels derived from agricultural produce, food waste, waste vegetable oil or municipal solid waste, including, but not limited to, biodiesel or low sulfur dyed diesel fuel; or (L) for any first sale occurring on or after July 1, 2007, diesel fuel other than diesel fuel to be used in an electric generating facility to generate electricity.

(3) The rate of tax on gross earnings derived from the first sale of grade number 6 fuel oil, as defined in regulations adopted pursuant to section 16a-22c, to be used exclusively by a company which, in accordance with census data contained in the Standard Industrial Classification Manual, United States Office of Management and Budget, 1987 edition, is included in code classifications 2000 to 3999, inclusive, or in Sector 31, 32 or 33 in the North American Industrial Classification System United States Manual, United States Office of Management and Budget, 1997 edition, or number 2 heating oil used exclusively in a vessel primarily engaged in interstate commerce, which vessel qualifies for an exemption under section 12-412 of the 2008 supplement to the general statutes shall be: (A) Four per cent with respect to calendar quarters commencing on or after July 1, 1998, and prior to July 1, 1999; (B) three per cent with respect to calendar quarters commencing on or after July 1, 1999, and prior to July 1, 2000; (C) two per cent with respect to calendar quarters

commencing on or after July 1, 2000, and prior to July 1, 2001; and (D) one per cent with respect to calendar quarters commencing on or after July 1, 2001, and prior to July 1, 2002.

(c) (1) Any company which imports or causes to be imported into this state petroleum products for sale, use or consumption in this state, other than a company subject to and having paid the tax on such company's gross earnings from first sales of petroleum products within this state, which earnings include gross earnings attributable to such imported or caused to be imported petroleum products, in accordance with subsection (b) of this section, shall pay a quarterly tax on the consideration given or contracted to be given for such petroleum product if the consideration given or contracted to be given for all such deliveries during the quarterly period for which such tax is to be paid exceeds three thousand dollars. Except as otherwise provided in subdivision (3) of this subsection, the rate of tax shall be (A) five per cent with respect to calendar quarters commencing prior to July 1, 2005; (B) five and eight-tenths per cent with respect to calendar quarters commencing on or after July 1, 2005, and prior to July 1, 2006; (C) six and three-tenths per cent with respect to calendar quarters commencing on or after July 1, 2006, and prior to July 1, 2007; (D) seven per cent with respect to calendar quarters commencing on or after July 1, 2007, and prior to July 1, 2008; ~~(E) seven and one-half per cent with respect to calendar quarters commencing on or after July 1, 2008, and prior to July 1, 2013; and (F) eight and one-tenth per cent with respect to calendar quarters commencing on or after July 1, 2013. Fuel in the fuel supply tanks of a motor vehicle, which fuel tanks are directly connected to the engine, shall not be considered a delivery for the purposes of this subsection.~~

(2) Consideration given or contracted to be given for petroleum products, gross earnings from the first sale of which are exempt from tax under subdivision (2) of subsection (b) of this section, shall be exempt from tax.

(3) The rate of tax on consideration given or contracted to be given for grade number 6 fuel oil, as defined in regulations adopted pursuant to section 16a-22c, to be used exclusively by a company which, in accordance with census data contained in the Standard Industrial Classification Manual, United States Office of Management and Budget, 1987 edition, is included in code classifications 2000 to 3999, inclusive, or in Sector 31, 32 or 33 in the North American Industrial Classification System United States Manual, United States Office of Management and Budget, 1997 edition, or number 2 heating oil used exclusively in a vessel primarily engaged in interstate commerce, which vessel qualifies for an exemption under section 12-412 of the 2008 supplement to the general statutes shall be: (A) Four per cent with respect to calendar quarters commencing on or after July 1, 1998, and prior to July 1, 1999; (B) three per cent with respect to calendar quarters commencing on or after July 1, 1999, and prior to July 1, 2000; (C) two per cent with respect to calendar quarters commencing on or after July 1, 2000, and prior to July 1, 2001; and (D) one per cent with respect to calendar quarters commencing on or after July 1, 2001, and prior to July 1, 2002.

(d) The amount of tax reported to be due on such return shall be due and payable on or before the last day of the month next succeeding the quarterly period. The tax imposed under the provisions of this chapter shall be in addition to any other tax imposed by this state on such company.

(e) For the purposes of this chapter, the gross earnings of any producer or refiner of petroleum products operating a service station along the highways or interstate highways within the state pursuant to a contract with the Department of Transportation or operating a service station which is used as a training or test marketing center under the provisions of subsection (b) of section 14-344d, shall be calculated by multiplying the volume of petroleum products delivered by any producer or refiner to any such station by such producer's or refiner's dealer tank wagon price or dealer wholesale price in the area of the service station.

This act shall take

effect as follows and
shall amend the
following sections:

Section 1 from passage 42-234
Sec. 2 from passage 12-587

GL Joint Favorable Subst.

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IL H 1933 SPONSOR: Eddy (R)
COSPONSOR(S): Pritchard (R), Reis (R)
TITLE: Renewable Motor Fuels Retail Infrastructure
INTRODUCED: 02/23/2007
DISPOSITION: Pending
LOCATION: House Rules Committee
SUMMARY:
Creates the Renewable Motor Fuels Retail Infrastructure Development and Maintenance Act. Makes it a violation to sell motor fuel below cost. Provides that it is a violation of the Act to engage in motor fuel price gouging in response to the occurrence of a national disaster or State emergency, except where the sale is both an isolated and inadvertent incident.
STATUS:
03/23/2007 Rereferred to HOUSE Committee on RULES.
PRIVATE FILE: EnergyDatabase
Subject: Gasoline

LA H 1354 AUTHOR: Lopinto (R)
TITLE: Price Gouging
INTRODUCED: 04/28/2008
DISPOSITION: Pending
LOCATION: HOUSE
SUMMARY:
Relates to price gouging during an emergency or during a named tropical storm or hurricane; provides that the prices charged or the value received by individual merchants may not exceed the prices ordinarily charged by the individual merchant; deletes specified activities as constituting prima facie proof of a violation.
STATUS:
04/28/2008 INTRODUCED.
04/28/2008 Substituted for H. 142
04/28/2008 Ordered Engrossed.

2008 LA H 1354
AUTHOR: Lopinto
VERSION: Engrossed

VERSION DATE: 04/28/2008

HLS 08RS-2737
Regular Session, 2008

ENGROSSED

HOUSE BILL NO. 1354 (Substitute for House Bill No. 142 by Representative Lopinto)

BY REPRESENTATIVE LOPINTO

COMMERCE: Provides relative to price gouging during emergencies or hurricanes

AN ACT

To amend and reenact R.S. 29:732(A) and 734(B), relative to price gouging during an emergency or during a named tropical storm or hurricane; to provide that the prices charged or the value received by individual merchants may not exceed the prices ordinarily charged by the individual merchant; to delete specified activities as constituting prima facie proof of a violation; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 29:732(A) and 734(B) are hereby amended and reenacted to read as follows:

Section 732. Price gouging; prohibited

A. During a state of emergency as declared by the governor or as declared by the parish president, or during a named tropical storm or hurricane in or threatening the Gulf of Mexico, the prices charged or value received by individual merchants for goods and services sold within the designated emergency area may not exceed the prices ordinarily charged by those individual merchants for comparable their goods and services in the same market area at or immediately before the time of the state of emergency. However, the value received may include reasonable expenses and a charge for any attendant business risk, in addition to the cost of the goods and services which necessarily are incurred in procuring the goods and services during the state of emergency. Norwithstanding any other provision of law to the contrary, it shall not be deemed a violation of this Section if the prices charged for goods and services sold within the designated emergency area by an individual in the same market area, at or immediately before the time of the emergency, have not changed except as allowed herein during an emergency.

...

Section 734. Violations; judicial relief; prima facie proof

...

B. In any proceeding instituted pursuant to this Section, ~~the following shall constitute prima facie proof of a violation:~~

~~(1) Evidence~~ evidence that the amount charged represents a gross disparity between the price of the goods or services which were the subject of the transaction and their value, measured by the price at which such goods or services were sold or offered for sale by the merchant in the usual course of business immediately prior to the onset of the abnormal disruption of the market, and the amount charged by the merchant was not attributable to additional costs imposed by its suppliers shall constitute prima facie proof of a violation.

~~(2) Evidence that the amount charged grossly exceeded the price at which the same or similar goods or services were readily obtainable by other consumers in the trade area and the amount charged by the merchant was not attributable to additional costs imposed by its suppliers.~~

• • •

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Lopinto HB No. 1354

Abstract: Requires that the prices charged or the value received by individual merchants for goods and services sold within the designated emergency area may not exceed the prices ordinarily charged by the individual merchant for goods and services immediately before the time of the state of emergency.

Present law provides that during a state of emergency the value received for goods and services sold within the designated emergency area may not exceed the prices ordinarily charged for comparable goods and services in the same market area at or immediately before the time of the state of emergency.

Proposed law requires that the prices charged or the value received by individual merchants for goods and services sold within the designated emergency area may not exceed the prices ordinarily charged by the individual merchant for goods and services immediately before the time of the state of emergency.

Present law provides that the value received may include reasonable expenses and a charge for any attendant business risk, in addition to the cost of the goods and services which necessarily are incurred in procuring the goods and services during the state of emergency.

Proposed law provides that it shall not be deemed a violation if the prices charged for goods and services sold within the designated emergency area by an individual in the same market area, at or immediately before the time of the emergency, have not changed, except as allowed by these provisions during an emergency.

Present law provides that the following shall constitute prima facie proof of a violation for price gouging:

(1) Evidence that the amount charged represents a gross disparity between the price of the goods or services which were the subject of the transaction and their value, measured by the price at which such goods or services were sold or offered for sale by the merchant in the usual course of business immediately prior to the onset of the abnormal disruption of the market, and the amount charged by the merchant was not attributable to additional costs imposed by its suppliers.

(2) Evidence that the amount charged grossly exceeded the price at which the same or similar goods or services were readily obtainable by other consumers in the trade area, and the amount charged by the merchant was not attributable to additional costs imposed by its suppliers.

Proposed law deletes (2) of present law (above) so that (2) no longer constitutes prima facie proof of a violation for price gouging.

(Amends R.S. 29:732(A) and 734(B))

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LA H 506 AUTHOR: Ponti (R)
TITLE: Consumer Protection
INTRODUCED: 03/31/2008
DISPOSITION: Pending
LOCATION: Senate Judiciary A Committee
SUMMARY:
Provides for certain exceptions to price gouging during a state of emergency.
STATUS:
05/05/2008 Passed HOUSE. *****To SENATE.
05/05/2008 To SENATE Committee on JUDICIARY A.

2008 LA H 506
AUTHOR: Ponti
VERSION: Engrossed
VERSION DATE: 04/28/2008

HLS 08RS-1129
Regular Session, 2008

ENGROSSED

HOUSE BILL NO. 506

BY REPRESENTATIVE PONTI

CONSUMERS/PROTECTION: Provides for certain exceptions to price gouging during a state of emergency

AN ACT

To amend and reenact R.S. 14:329.6(A)(9) and R.S. 29:732(A), relative to price gouging during a proclamation of a state of emergency; to provide for price changes attributable to market conditions; to provide for business risk expenses; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:329.6(A)(9) is hereby amended and reenacted to read as follows:

Section 329.6. Proclamation of state of emergency; conditions therefor; effect thereof

A. During times of great public crisis, disaster, rioting, catastrophe, or similar public emergency within the territorial limits of any municipality or parish, or in the event of reasonable apprehension of immediate danger thereof, and upon a finding that the public safety is imperiled thereby, the chief executive officer of any political subdivision or the district judge, district attorney, or the sheriff of any parish of this state, or the public safety director of a municipality, may request the governor to proclaim a state of emergency within any part or all of the territorial limits of such local government. Following such proclamation by the governor, and during the continuance of such state of

emergency, the chief law enforcement officer of the political subdivision affected by the proclamation may, in order to protect life and property and to bring the emergency situation under control, promulgate orders affecting any part or all of the territorial limits of the municipality or parish:

(9) Prohibiting the sale or offer for sale of goods or services within the designated emergency area for value exceeding the prices ordinarily charged for comparable goods and services in the same market area at, or immediately before, the time of the state of emergency, unless the price by the seller is attributable to fluctuations in applicable commodity markets, fluctuations in applicable regional or national market trends, or to reasonable expenses and charges for attendant business risk incurred in procuring or selling the goods or services during the state of emergency. ~~However the value received may include reasonable expenses and a charge for any attendant business risk in addition to the cost of the goods and services which necessarily are incurred in procuring the goods and services during the state of emergency, pursuant to the provisions of R.S. 29:701 through 716.~~

Section 2. R.S. 29:732(A) is hereby amended and reenacted to read as follows:

Section 732. Price gouging, prohibited

A. During a state of emergency as declared by the governor or as declared by the parish president, ~~or during a named tropical storm or hurricane in or threatening the Gulf of Mexico,~~ the value received for goods and services sold within the designated emergency area may not exceed the prices ordinarily charged for comparable goods and services in the same market area at, or immediately before, the time of the state of emergency, unless the price by the seller is attributable to fluctuations in applicable commodity markets, fluctuations in applicable regional or national market trends, or to reasonable expenses and charges for attendant business risk incurred in procuring or selling the goods or services during the state of emergency. ~~However, the value received may include reasonable expenses and a charge for any attendant business risk, in addition to the cost of the goods and services which necessarily are incurred in procuring the goods and services during the state of emergency.~~

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Ponti HB No. 506

Abstract: Provides that an increase in prices ordinarily charged is not price gouging if the price by the seller is attributable to fluctuations in applicable commodity markets, fluctuations in applicable regional or national market trends, or to reasonable expenses and charges for attendant business risk incurred in procuring or selling the goods or services during the state of emergency.

Present law provides that following a proclamation by the governor of a state of emergency, and during the continuance of such state of emergency, the chief law enforcement officer of the political subdivision affected by the proclamation may, in order to protect life and property and to bring the emergency situation under control, promulgate orders affecting any part or all of the territorial limits of the municipality or parish including prohibiting the sale or offer for sale of goods or services within the designated emergency area for value exceeding the prices ordinarily charged for comparable goods and services in the same market area at, or immediately before, the time of the state of emergency.

Proposed law provides that prices may not exceed the prices ordinarily charged for comparable goods and services in the same market area at, or immediately before, the time of the state of emergency, unless the price by the seller is attributable to fluctuations in applicable commodity markets, fluctuations in applicable regional or national market trends, or to reasonable expenses and charges for attendant business risk incurred in procuring or selling the goods or services during the state of emergency.

Present law provides that the value received may include reasonable expenses and a charge for any attendant business risk in addition to the cost of the goods and services which necessarily are incurred in procuring the goods and services during the state of emergency.

Present law provides that during a state of emergency as declared by the governor or as declared by the parish president, or during a named tropical storm or hurricane in or threatening the Gulf of Mexico, the value received for goods and services sold within the designated emergency area may not exceed the prices ordinarily charged for comparable goods and services in the same market area at, or immediately before, the time of the state of emergency.

Proposed law provides that during a state of emergency as declared by the governor or as declared by the parish president the price for goods and services may not exceed prices ordinarily charged unless the price by the seller is attributable to fluctuations in applicable commodity markets, fluctuations in applicable regional or national market trends, or to reasonable expenses and charges for attendant business risk incurred in procuring or selling the goods or services during the state of emergency.

(Amends R.S. 14:329.6(A)(9) and R.S. 29:732(A))

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MA S 1375 AUTHOR: Candaras (D)
COAUTHOR(S): Flanagan (D), Augustus (D)
TITLE: Price Gouging Prohibition
INTRODUCED: 01/10/2007
LAST AMEND: 03/18/2008
DISPOSITION: Pending
LOCATION: Senate Ethics and Rules Committee
SUMMARY:
Prohibits price gouging during states of emergency.
STATUS:
03/31/2008 To SENATE Committee on ETHICS and RULES.

2007 MA S 1375
AUTHOR: Candaras
VERSION: Introduced
VERSION DATE: 01/10/2007

SENATE No. 1375

THE COMMONWEALTH OF MASSACHUSETTS

In The Year Two Thousand And Seven.

AN ACT TO PROHIBIT PRICE GOUGING DURING STATES OF EMERGENCY.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 23 of the General Laws is hereby amended by striking out section 9H the following section: --

Section 9H. As used in this section the following words shall have the following meanings: --

"Commodity" means goods, services, materials, merchandise, supplies, equipment, resources, or other articles of commerce, and includes, without limitation, food, water, ice, chemicals, petroleum products, and lumber essential for consumption or use as a direct result of a declared state of emergency.

"Unconscionable price" an amount charged which represents a gross disparity between the price of the commodity or rental or lease of a dwelling unit, including a motel or hotel unit or other temporary lodging, or self-storage facility that is the subject of the offer or transaction and the average price at which that commodity or dwelling unit, including a motel or hotel unit or other temporary lodging, or self-storage facility was rented, leased, sold, or offered for rent or sale in the usual course of business during the 30 days immediately before a declaration of a state of emergency, and the increase in the amount charged is not attributable to additional costs incurred in connection with the rental or sale of the commodity or rental or lease of the dwelling unit, including a motel or hotel unit or other temporary lodging, or self-storage facility, or regional, national, or international market trends; or grossly exceeds the average price at which the same or similar commodity, dwelling unit, including a motel or hotel unit or other temporary lodging, or self-storage facility was readily obtainable in the trade area during the 30 days immediately before a declaration of a state of emergency. Such price shall not include a price during that period set as a result of a bona fide manufacturer's or suppliers limited discount or rebate; provided however that the increase in the amount charged is not with rental or sale of the commodity or rental or lease of the dwelling unit, including a motel or hotel unit or other temporary lodging, or self-storage facility, or as the result of regional, national, or international market trends, or is attributable to additional costs in connection with the disaster, including replacement costs imposed by the vendors source.

Whenever the governor shall determine that an emergency exists in respect to food or fuel or any other common necessity of life, including the providing of shelter, it shall be a violation of this section for a person or his agent or employee to rent or sell or offer to rent or sell a commodity at an unconscionable price within the area for which the state of emergency is declared; or impose unconscionable prices for the rental or lease of a dwelling unit, including a motel or hotel unit or other temporary lodging, or self-storage facility within the area for which the state of emergency is declared. This prohibition remains in effect until the declaration expires or is terminated. Upon a declaration of a state of disaster by the President, in which the disaster area includes all or a portion of the commonwealth it is unlawful and a violation of this article for a person or his agent or employee in this state to: rent or sell or offer to rent or sell a commodity at an unconscionable price within the area for which the state of disaster is declared; or impose unconscionable prices for the rental or lease of a dwelling unit, including a motel or hotel unit or other temporary lodging, or self-storage facility within the area for which the state of disaster is declared. This prohibition remains in effect until ten days after the declaration expires or is terminated. A price increase approved by an appropriate government agency is not a violation of this section. This section does not apply to sales by growers, producers, or processors of raw or processed food products, except for retail sales of those products to the ultimate consumer within the area of the declared state of emergency or disaster.

This section does not preempt the powers of local government, except that the evidentiary standards contained in this section are the sole evidentiary standards to be adopted by ordinance of a local government to restrict price escalation during a declared state of emergency of disaster. In the event a local government declares a state of emergency or disaster in which the disaster area includes all or a portion of the area under the local government's jurisdiction, and restricts price escalation during that emergency or disaster, the governmental entity must notify the Governor's office of such declaration. The Governor's office must notify registered agents simultaneously at the time of the declaration and also at the termination of the state of emergency.

A violation of this section shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than 2 1/2 years or both.

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NC H 653 AUTHOR: Gibson (D)
TITLE: Motor Fuel Tax
INTRODUCED: 03/15/2007
DISPOSITION: Failed - Adjourned
LOCATION: House Finance Committee
SUMMARY:
Stabilizes the motor fuel tax by imposing a cap on the variable wholesale component of the motor fuel tax rate at its current rate; provides relief for consumers by providing for price gouging investigations by the Attorney General.
STATUS:
07/24/2007 Withdrawn from HOUSE Committee on TRANSPORTATION.
07/24/2007 Re-referred to HOUSE Committee on FINANCE.
PRIVATE FILE: EnergyDatabase
Subject: Gasoline

2007 NC H 653
AUTHOR: Gibson
VERSION: Introduced
VERSION DATE: 03/15/2007

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H 1

HOUSE BILL 653

Short Title: Cap Variable Rate of the Gasoline Excise Tax. (Public)

Sponsors: Representatives Gibson; Brown, Faison, Howard, Hurley, Justice, McGee, Stiller, Underhill, and Wainwright.

Referred to: Transportation, if favorable, Finance.

March 15, 2007

A BILL TO BE ENTITLED

AN ACT TO STABILIZE THE MOTOR FUEL TAX BY IMPOSING A CAP ON THE VARIABLE WHOLESALE COMPONENT OF THE MOTOR FUEL TAX RATE AT ITS CURRENT RATE AND PROVIDING RELIEF FOR CONSUMERS BY PROVIDING FOR PRICE GOUGING INVESTIGATIONS BY THE ATTORNEY GENERAL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-449.80(a) reads as rewritten:

"(a) Rate. - The motor fuel excise tax rate is a flat rate of seventeen and one-half cents (17 1/2 cents) a gallon plus a variable wholesale component. The variable wholesale component is either three and one-half cents (3 1/2 cents) a gallon or seven percent (7%) of the average wholesale price of motor fuel for the applicable base period, whichever is greater. In no case may the variable wholesale component be greater than twelve and four-tenths cents (12.4 cents) a gallon.

The two base periods are six-month periods; one ends on September 30 and one ends on March 31. The Secretary must set the tax rate twice a year based on the wholesale price for each base period. A tax rate set by the Secretary using information for the base period that ends on September 30 applies to the six-month period that begins the following January 1. A tax rate set by the Secretary using information for the base period that ends on March 31 applies to the six-month period that begins the following July 1."

SECTION 2. G.S. 75-38 reads as rewritten:

"Section 75-38. Prohibit excessive pricing during states of disaster.

(a) It shall be a violation of G.S. 75-1.1 for any person to sell or rent or offer to sell or rent at retail during a state of disaster, in the area for which the state of disaster has been declared, any merchandise or services which are consumed or used as a direct result of an emergency or which are consumed or used to preserve, protect, or sustain life, health, safety, or comfort of persons or their property with the knowledge and intent to charge a price that is unreasonably excessive under the circumstances. In determining whether a price is unreasonably excessive, it shall be considered whether:

(1) The price charged by the seller is attributable to additional costs imposed by the seller's supplier or other costs of providing the good or service during the state of disaster; and

(2) The seller offered to sell or rent the merchandise or service at a price that was below the seller's average price in the preceding 60 days before the state of ~~disaster~~ disaster; and

(3) The seller was pricing above market prices when no alternative seller was available.

If the seller did not sell or rent or offer to sell or rent the merchandise or service in question prior to the time the state of disaster was declared, the price at which the merchandise or service was generally available in the trade area shall be used as a factor in determining if the seller is charging an unreasonably excessive price.

NY S 5043 SAME AS: NY S 223
SPONSOR: Fuschillo (R)
TITLE: Right to Action for Unlawful Price Gouging
INTRODUCED: 04/25/2007
DISPOSITION: Pending
LOCATION: SENATE
SUMMARY:

Creates a private right to action for unlawful price gouging for injunctive relief and recovery of actual damages or a specific amount, whichever is greater, or both, in addition to right of action granted to Attorney General; permits the court to award a prevailing plaintiff an additional penalty for a willful or knowing violation and reasonably attorney's fees.

STATUS:
01/29/2008 From SENATE Committee on CONSUMER PROTECTION.

2007 NY S 5043
AUTHOR: Fuschillo
VERSION: Introduced
VERSION DATE: 04/25/2007

STATE OF NEW YORK

5043

2007-2008 Regular Sessions

IN SENATE

April 25, 2007

Introduced by Sen. FUSCHILLO -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to price gouging

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 396-r of the general business law is amended by adding a new subdivision 5 to read as follows:

5. IN ADDITION TO ANY RIGHT OF ACTION GRANTED TO THE ATTORNEY GENERAL PURSUANT TO THIS SECTION. ANY PERSON WHO HAS BEEN INJURED BY REASON OF ANY VIOLATION OF THIS SECTION MAY BRING AN ACTION IN HIS OR HER OWN NAME TO ENJOIN SUCH UNLAWFUL ACT OR PRACTICE. AN ACTION TO RECOVER HIS OR HER ACTUAL DAMAGES OR ONE THOUSAND DOLLARS, WHICHEVER IS GREATER, OR BOTH SUCH ACTIONS. THE COURT MAY, IN ITS DISCRETION, AWARD THE PREVAILING PLAINTIFF IN SUCH ACTION A PENALTY

necessary for the health, safety and welfare of consumers, no party within the chain of distribution of such consumer goods or services or both shall sell or offer to sell any such goods or services or both for an amount which represents an unconscionably excessive price. For purposes of this section, the phrase "abnormal disruption of the market" shall mean any change in the market, whether actual or imminently threatened, resulting from stress of weather, convulsion of nature, failure or shortage of electric power or other source of energy, strike, civil disorder, war, military action, national or local emergency, or other cause of an abnormal disruption of the market ~~which results in the declaration of a state of emergency by the governor~~. For the purposes of this section, the term consumer goods and services shall mean those used, bought or rendered primarily for personal, family or household purposes. This prohibition shall apply to all parties within the chain of distribution, including any manufacturer, supplier, wholesaler, distributor or retail seller of consumer goods or services or both sold by one party to another when the product sold was located in the state prior to the sale. Consumer goods and services shall also include any repairs made by any party within the chain of distribution of consumer goods on an emergency basis as a result of such abnormal disruption of the market.

3. Whether a price is unconscionably excessive is a question of law for the court.

(a) The court's determination that a violation of this section has occurred shall be based on any of the following factors: (i) that the amount of the excess in price is unconscionably extreme; or (ii) that there was an exercise of unfair leverage or unconscionable means; or (iii) a combination of both factors in subparagraphs (i) and (ii) of this paragraph.

(b) In any proceeding commenced pursuant to subdivision ~~four~~ FIVE of this section, prima facie proof that a violation of this section has occurred shall include evidence that

(i) the amount charged represents a gross disparity between the price of the goods or services which were the subject of the transaction and their value measured by the price at which such consumer goods or services were sold or offered for sale by the defendant in the usual course of business immediately prior to the onset of the abnormal disruption of the market or

(ii) the amount charged grossly exceeded the price at which the same or similar goods or services were readily obtainable by other consumers in the trade area. A defendant may rebut a prima facie case with evidence that additional costs not within the control of the defendant were imposed on the defendant for the goods or services.

4. ANY PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION SHALL BE GUILTY OF A VIOLATION.

5. Where a violation of this section is alleged to have occurred, A DISTRICT ATTORNEY MAY FILE AN ACCUSATORY INSTRUMENT WITH A CRIMINAL COURT WITHIN THE JUDICIAL DISTRICT IN WHICH SUCH VIOLATIONS ARE ALLEGED TO HAVE OCCURRED. AND the attorney general may apply in the name of the People of the State of New York to the supreme court of the State of New York within the judicial district in which such violations are alleged to have occurred, on notice of five days, for an order enjoining or restraining commission or continuance of the alleged unlawful acts. In any such proceeding, the court shall impose a civil penalty in an amount not to exceed ~~ten~~ TWENTY-FIVE thousand dollars and, where appropriate, order restitution to aggrieved consumers.

Section 2. This act shall take effect immediately.

INTRODUCED: 02/02/2007
DISPOSITION: Pending
LOCATION: Senate Consumer Protection Committee
SUMMARY:
Relates to price gouging; imposes criminal penalties for price gouging; removes language relating to the declaration of a state of emergency.
STATUS:
02/02/2007 INTRODUCED.
02/02/2007 To SENATE Committee on CONSUMER PROTECTION.

2007 NY S 2347
AUTHOR: Schneiderman
VERSION: Introduced
VERSION DATE: 02/02/2007

STATE OF NEW YORK

2347

2007-2008 Regular Sessions

IN SENATE

February 2, 2007

Introduced by Sens. SCHNEIDERMAN, ADAMS, BRESLIN, DUANE, GONZALEZ, HASSELL-THOMPSON, KLEIN, KRUEGER, KRUGER, MONTGOMERY, PARKER, SABINI, SAMPSON, SERRANO, SMITH, STACHOWSKI, STAVISKY, THOMPSON, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to price gouging

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 396-r of the general business law, as amended by chapter 510 of the laws of 1998, is amended to read as follows:

Section 396-r. Price gouging. 1. Legislative findings and declaration. The legislature hereby finds that during periods of abnormal disruption of the market caused by strikes, power failures, severe shortages or other extraordinary adverse circumstances, some parties within the chain of distribution of consumer goods have taken unfair advantage of consumers by charging grossly excessive prices for essential consumer goods and services.

In order to prevent any party within the chain of distribution of any consumer goods from taking unfair advantage of consumers during abnormal disruptions of the market, the legislature declares that the public interest requires that such conduct be prohibited and made subject to civil AND CRIMINAL penalties.

2. During any abnormal disruption of the market for consumer goods and services vital and

(b) In the event the Attorney General investigates a complaint for a violation of this section and determines that the seller has not violated the provisions of this section and if the seller so requests, the Attorney General shall promptly issue a signed statement indicating that the Attorney General has not found a violation of this section. The Attorney General shall maintain the confidentiality of all evidence, testimony, documents, statements, or other results of an investigation under this section, including the names of the complainant and the individual, corporation, or other entity that is the subject of the investigation. Nothing herein shall be construed to prevent the presentation or disclosure of any information or evidence in an action or proceeding brought under this section or pursuant to an order from a court of competent jurisdiction.

(c) For the purposes of this section, the end of a state of disaster is the earlier of 45 days or the termination of a natural or man-made disaster or emergency as declared in accordance with G.S. 166A-6 or G.S. 166A-8.

(d) The Office of the Governor shall maintain a mailing list of individuals who have requested, in writing, notice of the issuance of a declaration of a state of disaster or emergency. When the Office of the Governor declares a state of disaster or emergency, it must provide, by electronic or U.S. mail, a copy of the declaration to each individual on the list.

SECTION 3. G.S. 166A-4(1) reads as rewritten:

"(1) Disaster. - An occurrence or imminent threat of widespread or severe damage, injury, economic well-being, or loss of life or property resulting from any natural or man-made incidental, accidental, military or paramilitary cause."

SECTION 4. There is appropriated from the General Fund to the Highway Fund and Highway Trust Fund an appropriate amount of funds to offset the loss of revenue from capping the motor fuels excise tax.

SECTION 5. This act becomes effective July 1, 2007.

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<u>NJ A 2313</u>	SPONSOR:	<u>Diegnan (D)</u>
	COSPONSOR(S):	<u>Vas (D), Egan (D)</u>
	TITLE:	Price Gouging
	INTRODUCED:	02/26/2008
	DISPOSITION:	Pending
	LOCATION:	Assembly Consumer Affairs Committee
	SUMMARY:	
		Prohibits price gouging during a declared state of emergency.
	STATUS:	
	02/26/2008	INTRODUCED.
	02/26/2008	To ASSEMBLY Committee on CONSUMER AFFAIRS.

2008 NJ A 2313
AUTHOR: Diegnan
VERSION: Introduced
VERSION DATE: 02/26/2008

ASSEMBLY, No. 2313

STATE OF NEW JERSEY

213th LEGISLATURE

INTRODUCED FEBRUARY 26, 2008

Sponsored by:

Assemblyman PATRICK J. DIEGNAN, JR.

Assemblyman JOSEPH VAS

Co-Sponsored by:

Assemblyman Egan

SYNOPSIS

Prohibits price gouging during a declared state of emergency.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning prohibited pricing practices and supplementing Title 2C of the New Jersey Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. a. A person commits a crime of the fourth degree if, during or within 180 days following a state of emergency declared by the President of the United States or the Governor, or upon the declaration of a state of local disaster by an authorized local government official that person sells or offers to sell any essential commodity including, but not limited to, supplies, services, provisions or equipment that is necessary for consumption or use as a direct result of the emergency, at a price of more than 10% above the price ordinarily charged for comparable goods and services immediately prior to the declared state of emergency. It is an affirmative defense to a prosecution under this section that if the increase in price was directly attributable to additional costs imposed on the seller by the supplier of the goods or directly attributable to additional costs for labor or materials used to provide the services, provided that in those situations where the increase in price is attributable to additional costs imposed by the seller's supplier or additional costs of providing the good or service during the state of emergency, the price represents no more than 10% above the total of the cost to the seller plus the markup customarily applied by the seller for that good or service in the usual course of business immediately prior to the onset of the state of emergency.

Each sale or offer to sell in violation of this subsection constitutes a separate offense.

b. It shall be unlawful for any contractor, during or within 180 days following a state of emergency declared by the President of the United States or the Governor, or upon the declaration of a state of local disaster by an authorized local government official to sell or offer to sell any repair or reconstruction services or any services used in emergency cleanup for a price of more than 10% above

the price ordinarily charged by that person for those services immediately prior to the declared state of emergency. It is an affirmative defense to a prosecution under this section that if the increase in price was directly attributable to additional costs imposed on the contractor by the supplier of the goods or directly attributable to additional costs for labor or materials used to provide the services, provided that in those situations where the increase in price is attributable to additional costs imposed by the contractor's supplier or additional costs of providing the good or service during the state of emergency, the price represents no more than 10% above the total of the cost to the contractor plus the markup customarily applied by the contractor for that good or service in the usual course of business immediately prior to the onset of the state of emergency.

Any person who violates this subsection shall be guilty of a crime of the fourth degree. Each sale or offer to sell in violation of this subsection constitutes a separate offense.

2. This act shall take effect immediately.

STATEMENT

This bill makes it a crime of the fourth degree for any person to sell or offer to sell any goods or services during or within 180 days following a declared state of emergency or local disaster at a price of more than 10% above the price ordinarily charged for comparable goods or services immediately prior to the proclamation of emergency. The bill further provides that it is an affirmative defense to a prosecution under this bill if the increase in price was directly attributable to additional costs imposed on the seller by the supplier of the goods or directly attributable to additional costs for labor or materials used to provide the services. In those instances where the increase in price is attributable to additional costs imposed by the seller's supplier or additional costs of providing the goods or services during the state of emergency, the price shall represent no more than 10% above the total of the cost to the seller plus the markup customarily applied by the seller for that good or service in the usual course of business immediately prior to the onset of the state of emergency.

In addition, this bill makes it a crime of the fourth degree for any contractor to sell or offer to sell any repair or reconstruction services used during an emergency cleanup for a price of more than 10% above the price ordinarily charged by the contractor for those services immediately prior to the declared state of emergency or local disaster. The bill further provides that it is an affirmative defense to a prosecution under this bill if the increase in price was directly attributable to any additional costs imposed on the contractor by his supplier or additional costs for labor or materials used to provide the service, provided that the price represents no more than 10% above the total cost to the contractor plus the markup customarily applied by the contractor for those goods and services in the usual course of business immediately prior to the onset of the state of emergency.

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NY A 2641 **SPONSOR:** Thiele (R)
TITLE: Motor Fuel Prices
INTRODUCED: 01/17/2007
DISPOSITION: Pending
LOCATION: Assembly Consumer Affairs and Protection Committee
SUMMARY:

Provides that prices of motor fuels set pursuant to the practice of zone pricing shall be deemed to be unconscionably excessive and such practice of zone pricing shall be prohibited.

STATUS:
01/17/2007
01/17/2007

INTRODUCED.
To ASSEMBLY Committee on CONSUMER AFFAIRS AND
PROTECTION.

2007 NY A 2641
AUTHOR: Thiele
VERSION: Introduced
VERSION DATE: 01/17/2007

STATE OF NEW YORK

2641

2007-2008 Regular Sessions

IN ASSEMBLY

January 17, 2007

Introduced by M. of A. THIELE, McKEVITT -- Multi-Sponsored by -- M. of A. ALFANO -- read
once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to declaring zone pricing for the sale of
motor fuels to be price gouging

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND
ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 396-r of the general business law is amended by adding a new subdivision 2-a to
read as follows:

2-A. PRICES SET PURSUANT TO THE PRACTICE OF ZONE PRICING, WHEREBY A
WHOLESALE OR RETAIL DISTRIBUTOR OF MOTOR FUELS SETS PRICES ON THE
BASIS OF GEOGRAPHIC REGIONS SHALL BE DEEMED TO BE UNCONSCIONABLY
EXCESSIVE AND SUCH PRACTICE OF ZONE PRICING SHALL BE PROHIBITED.

Section 2. This act shall take effect on the seventh day after it shall have become a law.

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<u>NY S 1547</u>	SAME AS:	<u>NY A 425</u>
	SPONSOR:	Fuschillo (R)
	TITLE:	Price Gouging
	INTRODUCED:	01/22/2007
	DISPOSITION:	Pending
	LOCATION:	Assembly Consumer Affairs and Protection Committee
	SUMMARY:	
		Increases the civil penalty authorized to be imposed by a court for price gouging of

consumers to an amount not to exceed twenty-five thousand dollars.

STATUS:

02/25/2008

02/25/2008

Passed SENATE. *****To ASSEMBLY.

To ASSEMBLY Committee on CONSUMER AFFAIRS AND PROTECTION.

2007 NY S 1547

AUTHOR: Fuschillo

VERSION: Introduced

VERSION DATE: 01/22/2007

STATE OF NEW YORK

1547

2007-2008 Regular Sessions

IN SENATE

January 22, 2007

Introduced by Sens. FUSCHILLO, ALESI, BONACIC, DeFRANCISCO, FARLEY, GOLDEN, HANNON, JOHNSON, LAVALLE, LEIBELL, MALTESE, MARCELLINO, MORAHAN, PADAVAN, RATH, ROBACH, SALAND, SKELOS, TRUNZO, VOLKER, WINNER, YOUNG

-- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to increasing the civil penalty for price gouging of consumers

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 4 of section 396-r of the general business law, as amended by chapter 510 of the laws of 1998, is amended to read as follows:

4. Where a violation of this section is alleged to have occurred, the attorney general may apply in the name of the People of the State of New York to the supreme court of the State of New York within the judicial district in which such violations are alleged to have occurred, on notice of five days, for an order enjoining or restraining commission or continuance of the alleged unlawful acts. In any such proceeding, the court shall impose a civil penalty in an amount not to exceed ~~ten~~ TWENTY-FIVE thousand dollars and, where appropriate, order restitution to aggrieved consumers.

Section 2. This act shall take effect immediately.

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NY S 2347 SPONSOR:
TITLE:

Schneiderman (D)
Price Gouging

UP TO FIVE THOUSAND DOLLARS, IF THE COURT FINDS THE DEFENDANT WILLFULLY OR KNOWINGLY VIOLATED THE PROVISIONS OF THIS SECTION. THE COURT MAY AWARD REASONABLE ATTORNEYS' FEES TO A PREVAILING PLAINTIFF.

Section 2. This act shall take effect immediately.

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OH SCR 13 SPONSOR: Roberts (D)
TITLE: Gasoline Price Gouging
INTRODUCED: 06/19/2007
DISPOSITION: Pending
LOCATION: Senate Energy and Public Utilities Committee
SUMMARY:
Expresses support for the efforts of the Congress of the United States to enact legislation prohibiting gasoline price gouging against consumers and urges Congress to enact additional legislation that addresses price gouging by companies that produce crude oil, gasoline, natural gas, and all petroleum distillates.
STATUS:
06/20/2007 From SENATE Committee on REFERENCE: Recommended referral.
06/20/2007 To SENATE Committee on ENERGY AND PUBLIC UTILITIES.
PRIVATE FILE: EnergyDatabase
Subject: Gasoline

07 OH SCR 13
AUTHOR: Roberts
VERSION: Introduced
VERSION DATE: 06/19/2007

As Introduced

127th General Assembly
Regular Session
2007-2008

S.C.R. No. 13

Senator Roberts

Cosponsors: Senators Schuring, Miller, D., Cafaro, Morano, Padgett, Mason, Wilson

A CONCURRENT RESOLUTION To express support for the efforts of the Congress of the United States to enact legislation prohibiting gasoline price gouging against consumers and to urge Congress to enact additional legislation that addresses price gouging by companies that produce crude oil, gasoline, natural gas, and all petroleum distillates.

BE IT RESOLVED BY THE SENATE OF THE STATE OF OHIO (THE HOUSE OF REPRESENTATIVES CONCURRING):

WHEREAS, The price per barrel of oil has steadily increased over the last several years yet the price per gallon of gasoline has skyrocketed. As gasoline prices have soared, oil companies have made

some of the highest profits in history; and

WHEREAS, In May, 2007, the United States House of Representatives passed a bill, the Federal Price Gouging Protection Act, that would make gasoline price gouging a federal offense. The bill would ban sellers of gasoline from charging prices that are unconscionably excessive or take unfair advantage of consumers; and

WHEREAS, Although the bill is a positive step toward controlling gasoline prices, additional legislation is needed. That legislation would address companies that produce crude oil, gasoline, natural gas, and all petroleum distillates and that price gouge consumers. It would need to specify that civil and criminal penalties would be assessed against oil companies that price gouge consumers and that have realized excess profits from the price gouging; now therefore be it

RESOLVED, That we, the members of the 127th General Assembly of the State of Ohio, express support for the efforts of the Congress of the United States to enact legislation prohibiting gasoline price gouging against consumers and urge Congress to enact additional legislation that addresses price gouging by companies that produce crude oil, gasoline, natural gas, and all petroleum distillates; and be it further

RESOLVED, That the Clerk of the Senate send duly authenticated copies of this resolution to the Speaker and the Clerk of the United States House of Representatives, to the President Pro Tempore and the Secretary of the United States Senate, to the members of the Ohio Congressional delegation, and to the news media of Ohio.

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OK S 1871 AUTHOR: Garrison (D)
TITLE: Price Gouging of Fuel
INTRODUCED: 02/04/2008
DISPOSITION: Pending
LOCATION: Senate Appropriations Committee
SUMMARY:
Relates to contracts; authorizes the Attorney General to investigate consumer complaints relating to price gouging of fuel; authorizes Attorney General to request funding; declares an emergency.
STATUS:
02/06/2008 To SENATE Committee on APPROPRIATIONS.

2007 OK S 1871
AUTHOR: Garrison
VERSION: Introduced
VERSION DATE: 02/04/2008

STATE OF OKLAHOMA

2nd Session of the 51st Legislature (2008)

SENATE BILL 1871

By: Garrison

AS INTRODUCED

An Act relating to contracts; authorizing the Attorney General to investigate consumer complaints relating to price gouging of fuel; authorizing Attorney General to request funding; providing for codification; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 777.6 of Title 15, unless there is created a duplication in numbering, reads as follows:

A. The Attorney General of this state is authorized to investigate consumer complaints alleging price gouging by producers and marketers of petroleum fuel products. Such complaints may be investigated at any time separately or in addition to complaints alleged pursuant to the provisions of the Emergency Price Stabilization Act, Section 777.1 of Title 15 of the Oklahoma Statutes, during an emergency declared by the Governor.

B. The Attorney General may request additional funding as necessary to be appropriated by the Legislature to implement the provisions of this act.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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VT HIR 20 AUTHOR: Obuchowski (D)
TITLE: Retail Gasoline Prices
INTRODUCED: 04/05/2007
DISPOSITION: Pending
LOCATION: House Transportation Committee
SUMMARY:
Urges the federal government to take immediate steps to lower retail gasoline prices.
STATUS:
04/05/2007 INTRODUCED.
04/05/2007 To HOUSE Committee on TRANSPORTATION.
PRIVATE FILE: EnergyDatabase
Commentary:
Urges the federal government to take immediate steps to lower retail gasoline prices.

2007 VT HJR 20
AUTHOR: Obuchowski
VERSION: Introduced
VERSION DATE: 04/05/2007

J.R.H. 20

Rep. Obuchowski of Rockingham offered a joint resolution, entitled

Joint resolution strongly urging the federal government to take immediate steps to lower retail gasoline prices;

Whereas, Vermont is a rural state with minimal public transportation, and thousands of individuals must drive their cars to work daily, many for extended distances, and

Whereas, the state of Vermont's economy is heavily reliant on automotive tourism and other recreation-related activities, including snowmobiling, which according to a 2002 Johnson College study, generates annually revenue of \$500,000,000.00 in the state, and

Whereas, farmers are dependent on gasoline to operate tractors, combines, trucks, and other absolutely essential equipment, without which they could not perform their daily chores and sustain their livelihood, and

Whereas, the federal Energy Information Administration announced on March 26, 2007 that the nationwide average retail price of regular unleaded gasoline stood at 261.0 cents per gallon, and the comparable New England figure was even higher at 261.2 cents per gallon, and

Whereas, the U.S. average price represented a 0.033-cent increase over the prior week, and

Whereas, the average nationwide price is now 0.112 cents higher than at this time in 2005, and

Whereas, in the Northeast, where ethanol is in short supply, the price of gasoline is again starting to rise, and

Whereas, higher retail gasoline prices cause a financial hardship for a large percentage of Vermonters, and

Whereas, U.S. Secretary of Energy Samuel Bodman has stated that the strategic petroleum reserve will not be opened except for an emergency that interrupts the supply, and the U.S. Energy Department does not consider the current situation to be an emergency, and

Whereas, notwithstanding the secretary's comments, the steadily rising retail price of gasoline constitutes an economic emergency of the first order, demanding a decisive and immediate response on the same magnitude Americans would expect if OPEC were to impose another embargo on all oil shipments to the United States as it did in the 1970s, and

Whereas, while the nation's motorists are paying exorbitant prices for gasoline at the pump, compensation for oil company executives continues to rise, and

Whereas, ExxonMobil is now among the most profitable publicly traded companies in the United States, and

Whereas, the combination of high prices and corporate profitability could indicate that the oil companies are engaging in price gouging, and

Whereas, a year ago U.S. Representative and now Senator Bernard Sanders and U.S. Representative Peter DeFazio of Oregon wrote a joint letter to President George W. Bush requesting that the President "convene an emergency summit of congressional leaders, oil industry executives and consumer advocates to address the soaring price of gasoline," now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly strongly urges the executive and legislative branches of the federal government to take prudent but immediate steps, both on the economic domestic front and on the international diplomatic stage, that are deemed most effective, including the convening of an emergency energy price summit as Senator Sanders has requested, the initiation of a federal investigation of oil price gouging, the regulation of the petroleum futures' market, the selling of the crude oil set to be placed or already stored in the Strategic Petroleum Reserve, imposing temporary price controls on retail gasoline sales, and engaging in diplomatic bargaining with the nations and, in particular, OPEC, that set the price for crude oil at the wellhead, and be it further

Resolved: That the General Assembly urges the U.S. House Committee on Energy and Commerce and the U.S. Senate Committee on Energy and Natural Resources to investigate whether the major oil companies are engaging in any price gouging activity in the sale of gasoline on the wholesale or retail level, and be it further

Resolved: That the secretary of state be directed to send a copy of this resolution to the President of the United States, to U.S. Secretary of Energy Samuel W. Bodman, to U.S. Speaker of the House Nancy Pelosi, to U.S. Representatives John Boehner, John Dingell, and Joe Barton, to U.S. Senators Trent Lott, Harry Reid, Jeff Bingaman, and Pete Domenici, and to the members of the Vermont Congressional Delegation.

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VT H 846 AUTHOR: Moran (D)
TITLE: Price Gouging
INTRODUCED: 02/04/2008
DISPOSITION: Pending
LOCATION: House Commerce Committee
SUMMARY:
Expands the petroleum price gouging prohibition to apply in situations, other than during market emergencies, if the price is grossly in excess of the price at which similar product is sold.
STATUS:
02/05/2008 To HOUSE Committee on COMMERCE.

2007 VT H 846
AUTHOR: Moran
VERSION: Introduced
VERSION DATE: 02/04/2008

H.846

Introduced by Representatives Moran of Wardsboro, Consejo of Sheldon, Fitzgerald of St. Albans City, Klein of East Montpelier, Martin of Springfield, Masland of Thetford, Mrowicki of Putney, Pearson of Burlington, Pillsbury of Brattleboro and Zenie of Colchester

Referred to Committee on

Date:

Subject: Commerce; consumer fraud; price gouging

Statement of purpose: This bill proposes to expand the petroleum price gouging prohibition to apply in situations, other than during market emergencies, if the price is grossly in excess of the price at which similar product is sold.

AN ACT RELATING TO PETROLEUM PRICE GOUGING WHEN A MARKET EMERGENCY IS NOT IN EFFECT

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 9 V.S.A. Section 2461d is amended to read:

Section 2461d. PRICE GOUGING OF PETROLEUM PRODUCTS AND HEATING FUEL PRODUCTS

(a) Definitions. For the purposes of this section:

(1) A "market emergency" shall be declared by the governor. The market emergency shall continue for 30 days or until terminated by the governor. The governor may extend the market emergency for additional 30-day periods. "Market emergency" means any abnormal disruption of any market for petroleum products or heating fuel products, including any actual or threatened shortage in the supply of petroleum products or heating fuel products or any actual or threatened increase in the price of petroleum products or heating fuel products resulting from severe weather, convulsion of nature, supply manipulation, failure or shortage of electric power or other source of energy, strike, civil disorder, act of war, terrorist attack, national or local emergency, or other extraordinary adverse circumstances.

(2) "Petroleum or heating fuel product" means motor fuels, liquefied petroleum gas, fuel oil, kerosene, and wood pellets used for heating or cooking purposes.

(3) "Petroleum or heating fuel-related business" means any producer, supplier, wholesaler, distributor, or retail seller of any petroleum or heating fuel product.

(b) It is an unfair and deceptive act and practice in commerce and a violation of section 2453 of this title for any petroleum or heating fuel-related business ~~during a market emergency or seven days prior thereto~~ to sell or offer to sell any petroleum product or heating fuel product for an amount that represents an unconscionably high price.

(c) A price is unconscionably high if:

(1) the amount charged during ~~the a~~ market emergency or seven days prior thereto represents a gross disparity between the price of the petroleum product or heating fuel product charged by the petroleum or heating fuel related business ~~and~~:

(A) the price at which the same product was sold or offered for sale by that business in the usual course of business immediately prior to the date of the declaration of the market emergency; or

(B) the price at which the ~~same~~ or similar petroleum product or heating fuel product is readily obtainable by the buyer and ~~the~~ buyers in the trade area in which the petroleum- or heating-fuel-

related business markets the product; and

(2) the disparity is not substantially attributable to increased prices charged by the petroleum product or heating fuel product suppliers or increased costs due to a market emergency.

(d) A price is unconscionably high if it is grossly in excess of the price at which similar product is sold.

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WI A 200 AUTHOR: Schneider (D)
COAUTHOR(S): Carpenter (D), Toles (D)
TITLE: Fuel Price Gouging
INTRODUCED: 03/19/2007
DISPOSITION: Failed
LOCATION: ASSEMBLY
SUMMARY:
Relates to fuel price gouging and providing a penalty.
STATUS:
03/21/2008 Failed to pass pursuant to Senate Joint Resolution 1.
PRIVATE FILE: EnergyDatabase
Subject: Gasoline

In bill text the following has special meaning
underline denotes added text
~~struck out text denotes deleted text~~

2007 WI A 200
AUTHOR: Schneider
VERSION: Introduced
VERSION DATE: 03/19/2007

2007 - 2008 LEGISLATURE

2007 ASSEMBLY BILL 200

March 19, 2007 - Introduced by Representatives SCHNEIDER and TOLES, cosponsored by Senator CARPENTER. Referred to Committee on Judiciary and Ethics.

AN ACT to create 943.29 of the statutes; relating to: fuel price gouging and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill prohibits a retail or wholesale seller of petroleum-based fuel (such as gasoline, diesel fuel, propane, or liquefied petroleum gas) from increasing the fuel's price by more than the amount of any concurrent increase in the person's acquisition, production, distribution, or operating costs. A person who violates this prohibition may be fined not more than \$25,000, sentenced to a term of imprisonment of not more than 12.5 years (which, if the sentence is for more than one year, includes a term of confinement and a term of extended supervision), or both.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 943.29 of the statutes is created to read:

943.29 Fuel price gouging. (1) In this section, "fuel" means gasoline, diesel fuel, fuel oil, kerosene, propane, liquefied petroleum gas, or any other petroleum-based product that is used for heating or providing power.

(2) Any person engaged in the business of selling fuel at retail or wholesale who intentionally increases the price of the fuel by an amount that exceeds any concurrent increase in any costs of acquisition, production, distribution, or operation that are incurred by the person and that are related to the fuel being sold is guilty of a Class F felony.

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<u>WV S 30</u>	SPONSOR:	<u>White</u> (D)
	TITLE:	Fuel Price Gouging
	INTRODUCED:	01/09/2008
	DISPOSITION:	Failed - Adjourned
	LOCATION:	Senate Judiciary Committee
	SUMMARY:	Authorizing Attorney General to investigate and charge certain fuel price gouging.
	STATUS:	
	01/09/2008	INTRODUCED.
	01/09/2008	To SENATE Committee on JUDICIARY.
	PRIVATE FILE:	EnergyDatabase
	Subject:	Gasoline

2008 WV S 30
AUTHOR: White
VERSION: Introduced
VERSION DATE: 01/09/2008

Senate Bill No. 30

(By Senators White and Hunter)

[Introduced January 9, 2008; referred to the Committee on the Judiciary.]

A BILL to amend and reenact Section 46A-6J-3 and Section 46A-6J-5 of the Code of West Virginia, 1931, as amended, all relating to giving the office of the Attorney General the power to investigate and charge, at any time, home heating oil, gasoline or other motor fuel price gouging.

Be it enacted by the Legislature of West Virginia:

That Section 46A-6J-3 and Section 46A-6J-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 6J. PROTECTION OF CONSUMERS FROM PRICE GOUGING AND UNFAIR PRICING PRACTICES DURING AND SHORTLY AFTER A STATE OF EMERGENCY.

Section 46A-6J-3. Prohibited unfair pricing practices.

(a) Upon the declaration of a state of emergency, and continuing for the existence of the state of emergency or for thirty days following the declaration, whichever period is longer, it is unlawful for any person, contractor, business or other entity to sell or offer to sell to any person in the area subject to the declaration any consumer food items, essential consumer items, goods used for emergency cleanup, emergency supplies, medical supplies, home heating oil, building materials, housing, transportation, freight and storage services or gasoline or other motor fuels for a price greater than ten percent above the price charged by that person for those goods or services on the tenth day immediately preceding the declaration of emergency, unless the increase in price was directly attributable to additional costs imposed on the seller by the supplier of the goods or directly attributable to additional costs for labor or materials used to provide the services. ~~Provided, That~~ In those situations where the increase in price is attributable to additional costs imposed by the seller's supplier or additional costs of providing the good or service during the state of emergency, the price is no greater than ten percent above the total of the cost to the seller plus the markup customarily applied by the seller for that good or service in the usual course of business on the tenth day immediately preceding the declaration.

(b) Upon the declaration of a state of emergency, and for a period of one hundred eighty days following that declaration, it is unlawful for any contractor to sell or offer to sell any repair or reconstruction services or any services used in emergency cleanup in the area subject to the declaration for a price greater than ten percent above the price charged by that person for those services on the tenth day immediately preceding the declaration, unless the increase in price was directly attributable to additional costs imposed on it by the supplier of the goods or directly attributable to additional costs for labor or materials used to provide the services. ~~Provided, That~~ In those situations where the increase in price is attributable to the additional costs imposed by the contractor's supplier or additional costs of providing the service, the price is no greater than ten percent above the total of the cost to the contractor plus the markup customarily applied by the contractor for that good or service in the usual course of business on the tenth day immediately preceding ~~to~~ the declaration of the state of emergency.

(c) Any business offering an item for sale at a reduced price ten days immediately prior to the declaration of the state of emergency may use the price at which it usually sells the item to calculate the price pursuant to subsection (a) or (b) of this section.

(d) The price restrictions imposed by this article may be limited or terminated by proclamation of the Governor.

Section 46A-6J-5. Penalties, remedies and enforcement.

(a) A violation of this article is an unfair or deceptive act or practice within the meaning of section one hundred two, article six of this chapter and is subject to the enforcement provisions and remedies provided by this chapter.

(b) Any person violating the provisions of this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one thousand dollars, or confined ~~the county or regional~~ in jail not more than one year, or both.

(c) The remedies and penalties provided by this article are cumulative, and do not prohibit any other remedy or punishment available under the laws of this state.

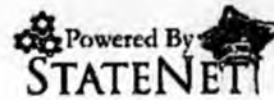
(d) Notwithstanding any contrary provisions in this article, the Office of the Attorney General of this state shall investigate and charge at any time any person, contractor, business or other entity selling or offering to sell to any person home heating oil, gasoline or other motor fuels for a price unreasonably greater than ten percent above the prevailing market price. A person, contractor, business or other entity in violation of this subsection (d) is subject to the penalties and remedies of this section. The Office of the Attorney General may petition any circuit court of this state for the issuance of a temporary restraining order or injunction or for any other remedy, as may be appropriate, to compel a person, contractor, business or other entity to comply with this subsection (d). In the event the state substantially prevails in any action against a person, contractor, business or other entity for violation of a provision of this article, the state shall be awarded reasonable attorneys' fees and costs incurred in such action, and the offending party shall be liable for the attorneys' fees and costs.

NOTE: The purpose of this bill is to give the Office of the Attorney General the power to investigate and charge home heating oil, gasoline or other motor fuel price gouging, at any time.

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US S 357 SPONSOR: Feinstein (D)
COSPONSOR(S): Menendez (D), Sanders (I), Akaka (D), Boxer (D), Collins (R),
Dodd (D), Cantwell (D), Cardin (D), Inouye (D), Lautenberg
(D), Kerry (D), Leahy (D), Lieberman (D), Snowe (R), Reed
(D), Durbin (D), Nelson Bi (D)
TITLE: Passenger Automobile Fuel Economy and Safety
INTRODUCED: 01/22/2007
DISPOSITION: Pending
LOCATION: SENATE
SUMMARY:
Improves passenger automobile fuel economy and safety; reduces greenhouse gas
emissions; reduces dependence on foreign oil; relates to other purposes.
STATUS:
04/07/2008 From SENATE Committee on COMMERCE, SCIENCE,
AND TRANSPORTATION: Reported with an amendment
in the nature of a substitute.
04/07/2008 Reported in SENATE. Printed version.
04/07/2008 In SENATE. Placed on SENATE Legislative Calendar.

(Attached)



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11

Committee Minutes
House SPECIAL CMTE ON ECONOMIC DEVELOPMENT Minutes

HOUSE SPECIAL COMMITTEE ON ECONOMIC DEVELOPMENT
February 24, 1998
2:10 p.m.

COMMITTEE CALENDAR

FUEL PRICES AND THE EFFECT ON THE ECONOMY

TAPE(S)

98-1, SIDE(S) A & B

CALL TO ORDER

Representative Jerry Sanders, Chairman, convened the House Special Committee on Economic Development meeting at 2:10 p.m.

PRESENT

Committee members present at the call to order were Representative(s) Sanders, Ivan, Berkowitz, Hodgins and Williams. Representative Austerman attended via teleconference from Kodiak.

Also attending:

Representative Joe Ryan and Representative Pete Kott

SUMMARY OF INFORMATION

CHAIRMAN SANDERS thanked all the representatives present and gave a summary of why he has called the meeting. He stated that gas prices in Alaska look to be 15 percent to 20 percent higher, with the prices in the Lower 48 running \$.99 to \$1.01 per gallon and Alaska's prices at \$1.15 to \$1.27. But when broken down, you have to look at that Alaska does not have to pay freight on the crude, the refineries save roughly \$.10 per gallon right there. Alaska also only has a fuel tax of \$.08 per gallon while California pays \$.28 per gallon. California has been selling their gas for \$.99 per gallon, take the \$.28 off the top, their selling their gas for \$.69 per gallon while at a \$1.27 per gallon with the tax off, Alaska is selling for \$1.19 per gallon. This has an effect on the economy of Alaska. Why are these things true? There are some obvious reasons, low volume in Alaska, great distances to transport the fuel and severe weather problems. However, government employees and organizations like the Department of Transportation cite the same reasons when they are questioned about costs. They all have the same problems. It is his belief that this has a very significant effect on the economic development of Alaska. There is not a lot of records to go back and check on, but there are some nationwide records. Going back over the country the last 175 years, one can see that for 150 years America has an economic rate of growth that 3.4 percent on an average. In 1973, when the OPEC (Organization of Petroleum Exporting Countries) nations tripled the price of oil, it dropped down, and for 25 years the economic growth rate has been only 2.3 percent. Now that sounds like a difference

of 1 percent point but it's not. When you have a 3 percent growth rate and it drops 1 percent, that is a 50 percent drop. That is what has happened with the nation and surely it is the same for Alaska. A slow economic growth rate caused by the price of fuel is the main cause for the political and social unrest that faces Alaskan's today. Its effect can be felt in Alaskan's personal self-esteem and Alaskan's frame of reference as a state. It makes one look for scapegoats. Is it rural people or it is urban people to blame? Possibly governmental employees? Someone is to blame and it is the slow growth that's inhibiting the state's development. Alaskan people appreciate how much they gain when crude prices go up, but what happens when prices fall? Why do retail prices go up three days after an increase, but it takes a year for it to come down when prices fall? The next question is the hardest. What, if anything, can the legislature do about it to get prices down and the growth rate up? Chairman Sanders said he will call on people from the public, but first will let any representatives with questions or comments speak first.

REPRESENTATIVE JOE RYAN stated that he had a copy of a report done in 1980, by Mr. Frank DeLong and another fellow whose name he has forgotten. It was written for Senator Fahrenkamp's Resources Committee. Mr. DeLong resides in Fairbanks and was the person who started the North Pole Refinery for Earth Resources. He had it for a couple years and sold it. Mr. DeLong states in the report that there are a couple of the major refiners that sell refined products in Alaska and their prices always seem to be within reach of each other, within a penny or so. The report talked about the refinery in North Pole being one of the most profitable in the history of the oil business. They do get royalty oil under a special agreement with the state and that, supposedly, under the agreement the citizens of Alaska would receive lower petroleum prices. They pay a degradation fee of some \$80 million. He has seen an article where there is a 20 percent degradation in the oil that is taken out and then put back in. The refiner should be paying \$.12, but are only paying about \$.04 due to the 20 percent degradation. Fairbanks had a very large economic development program at the airport to bring foreign air carriers in because it is 250 to 300 miles shorter on the great circle route to the Far East than it is to Anchorage. It was a consortium of people who bought pretty cheap fuel products in Singapore, poured them into Anchorage in the duty free zone and lowered the price \$.06 per gallon. That just took care of Fairbanks, they could not compete with those prices. Representative Ryan questioned how fuel could be shipped to Anchorage and sold cheaper than where it was refined. Due to the market, competition? He didn't think that was it. He also questioned why prices were always constant with Tesoro. Why is there no difference if there is competition? With the trades they do, instead of shipping petro up the Kenai Peninsula to Fairbanks, they trade with Tesoro stations then get a corresponding agreement from the lower areas to save shipping costs. The report listed some of these things that the committee is now questioning.

REPRESENTATIVE AL TERMAN stated that he is in Kodiak and gasoline prices are \$1.529 for regular, but one can go down to the plant and buy gas for little cheaper, like \$1.05 plus taxes on top of that of \$.314.

REPRESENTATIVE BILL WILLIAMS didn't feel comfortable getting into a position of dealing with the private sector business, but would like to hear from people in the public sector.

REPRESENTATIVE MARK HODGINS agreed that it is difficult in getting involved in the competitive market. He stated that the House Special Committee on Oil and Gas is looking into some of the

spillage and tanks that led to the underground tank thing. That costs the industry a lot of dollars and it could or could not have something to do with the high prices. If there was just one business that had high prices, there might be something to look at but with competition, it is difficult to try and come in to mess with the economic situation. Prices have fallen in Juneau since three years ago when Mapco came in. The main axiom is that when you're in business, they owe it to their customers to continue to offer their services. It's kind of thin ice that the committee is treading on, but he still thinks it's a good idea to have meeting to see if they can get them to self-examine themselves.

CHAIRMAN SANDERS thanked the other representatives and introduced the first public person to testify.

DAVID REAUME, Economic Consultant from Juneau, stated that the information suggested that there is something worth investigating. Is not the fact prices in Alaska are generally higher than elsewhere, or the Kodiak prices are higher than Anchorage prices? Those differences can be explained by such things as weather. He said he thinks it is interesting the way prices respond over time or fail to respond over time. He gave examples of numbers he has taken between January and December of 1997. The price that Mapco paid for crude oil fell 30 1/2 percent and the price Tesoro paid for crude fell a little bit more than 38 percent. The two companies have different contracts. At the same time, prices at the pumps in Anchorage fell less than 2 percent. If one expects to see a one for one translation of crude oil prices changes into pump prices, that would depend on the percent of the total operating costs and other factors that crude oil took up. Mr Reaume passed out some annual report statements he had gotten off the Internet for Unical, Mapco and Tesoro. He addressed Tesoro's and said to illustrate under the income statement for December 1996, and December 1995, these are the year ending statements. The costs of goods sold, let's set a high percentage of something like 8/9th, whatever translates into somewhere above 80 percent of the revenue is the costs of goods sold. The costs of goods sold has in it other items other than simply crude oil, but he thinks it's safe to conclude from this that crude oil, the acquisition price of crude, constitutes something in excess of half the total costs for these operations. If one was to see a 40 percent reduction in crude oil and if that were translated competitive market to retail pump, one could expect to see something like a 20 percent reduction at the pump instead of the 2 percent. There are some time elements involved.

REPRESENTATIVE ETHAN BERKOWITZ said that's assuming there is no other costs in the price of production.

MR. REAUME stated that was correct. (Indisc.) no, this was suggestive, it did not prove anything but it was suggestive. It did state the issue.

REPRESENTATIVE HODGINS pointed out, from memory, that Tesoro uses about 55 percent of the barrel and gasoline was 25 percent to 30 percent of that so in the barrel itself, they only get 55 percent out that they can actually utilize. The rest was recedes that some of the refineries get to put back into the pipeline. Tesoro had to ship it out to get rid of it and it costs them \$20 million. What struck him was that it's not the portion of the barrel that goes for gasoline, it's like maybe 25 percent of the barrel, so even if there is a 25 percent decrease, they are looking at at least an 8 percent to 10 percent decrease that should be for the cost of the crude. It is not a ratio of one to one.

MR. REAUME said no and that was what he tried to point out, that the percentage translation at the pump under a competitive market would be, in part, a function of the share of total costs that the product in question took up. If there were no other changes, the costs of crude oil was 50 percent of the total cost producing a slate of products than one would expect something like one half the percentage reduction in retail price then one saw in terms of the acquisition price of crude. So crude prices dropping 38 percent, that implies something in the order of 15 percent to 20 percent reduction. With all things equal in a competitive market and sometime lags involved, but thinks that the issue whether or not there is a problem there. It isn't simply that gas prices are \$1.50 in Kodiak and a \$1.20 in Los Angeles that directs attention in the wrong direction. We need to look at how pump prices change when crude oil prices change and some other things. For example, compare, if the data is available, the way in which average gas prices charged by Tesoro and Mapco have changed in the same January to December period. Mr. Reaume said he thinks that the nature of the problem is better focused drawn to the way in which retail prices relate to changes in crude oil prices rather than simply enter area costs differentials. The next point he made was regardless of whether one is talking about the retail or the wholesale level, there is both extensive empirical and theoretical research indicating that price fixing is not only possible, but in fact has gone on a relatively regular basis across the United States for a number of years. He gave the committee a copy of a journal article from the Autumn 1996 Rand Journal of Economics by two authors. One is Sevrin Borinstine from the University of California Berkley. He has done a fair amount of work on the question of the relationship between retail petroleum prices and crude oil prices and the issue of how one, if one were a player in the market, would one go about price fixing without getting caught. If one wanted to contact someone who is not only capable of analyzing but in effect up to speed, that would be the sort of person to contact. He gave the telephone number of Mr. Borinstine to the committee. One of the papers passed out to the committee was co-authored by Mr. Borinstine titled, "Do Gasoline Prices Respond as Symmetrically to Crude Oil Prices Change." Mr. Reaume stated that the mere fact that somebody at the University of California has a research paper that asked that question suggests that somebody around here has been looking at some numbers that at least make a reasonable being want to inquire into it. The second article was authored by Karen Brock, he was not an acquaintance of hers, titled, "The Behavior of Retail Gasoline Prices Symmetric or Not?" What that discusses when they are talking about symmetry is the tendency for people (indisc.) to see and these can tell you whether they have actually recorded them. Retail prices going up when crude oil goes up is relatively lock step fashion and then falling to come down. That's the symmetry that they are referring to in these two articles. The third article Mr. Reaume passed out was from the GAO US Journal Accounting Office, its "Energy Security and Policy: Analysis of the Pricing of Crude Oil and Petroleum Products." These three articles are fairly readable and have other references.

REPRESENTATIVE BEP'OWIIZ said it seems to him that according to the Rand Journal, there is an assumption that there is a tacit collusion as opposed to active collusion. When dealing with a retail market for gasoline. It's competitive as there are a lot of players. There is a good knowledge base by everyone. How does one distinguish between tacit collusion and just competition?

MR. REAUME answered to distinguish tacit collusion from active collusion and then competition from tacit collusion. "Active collusion" means one gets on the phone and talks to the other guy

and they plot, a memo changes hands. That, on occasion, has been found. Tacit collusion usually is embodied in what is called price leader/price follower behavior where for a time they might have tried to cut each others throats. They learned that it makes sense for them as business people to simply let one of them set the tone with respect to raising and lowering prices or changing the way they do business and that qualifies as tacit collusion. When firms are tacitly colluding, they refrain from taking aggressive action on price and other marketing methods against one another. They, in effect, let the lead firm dictate what is going on. That can break down but he has seen it only once in 20 odd years here in Alaska. It happened once in Juneau when Mapco came to town, then it appeared that somebody had reestablished themselves as the price leaders if that model is to be believed. If one is to believe tacit collusion is going on in Juneau, what one might have seen was a period of competition when Mapco first came in followed by a renewed understanding that it isn't the best way for them to conduct business. Competition is simply one does what one thinks is best for their own business. If it means one thinks it's best to match somebody else's price to keep from losing customers, which it usually does, that also means that from that point of view, it is pretty difficult to determine if tacit collusion or competition is going on. If the committee believes that there is a problem, then the anti-trust road is where they have to head. If they believe that a company or group of companies is behaving in an anti-competitive manner, there are only two avenues in which to establish a case. One is statistical and the other is finding the smoking gun. Having someone come forth and testify that is credible or having memos, tapes of telephone conversations, things of that nature. Based on Mr. Reaume's reading of history on anti-trust cases, ones based on statistical evidence are drawn out and frequently come to no conclusion. That is not a cost effective way to use public money unless there is a large amount of money at stake. He cited the example of tobacco companies, the antitrust cases against them were years in the making and until the "smoking gun" came forward in the forms of memos and testimony from Liggett, was going no where. He thinks that if the committee is looking to pursue litigation, it has a long way to go. He gave an idea that he thinks is pretty straight forward but it is not fully developed. They could consider making the price of which companies pay for royalty crude dependent upon their retail performance. He couldn't give a formula, but said it could in effect say if retail prices don't behave symmetrically according to a formula figured out by the state and written into a contract that has been signed, then there is going to be a transfer of funds in effect, the price of royalty crude would go up or vise versa. If the problem is that prices tend to go up with the price of crude but don't tend to go down quite as rapidly this is an avenue the committee might want to seriously investigate. He concluded that the period of investigation has just begun and they might find prices to be reasonable. He doesn't think they are but would keep an open mind and asked if there were any questions from the committee members.

REPRESENTATIVE RYAN stated that he had comments regarding Representative Hodgins' remarks. Tesoro does not have the luxury of reinjecting residual fuel. (Indisc.) He checked the prices of bunker fuel in the West Coast, it was about \$13.

REPRESENTATIVE HODGINS questioned Mr. Reaume about selling royalty oil and tying the price to retail prices. He didn't know how it would be a savings to the consumer and didn't it seem more like a tax.

MR. REAUME answered that suppose the company fails to perform, that the price of crude oil goes down and they fail to pass it through

to the consumer. The nature of the formula would be to see that the break in crude oil prices is passed on to the consumer. If they fail to pass it on to consumers a portion of money is passed over to the state treasury. It doesn't affect the retail price of crude immediately but it is passed over.

REPRESENTATIVE BERKOWITZ asked why the state should get involved.

MR. REAUME answered that the justification Representative Berkowitz was looking for in constructing such a formula was an arguable point. It would be a testable hypothesis that if installed he conjectured the result would not be failure to perform, the result would be performance on the part of companies for fear that the other would perform and thereby create a noncompetitive situation for those that were not performing. Failure to respond would lead to the second part of this. Assuming right now that there is a problem and there is structured a formula and both companies fail to perform. The companies would have a certain amount in public interest advertising. They are concerned about the legislative body investigating, it could lead to different tax laws, regulatory changes. The failure to respond at the retail level leads to publicity in the form of the public knowing the company had to write a check back to the state because prices did not go down. That would stimulate price changes. There are really two ways in which a formula of this sort, if constructed properly, would impact the consumer in a positive way. One would be by one company trying to avoid have to pay back money and the other would be the negative publicity that would arise if the company did have to pay back the money. He stated he could not go beyond this in terms of the formula, he has not thought it all the way through but thinks it is worthy of further investigation.

AN UNKNOWN SPEAKER asked Mr. Reaume was his background in retail at all. Because what he described was if they punish the companies then they will drop their prices and be more competitive but if they didn't punish them, then there was no competition.

REPRESENTATIVE BERKOWITZ said he thought they would be competitive in either stance.

MR. REAUME answered that the discussion of the formula was on the assumption there was a finding of minimum tacit collusion, if there is no finding of that then nothing need be done. He did not have a problem using the word punish.

REPRESENTATIVE BERKOWITZ was not ready to jump to a conclusion there was anything going on.

MR. REAUME said he was not either but was conjecturing.

REPRESENTATIVE BERKOWITZ asked if there was any information that Mr. Reaume knew of that compared Alaska's wholesale prices with those of the Lower 48. He saw through looking through the information retail prices but no wholesale prices.

MR. REAUME said that it is possible to get it but a subpoena might be needed in some cases. These prices are not typically published and made readily available to the general public. He did not know of any place he could get those numbers right away but knew of where to get them in principal but it would take time. He went on to say that there was a time that the attorney general's office was looking into this matter and the answers they got from the local stations was the stations were only passing on the higher prices due to the high wholesale price. If one were to figure out the differences between the prices of Southeast Alaska and Seattle,

being very generous with tanker travel costs, one could never get the wholesale price differential that they had come up with. At that point in time, it appeared that Chevron and Unical were taking advantage of their duopoly (ph.) in Southeast Alaska and exploiting it. The prices in Juneau as it was then and the prices as they would have been under a really competitive market was probably eaten up by the wholesale markup. He did not have those numbers but the AG's office did and probably got them cooperatively, he was not sure if they had to subpoena the companies.

CHAIRMAN SANDERS asked Mr. Reaume if he thought that if they could get the television stations to give out the prices of gas, showing where the lowest prices were, if it would have any affect on prices. He thought though getting the stations to do it might prove difficult due to advertising dollars.

MR. REAUME answered that the first problem would be getting them to do it and that it could lower prices for awhile, but after a time there would not be a long run effect. He wanted to point out something else also when he was talking about deviation gas prices, average gas prices has dropped he conjectures, more or less with the price of crude. That situation exists in other fields. He gave an example of trash pick up in Juneau ten years ago. Consumers were paying the lion's share of the profit margin of the company instead of the businesses, who dumped the most garbage. Individual consumers are not organized and, therefore, have a harder time getting things changed, where as larger consumers would have less of a problem. That is a general theme, anytime one constitutes the largest part of a business, they have more of a say on prices.

REPRESENTATIVE RYAN gave a scenario and asked if it was reasonable. If the legislature looked at the contracts of Mapco and Tesoro and see if there is advantage. Looking at the general oil business, refineries in particular, they are located near a large seaport because they receive ocean shipments of oil. Fairbanks has a unique situation, the refinery is allowed to tap off the TransAlaska pipeline and pay a degradation fee. He doesn't remember if there is a transportation fee involved.

MR. REAUME gave his understanding of the degradation charge. That it is based on the volume put back versus the volume taken out, that's one factor and the BTU value of what was put back versus what was taken out. There may be additional factors going into the composition of what was taken out but he didn't know. It is the quantity and quality of what is taken and that is figured right at the Fairbanks terminal. Transportation should not figure in for the crude that goes on down to the Valdez terminal. He would be surprised if it was. He thinks the issue is the total amount they exact and that they do to take out valuable hydrocarbons at Fairbanks that could otherwise be sold to the West Coast, Gulf of Mexico.

REPRESENTATIVE RYAN asked if that fee makes up for the transportation from Fairbanks to Valdez. The fees are supposedly for the degradation of the oil. Someone has to pay it.

MR. REAUME answered that the ultimate buyer at the end of the line pays for that.

REPRESENTATIVE RYAN asked is that a concession.

MR. REAUME answered yes.

REPRESENTATIVE RYAN said if that's true and they have given certain

concessions and under the tacit understanding he was reading about. Mr. Reaume interrupted and said that it really isn't a concession, it is a reflection that when Mapco takes the oil, it doesn't have to go all the way. Oil purchased in the Gulf of Mexico is going to be higher due to transportation costs. It is a cost advantage for Mapco over having not to transport it from Valdez.

REPRESENTATIVE RYAN asked what does Tesoro get out of the market when they have to pay transportation costs and they are getting a product that is of less value due to have Mapco putting back in the degraded oil residue. It lowers the value of the royalty oil at the Valdez terminal. They are at a competitive disadvantage to Mapco. How can they stay competitive and still make a profit.

MR. REAUME answered that it is cheaper to ship refined products than it is to ship crude so Mapco has to ship their products to Anchorage and that offsets some of the costs. He said it is a good point Representative Ryan was trying to make and he thinks it bears investigating. One has to look at the total cost of acquisition of crude and the quality of crude they are buying, what sort of competitive edge would Tesoro have over Mapco and vice versa in a well defined market. He didn't have any answers and that is one of the things the committee needed to look into to before any firm conclusions can be drawn.

CHAIRMAN SANDERS asked that if transportation costs are higher for Mapco to ship down to Anchorage, why is the price \$.13 to \$.15 lower in Anchorage than it is in Fairbanks.

MR. REAUME said that is one of the questions the committee will need to send its research people. It is going to take investigating and will take time.

CHAIRMAN SANDERS thanked Mr. Reaume for his testimony and said that the next person to testify would be someone who uses fuel for his business. The focus would be on diesel fuel, which drives the economy.

ERROL CHAMPION, Silver Bay Logging, Southeast Alaska, testified that the business' costs for fuel was their second largest expense next to personnel costs. He thinks that statement would hold true for any business which is in natural resource harvesting. They operate all over the state. Their business uses a fleet of helicopter which last year used 954,000 gallons of fuel. The small fleet of turbo planes used 67,000 gallons. They have five tugs and they haul their own fuel to the smaller locations because it cannot be delivered any other way. The five tugs burned 1,550,000 million gallons of fuel in 1997. The traditional logging and construction sights that operate across the state burnt 4,680,000 gallons of fuel. Total fuel 7,257,000 in 1997. Wholesalers who bring it out by barge weekly deliver the fuel in Southeast. Montague Island and Afognak Island are supplied by the company's own tugs which take up to 250,000 gallons loaded up in Anacortes Washington. They make five trips a year. The quick math on that is that they spent 7.2 million dollars on fuel last year and a dime off a gallon is a savings of three quarters of a million. That amount of savings goes to the bottom line, allowing the company to make other investments, improve their operation, etc. The cost of fuel is extremely significant to the business's operation.

CHAIRMAN SANDERS said he assumes they buy their fuel in Anacortes because it is cheaper than Alaska. Kenai is closer and if it was cheaper, they would save money.

MR. CHAMPION said it is approximately 40 percent cheaper in

Anacortes than to purchase it in Kenai. The company buys in bulk consistently and pays about \$.80 a gallon. They purchase it from Texaco or BP. There are three refineries and they are very competitive with each other. Even if they filled their tugs at the Seattle waterfront, they will pay less than buying in Alaska. Ballard WA the price is about \$.90 per gallon.

CHAIRMAN SANDERS asked if the crude was from Alaska.

MR. CHAMPION replied that was correct.

REPRESENTATIVE RYAN asked what was the cost of transporting the fuel back up to Alaska.

MR. CHAMPION said they figured it was about \$.06 per gallon. The fuel is from Alaska and they transport it back. They try to have a back run of logs, whatever, so they don't make an empty trip.

CHAIRMAN SANDERS asked what taxes were involved. They do have a water born freight and tax tariff.

MR. CHAMPION said that was included in the price. It does not include any federal highway tax or sales tax. But it would be the same here.

REPRESENTATIVE RYAN asked if they received a rebate on the Federal highway tax for using a marine application.

MR. CHAMPION said if they paid it, they would get rebate but they avoided doing that, as it was a long time to get the rebate checks. They try and buy from a wholesale dealer who is not levied. They don't run on federal highways, they are consistently in remote locations. They consume their fuel on off road situations.

CHAIRMAN SANDERS asked Representative Austerman if this seemed to comport with information he had in Kodiak about diesel prices. Are prices less outside.

REPRESENTATIVE ALAN AUSTERMAN said that was true. Small businesses buy off the West Coast also.

MIKE PRINCE, Emmonak, Alaska, representing Lower Yukon School Board, gave testimony on gas prices for the school board. They pay \$2.30 per gallon and they have a \$.03 sales tax. They might dip in price a little bit in summer but it is usually \$2.30. They use the gas for their snow machines. They use stove oil and it is \$2.20 per gallon. They bring it in by barge. He said that his household uses about 110 a month on stove oil, maybe more. Their house is pretty well insulated. The figures might be conservative. He has a wood stove and uses 100 to 110 per month. Fuel use for machines is broken down, that in summer they use outboard motors and winter for their snow machines.

REPRESENTATIVE RYAN asked what amount of fuel did the school use.

MR. CHAMPION said that they put it out to bid. They have 11 sights and seems like bulk rate for heating fuel is about \$1.73. They buy a lot of fuel and that price might be a bit conservative. They have on occasion transferred fuel to local entities on an emergency basis. It's an emergency basis only as they are very tight on fuel. The fuel is deliver as late of September, maybe October. They are mandated by insurance companies to have the barges out of the area by a certain time. He did not know where the distributors got their fuel.

ART HECKMAN, Pilot Station, runs the retail store in Pilot Station. They retail their gas for \$2.60 per gallon. They have a holding tank for approximately 50,000 gallons for heating fuel and gas. That includes the \$.04 per dollar sales tax. Heating fuel is \$2.30 per gallon. His household uses about 1,000 to 1,500 per year to heat up his home. He uses driftwood to supplement heating costs. The school has a holding tank of, his guesses, 8,000 gallons for heating fuel. That covers the school and the living quarters for the teachers. The light plant has anywhere between 80,000 to 110,000. The electric company tacks on a charge for 55 gallons of fuel to each bill. That is approximately \$75 per month to each bill. He said that their distributor got their fuel from the West Coast. It was cheaper. The people run out of heating fuel around spring. They cannot live a subsistence lifestyle, there are only 40 permit holders for subsistence use. When the people run out of fuel, they have to rely on neighbors. Everyone rations their gas. When people want to moose hunt, they are limited to five to six gallons but they need much more to hunt moose.

ADJOURNMENT

The meeting was adjourned at 3:30 p.m.

COMMITTEE ACTION

Committee took no action.

NOTE:

The meeting was recorded and handwritten log notes were taken. A copy of the tape and log notes may be obtained by contacting the House Records Office at 130 Seward Street, Suite 211, Juneau, Alaska 99801-1182, (907) 465-2214, and after adjournment of the second session of the Twentieth Alaska State Legislature, in the Legislative Reference Library.

Committee Minutes

House SPECIAL CMTE ON ECONOMIC DEVELOPMENT Minutes

HOUSE SPECIAL COMMITTEE ON ECONOMIC DEVELOPMENT

March 19, 1998

5:10 p.m.

COMMITTEE CALENDAR

FUEL COSTS AND THE EFFECT ON THE ECONOMY

TAPE(S)

98-2, SIDE(S) A & B

98-3, SIDE(S) A

CALL TO ORDER

Representative Jerry Sanders, Chairman, convened the House Special Committee on Economic Development meeting at 5:10 p.m.

PRESENT

Committee members present at the call to order were Representatives Sanders, Ivan, Williams, Kemplen, Hodgins, Berkowitz, Croft and Austerman.

Also Attending:

Representative Vic Kohring and Senator Jerry Ward also attended the meeting.

SUMMARY OF INFORMATION

Representative Sanders introduced people standing by on-line to testify via teleconference. On-line was Anchorage, Fairbanks, Kenai, Gakona, Kodiak and Glennallen. Representative Sanders asked for their testimony on the effect of high fuel prices in their area of the Alaskan economy.

FRANK DILLON, Executive Vice President, Alaska Trucking Association, stated that the trucking industry's lifeblood is diesel fuel. His company has noticed that the cost of diesel fuel remains higher in Alaska than outside of Alaska. He also stated that the added out-of-state fuel tax is about .20 cents a gallon compared with the Alaska fuel tax of .08 cents a gallon, you come up with a fuel differential of about 92 cents per gallon outside of Alaska for self serve versus \$1.25 in the state. He believes that competition is an effective way for the market to respond to pricing. Anytime there is a reduction in the price of fuel, that reduction is passed on to the consumer and everybody in Alaska. It definitely has a positive effect on the general quality of life. He is pleased to see this committee inquiring into this matter.

LARRY KORDECKI once tried to institute a class action suit against Mapco and Tesoro regarding gasoline and diesel fuel prices. Nothing came of it. Since then, he had given up on it until Representative Sanders brought attention to the issue. He stated

that he would have liked to have had Representative Sanders around four years ago when the Governor or the legislature would not even talk to him about this issue. He doesn't feel that the market will take care of itself. It is time for the legislature to really do something.

DANIEL J. MAY, Polar Mining Company, did not attend but submitted a letter into public testimony. The letter dealt with the large difference in prices of fuel refined in North Pole and available to consumers there. The same fuel, which is available to consumers in Washington State, is less by 27 cents per gallon. Mr. May believes consumers in Fairbanks are being gouged. Legislative Assistant Patricia Everson read the testimony which is on file.

CHRIS BERNS, Commercial Fisherman, Kodiak, stated that he has a small fishing vessel and his fuel costs are about 10 percent of his boatload. Everything that is done in the fishing industry is driven by diesel - the boats and the processing plants. All this adds up to making an already strapped industry that more burdened. He applauds the investigation into this matter by the Representative Sanders and the legislature.

ALAN LEMASTER, Texaco Dealer, Glennallen, stated that he would be available to answer questions or help in any way.

RICH CLINE, Owner, Clines Tesoro, Anchorage, stated that he is a retailer that has been in Alaska since 1964. He must maintain a certain margin of markup to make a living and pay his expenses, such as tank insurance, taxes, and workmen's compensation and garage insurance. When he buys his fuel, there is an amount of mark up that he has to have to pay his expenses. The price of fuel at his station today is \$1.11 a gallon. At Mapco in Anchorage gasoline is \$1.15 a gallon on one side of town and as high as \$1.22 a gallon on the other side of town. They seem to have a .07 to .08 cent difference in prices depending where they are located.

MR. LEMASTER stated that it costs him a quarter of a million dollars to replace a pump that has six hoses. He is a very small station in rural Alaska. He doesn't have the number of gallons pumping out of his station per day that other stations do in Anchorage or Fairbanks. Therefore, his cost is much higher being that his volume is so much less. As a result of where he lives, he is stuck with raising his prices more per gallon than what you would pay in Anchorage. If he dropped his prices even a penny or so it would cost him to run the station.

BILL JEFRESS, representing Gold Mining in Fairbanks said his company uses approximately 310,000 gallons of diesel fuel per month. He stated that oil prices are at a 10-year low but gold prices are at an 18-year low. He feels that there is preferential charging. It seems that a lower price is being charged to the international freight haulers in Anchorage for fuel that is actually refined 16 miles from Fairbanks. His company would like to buy locally, but they are forced to go outside.

JERRY MCCUNE, President, Cordova District Fisherman United, stated that fuel prices for fishermen have been high. The lack of competition is part of the problem in some of the rural areas. We should find a way to refine some of our heating fuel here. Heating fuel costs are a big part of people's income in this state, even more so if you live somewhere like Fairbanks. Every penny or two that is saved on fuel means thousands of dollars for communities, fishermen, processing plants and workers.

EDDY BURKE, Anchorage Resident, stated he was a Texaco dealer for

four years and a Chevron dealer for ten years. He has been out of the gasoline retail business for one year. From his standpoint the environment has changed so much in the last 15 years or so. When he started his business in 1984, most gas stations were all mom and pop owned, they were your neighbors. It seems when Mapco came to town all that seemed to change - some changes for the good and some for the bad. The service station business has changed dramatically. We have stations, such as Chevron, owning their own facilities across the state. It is not the independent dealers that are holding the profits. Station owner profits have done nothing but decrease. We have oil companies getting rid of independent mom and pop dealers. It seems three big oil companies are controlling the whole market. He believes Mapco dictates the prices and the other stations follow suit.

RON KOVALIK, Fairbanks, said he has been retired for the last twenty years. He asked why only one representative in all this time has brought this issue up. It almost seems as if the attorney general is engaged in selective enforcement. You don't need collusion to have price gouging; all you need is deaf and blind enforcement. The state ought to get a little tighter about their royalty oil sales and tie it to the sale price of Alaska oil in the Lower 48. Mr. Kovalik stated that he would like to see some of these antitrust laws discussed. This government appears to be bought off. Commissioner Shively is doing the bidding if the governor; he can't make these decisions on his own.

MR. BURKE referred to a Los Angeles news article stating that San Diego has passed legislation banning oil companies from owning stations. He thinks something along those lines should be done here.

STEVE WORMINGTON, Vice President, Tesoro, Anchorage, started his testimony by stating that he would like to dispel the concept that Tesoro is making millions. He gave an example of a \$300 million investment that only profited \$700,000. He went on to say that in 1996, Tesoro did have an improvement of \$2 million, 2 percent pretax profit and in 1997, we more than tripled to a 7 percent return on our investment, for a total of \$20 million. Tesoro is extremely dollar limited. We currently have 170 branded locations in the state of Alaska and he would like to state that those are not concentrated in the Anchorage area, as most other companies are. Tesoro is throughout the state. The majority are 35 companies owned and operated locations that we set the price on. The remainders of stations are independent dealers. He told us of one of his dealers, who works about 16 hours a day, 7 days a week, stated if you look at his location, he is not getting rich. Basically, it's a tough business. It's predicated on what the dealer can sell his product for. Their profits are based upon margin and how many gallons they sell. The more gallons, the lower the margin. He stated that generally most dealers are operating stations that sell well less than 100,000 gallons per month, compared to the average Mapco station, per their last report that I saw was 177,000 gallons per month. They are basically, three times the size. He stated that it does get to the point where it is extremely difficult for an independent to operate his station as efficiently as someone who is pumping three times as much gasoline as he is. He went on to state that he does believe that Mapco certainly built some very nice locations, they have put a lot of dollars back into the economy and I think that is what the general public is wanting. When asked about collusion among oil companies, he stated that he personally didn't want to wear a striped suit, so he can assure us that there is no way he is talking to anybody about collusion in oil prices. It's very clear what the impact of that is and I don't quite make enough money to justify wanting to

do that to myself. He stated that he had just come from the Department of Natural Resources and said we were looking at talking to them about our royalty contract, which comes up next year. The price is going to be the same as what is being offered to Mapco. The problem is the quality isn't going to be the same. When asked about prices being so high when we are so close to the source, he responded that he believes having two refineries in the state for gasoline has lowered the overall cost to the Alaska consumer. He stated that Tesoro supplies approximately 60 percent of the state's gasoline requirements, but of that, that is heavily weighted towards outside the Anchorage area. When asked when will we, the citizens of Alaska, actually see competition occur in the price of gasoline and when will we see the benefits of the market place at work, he replied, "If you haven't seen a drop in gasoline prices, then you and I are living in different places."

REPRESENTATIVE ALLEN KEMPLEN asked if Tesoro made a fairly sizeable profit amount from the sale of gasoline here in the state.

MR. WORMINGTON answered that it is certainly much more profitable then selling residue fuel in Los Angeles.

CHAIRMAN SANDERS asked do you produce more gas than you can sell in the state. Do you produce any home heating fuel?

MR. WORMINGTON answered that they do to a limited degree. Diesel and home heating fuel are very similar products, so he would have a hard time telling us if someone was using it for home heating oil.

CHAIRMAN SANDERS asked if Tesoro sells any diesel or very much diesel fuel to Petro Marine or Delta Western.

MR. WORMINGTON answered that Petro Marine was previously purchased from Tesoro until about 2 years ago. They started purchasing the majority of their product from Mapco and they formed a deal in Southeast, where Petro Marine has built a service station where they make Petro Express. We have sold large amounts of product to Delta Western. Delta Western is currently experiencing some financial difficulties and we have not made sales to them recently.

CHAIRMAN SANDERS asked if the Alaska public would be better served if you kept that gasoline in the state of Alaska and lowered your price and got a bigger share then the 60 percent that you currently have.

MR. WORMINGTON answered that the problem is that Tesoro makes more then the state of Alaska uses. So it really won't make much difference what the price was. He stated he would have to say that he has a good idea that we will trade the gasoline that we're shipping outside the state for crude oil and let the state sell that then. He stated that he was being facetious. We would like very much to sell our entire product in state and that is what we have started to press, we have stated that.

REPRESENTATIVE KEMPLEN stated that when you have an excess supply, prices drop and demand picks up correspondingly and if your saying that you have excess supply of gasoline, he would expect based upon economics, that the price would drop and so then demand would pick up. He asked why that didn't that work in this case.

MR. WORMINGTON answered that he thinks the point earlier that Mapco is basically the leader of pricing and he won't tell us that it's a matter of collusion, but when we make a price move, Mapco is going to be moving to. He further stated that if Tesoro drops

prices 10 cents a gallon, that Mapco will drop it that much more.

CHAIRMAN SANDERS asked, "So you are telling me this whole me this whole thing hinges on Mapco. If we can get a grip on Mapco, everything will come down?"

MR. WORMINGTON answered, No sir, he was not saying that. It hinges on the free market place and that he believe the price of gasoline does change over a period of time. One item he would like to mention here, and he apologized that he failed to mention earlier, everyone wants to talk about the price of crude and why we don't have an immediate drop in the price of gasoline. As of the end of February, Tesoro had 4.2 million barrels of crude and products in storage, now since we have to transport the crude to the refinery by vessel and the associate is somewhat of an unstable means of transport sometimes, we have about 1.5 million barrels of stored crude oil. That's a months supply. He stated that Tesoro's prices in March, 1997, were \$1.35, they are now in the \$1.15 range. He refereed to an article from the American Petroleum Institute that stated that October, 1997, through early March, 1998, the average price of gasoline throughout the United States fell from 1.254 a gallon to 1.075 a gallon. We have a lag, now we could sit there and say the refinery on the pipeline doesn't have a lag because they have no inventory. Of course, on the other side, we'll tell you when prices go back up and he can assure us it is when, not if, we will have lower cost crude in our tanks then our competition do, when Mapco does, so it will average out over a period of time.

CHAIRMAN SANDERS asked if they would keep the prices down for three months when it goes back up.

MR. WORMINGTON offered his apology and stated that he wants to be sure that we understand that he does not set the price on the street at any location other then the ones that we own and operate.

MR. LEMASTER asked if he could throw another factor into the equation. If I'm a Tesoro dealer and I'm paying the distributor \$1 a gallon and I mark my gas up 10 cents a gallon. Where as the cost of gasoline goes down considerable, it's going to go down 20 cents, I'm still making my 10 cents a gallon, but my profit margin, my percentage of profit to my investment is considerably greater. If his price goes from \$1 to \$1.50, and I still have to charge my 10 cents a gallon to be competitive, then my percentage of profit goes down.

AN UNIDENTIFIED SPEAKER replied, "You're making the same number of dollars but you are right, your percentage of profit is different."

CHAIRMAN SANDERS stated that he thought that Mr. Wormington was going to be here for the meeting, so he prepared a beautiful chart for him, showing the prices in Anchorage, Juneau, Fairbanks and California.

REPRESENTATIVE VIC KOHRING stated that he is a member of this committee but would like to have a minute to offer some remarks. First of all, he stated that he would like to let Representative Sanders know that he appreciates him scheduling this hearing and bringing forth this issue. He needs to study this issue a little more before He can come to any definitive conclusion, but what he did deduce from this is that his constituents are being gouged. However being the pure, free market purist that he is, he really doesn't think that government ought to be dictating the process here. He stated he doesn't think the government ought to be coming in and implementing laws, regulations, whatever, to control the free market process out there and he really thinks that it should

be run on a supply and demand basis. He thinks perhaps there is a role that the legislature can play. If there is a problem it is the legislatures duty to expose it.

REPRESENTATIVE IVAN IVAN stated that this has been a learning experience for him. Gasoline in his community is about \$2.30 a gallon and heating fuel is around \$2 but he understands that that might be part of the shipping cost. He would like to call on someone to explain, the effective commissioners, whoever they are, that are involved in the execution of regulations are statutes that pertain to this. He certainly believes in the free enterprise system and that's what makes the world go round. This certainly has an impact on the cost of living where he comes from. He said he looks forward to more meetings. Hopefully, something will come out of this.

REPRESENTATIVE KEMPLÉN stated that he is certainly concerned by what he has heard at this meeting. He is concerned that Tesoro is not dropping prices even though they have extra supply and Ron Kovalik he made the statement that Tesoro will charge what the market will bare. It seems to him that there is something not quite kosher. Government does have a legitimate roll to play in enforcing the rules of the market place. When we cut government budgets just for the sake of cutting government budgets we are shooting ourselves in the foot and were doing a disservice to the citizens of Alaska, because here it seems to me is an example of why we have government, to enforce the rules of the game, so that the citizens of Alaska get a fair deal.

CHAIRMAN SANDERS stated that he would wind it up by saying that his primary interest is not in the price of the crude today or the fluctuation from last week or the relationship between crude in the last month and the price. His question is to the price of fuel in Alaska over the last 25 years. When the refineries were built in Alaska and the royalty crude was sold to them, the idea was that their was to be price benefits to the citizens of Alaska and I don't see where those benefits are coming to Alaska. Least of all where Representative Ivan comes from. He questioned what he getting out of his royalty oil and what are his constituents getting out of their royalty oil. He thinks that's the question here. We are going to keep working on it and we will have the Administration in and at some point we will have all the oil companies or refineries here. We will sit down and talk to them, someone is going to explain this to us.

ADJOURNMENT

The meeting was adjourned at 7:10 p.m.

COMMITTEE ACTION

The committee took no action.

NOTE:

The meeting was recorded and handwritten log notes were taken. A copy of the tape(s) and log notes may be obtained by contacting the House Records Office at 130 Seward Street, Suite 211, Juneau, Alaska 99801-1182, (907) 465-2214, and after adjournment of the second session of the Twentieth Alaska State Legislature, in the Legislative Reference Library.

12

Alaska State Legislature

Interim: (June-Dec)
710 WEST 4TH AVENUE, SUITE 600
ANCHORAGE, AK
99501-2133
(907) 269-0129
FAX (907) 269-0128



Session: (Jan-May)
STATE CAPITOL, ROOM 208
JUNEAU, AK
99801-1182
(907) 465-4859
FAX (907) 465-3799

JOHN HARRIS
Speaker of the House

August 29, 2008

The Honorable Jay Ramras
Chairman, House Judiciary Committee
Alaska House of Representatives
State Capitol
Juneau, Alaska 99811

Dear Rep. Ramras:

By this letter, I am requesting that you, as Chairman of the House Judiciary Committee, begin an investigation regarding the retail price of fuel in Alaska, specifically why reductions in price significantly trail reductions in price nationwide.

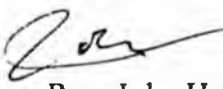
As we have seen in the very recent past, the price at the pump in Alaska, and nationwide, has risen dramatically as the price of crude oil has pushed above \$140 per barrel. Currently, however, the price nationwide has dropped to an average of \$3.68 per gallon as the price per barrel dropped to around \$115, yet, the price in Alaska has remained at an average above \$4.50. Obviously, purchasers of home heating fuel suffer from this same market problem. Bush communities suffer even more.

This is intolerable for Alaskan consumers. The cost of living and commuting in our state is already prohibitive for many residents. The slow response of the market to dropping crude oil prices adds a layer of insult to that injury.

Please look into this, and prepare a report with solid recommendations for action the Legislature can take as soon as practicable.

Thank you. If you have any questions about this request, please contact me through my office or on my cell phone.

Sincerely,


Rep. John Harris
Speaker of the House

ALASKA STATE LEGISLATURE HOUSE JUDICIARY COMMITTEE



Representative Jay Ramras
Chairman
(907) 465-3004
Fax: (907) 465-2070
Representative Jay_Ramras@legis.state.ak.us
1292 Sadler Way, Suite 324
Fairbanks, AK 99701
(907) 452-1088

Committee Members:
Representative Nancy Dahlstrom,
Vice-Chairman
Representative John Coghill
Representative Bob Lynn
Representative Ralph Samuels
Representative Max Gruenberg
Representative Lindsey Holmes

State Capitol, Room 120
Juneau, Alaska 99801

SENT VIA EMAIL: steve.rush@holidaycompanies.com

September 9, 2008

Steve Rush, J.D.
Counsel for Holiday Companies Retail Stores

Re: House Judiciary Hearing

Dear Mr. Rush:

I would like to invite you and/or a representative of your organization to testify at a special House Judiciary Committee hearing on September 10, 2008 from 9:00 a.m. to 5:00 p.m., at the Legislative Information Office in Fairbanks (1292 Sadler Way, Suite 308). The purpose of this hearing is to discuss the market price of fuel in Alaska.

At this meeting, we will address the price of fuel at the pump as well as the price of home heating oil and why the prices have dropped substantially nationwide but, the prices in Alaska have remained relatively flat by comparison.

We will be taking testimony from refiners, distributors, and retailers, as well as testimony from the Department of Law as to the status of their investigation.

I look forward to your testimony, and to a productive hearing on September 10th. I will provide you with a more specific time for testimony as soon as a schedule has been finalized.

Should you have any questions or require further information concerning this matter, please do not hesitate to contact this office.

Sincerely,

Representative Jay Ramras, Chair
House Judiciary Committee

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Committee Members:
Representative Nancy Dahlstrom,
Vice-Chairman
Representative John Coghill
Representative Bob Lynn
Representative Ralph Samuels
Representative Max Gruenberg
Representative Lindsey Holmes

September 2, 2008

Mr. Jeff Cook
Flint Hills Resources
1100 H & H Lane
North Pole, AK 99705

Via e-mail: jeff.cook@fhr.com

Re: House Judiciary Hearing

Dear Mr. Cook:

I would like to invite you and/or a representative of your organization to testify at a special House Judiciary Committee hearing on September 10, 2008 from 9:00 a.m. to 5:00 p.m., at the Legislative Information Office in Fairbanks (1292 Sadler Way, Suite 308). The purpose of this hearing is to discuss the market price of fuel in Alaska.

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Sincerely,

Representative Jay Ramras, Chair
House Judiciary Committee

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Committee Members:
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Vice-Chairman
Representative John Coghill
Representative Bob Lynn
Representative Ralph Samuels
Representative Max Gruenberg
Representative Lindsey Holmes

State Capitol, Room 120
Juneau, Alaska 99801

September 2, 2008

Mr. Doug Chapados
Petro Star, Inc.
3900 C Street, Suite 802
Anchorage, AK 99503

Via e-mail: dlchapados@petrostar.com

Re: House Judiciary Hearing

Dear Mr. Chapados:

I would like to invite you and/or a representative of your organization to testify at a special House Judiciary Committee hearing on September 10, 2008 from 9:00 a.m. to 5:00 p.m., at the Legislative Information Office in Fairbanks (1292 Sadler Way, Suite 308). The purpose of this hearing is to discuss the market price of fuel in Alaska.

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Sincerely,

Representative Jay Ramras, Chair
House Judiciary Committee

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Vice-Chairman
Representative John Coghill
Representative Bob Lynn
Representative Ralph Samuels
Representative Max Gruenberg
Representative Lindsey Holmes

State Capitol, Room 120
Juneau, Alaska 99801

September 2, 2008

Mr. Kip Knudson
Tesoro
2700 Gambell Street, Suite 500
Anchorage, AK 99503

Via e-mail kknudson@tsocorp.com

Re: House Judiciary Hearing

Dear Mr. Knudson:

I would like to invite you and/or a representative of your organization to testify at a special House Judiciary Committee hearing on September 10, 2008 from 9:00 a.m. to 5:00 p.m., at the Legislative Information Office in Fairbanks (1292 Sadler Way, Suite 308). The purpose of this hearing is to discuss the market price of fuel in Alaska.

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Sincerely,

Representative Jay Ramras, Chair
House Judiciary Committee

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Vice-Chairman
Representative John Coghill
Representative Bob Lynn
Representative Ralph Samuels
Representative Max Gruenberg
Representative Lindsey Holmes

State Capitol, Room 120
Juneau, Alaska 99801

September 2, 2008

Mr. Glenn Peterson
Safeway, Inc.
6401 A. Street
Anchorage, AK 99518

Via e-mail glenn.peterson2@safeway.com

Re: House Judiciary Hearing

Dear Mr. Peterson:

I would like to invite you and/or a representative of your organization to testify at a special House Judiciary Committee hearing on September 10, 2008 from 9:00 a.m. to 5:00 p.m., at the Legislative Information Office in Fairbanks (1222 Sadler Way, Suite 308). The purpose of this hearing is to discuss the market price of fuel in Alaska.

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Sincerely,

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House Judiciary Committee

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Representative John Coghill
Representative Bob Lynn
Representative Ralph Samuels
Representative Max Gruenberg
Representative Lindsey Holmes

State Capitol, Room 120
Juneau, Alaska 99801

September 9, 2008, 2008

Representative Bob Roses
716 W. 4th Ave., Ste. 660
Anchorage, AK 99801-1182

Re: House Judiciary Hearing

Dear Representative Roses:

I would like to invite you to testify at a special House Judiciary Committee hearing on September 10, 2008 from 9:00 a.m. to 5:00 p.m., at the Legislative Information Office in Fairbanks (1292 Sadler Way, Suite 308). The purpose of this hearing is to discuss the market price of fuel in Alaska.

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Sincerely,

Representative Jay Ramras, Chair
House Judiciary Committee

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Representative Bob Lynn
Representative Ralph Samuels
Representative Max Gruenberg
Representative Lindsey Holmes

State Capitol, Room 120
Juneau, Alaska 99801

September 2, 2008

Representative Bob Roses
716 W. 4th Ave., Ste. 660
Anchorage, AK 99801-1182

Re: House Judiciary Hearing

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Sincerely,

Representative Jay Ramras, Chair
House Judiciary Committee

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Representative Bob Lynn
Representative Ralph Samuels
Representative Max Gruenberg
Representative Lindsey Holmes

State Capitol, Room 120
Juneau, Alaska 99801

September 2, 2008

Mr. Ed Sniffen, Jr.
Senior Assistant Attorney General
1031 W 4th Ave., Ste. 200
Anchorage, AK 99501-1994

Re: House Judiciary Hearing

Dear Mr. Sniffen:

I would like to invite you and/or a representative of your organization to testify at a special House Judiciary Committee hearing on September 10, 2008 from 9:00 a.m. to 5:00 p.m., at the Legislative Information Office in Fairbanks (1292 Sadler Way, Suite 308). The purpose of this hearing is to discuss the market price of fuel in Alaska.

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Should you have any questions or require further information concerning this matter, please do not hesitate to contact this office.

Sincerely,

Representative Jay Ramras, Chair
House Judiciary Committee



RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original documents after microfilm reproductions have been made.

Stan Hubbard

Signature of Camera Operator

6-1-2009

Date

10/23/08

**OVERVIEW:
HIGH GAS &
HEATING
OIL PRICES
IN AK**

CONTENTS

1

2

3

4

5

6

7

8

9

10

11

12

13

14

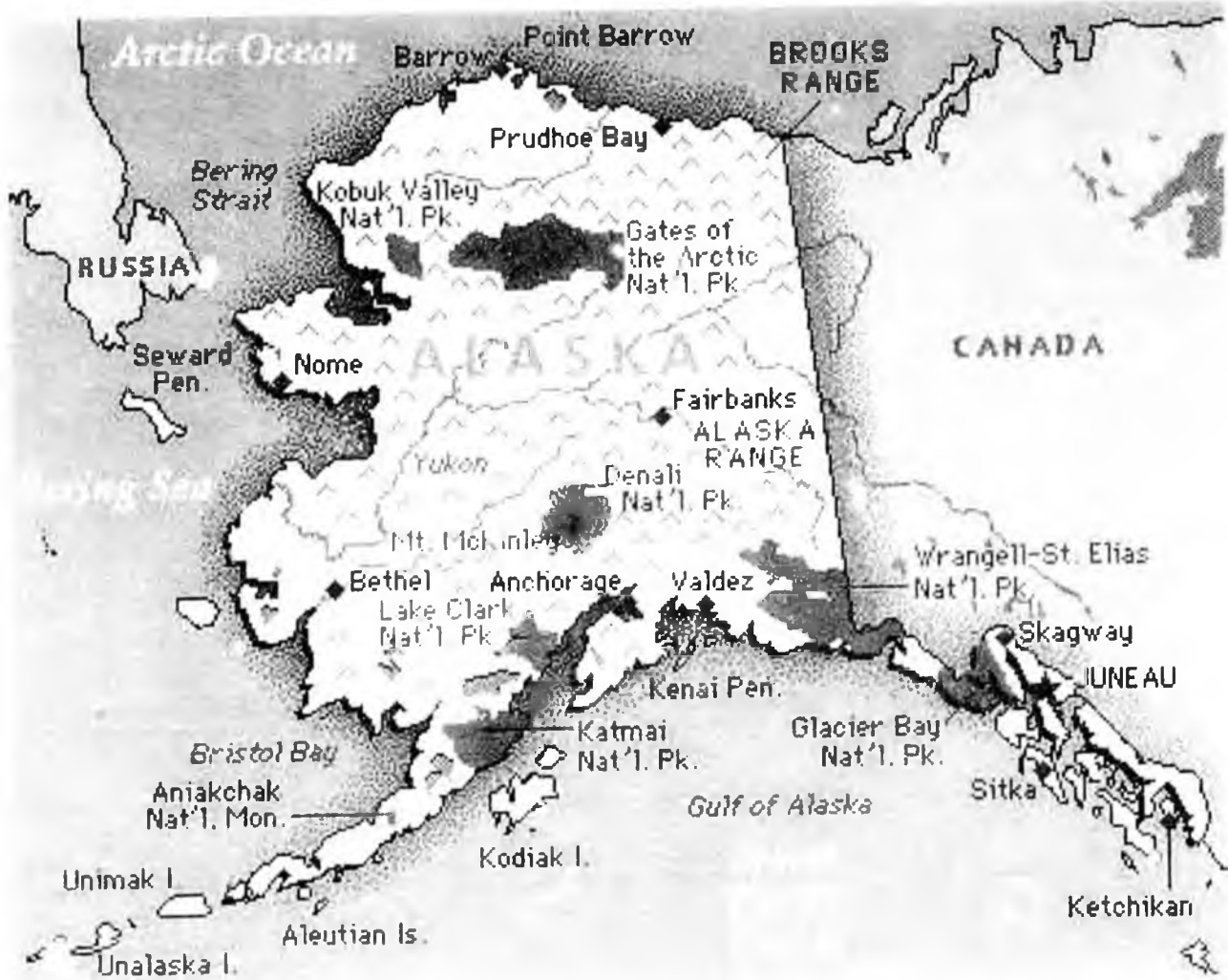
15



**REGULAR GAS
PRICE PER GALLON
CITY
AVERAGE**

ANCH	DELTA	FBKS	HOMER	HPR BAY	JUNEAU	KETCH	KOTZ	NOME
3.54	4.015	3.58	4.06	7.16	4.085	4.25	7.25	5.31
PTRSBG	SALCHA	SEWARD	SITKA	TKA	TOK	VALDEZ	WASILLA	
4.22	3.99	4.26	3.97	3.59	4.05	4.199	3.54	

10/21/08



REGULAR GAS
 PRICE PER GALLON
 CITY
 AVERAGE

ANCH	DELTA	FBKS	HOMER	HPR BAY	JUNEAU	KETCH	KOTZ	NOME
3 54	4 015	3 58	4 06	7 16	4 085	4 25	7 25	5 31
PTRSBG	SALCHA	SEWARD	SITKA	TKA	TOK	VALDEZ	WASILLA	
4 22	3 99	4 26	3 97	3 59	4 05	4 199	3 54	

10/21/08

**Bold = Spike
in price**

REG. GAS DAILYS ALL TAXES INCLUDED								
DATE	NATIONAL	ALASKA	IDAHO	MONTANA	SOUTH DAKOTA	WASHINGTON	WYOMING	
9/12/2008		4.393	3.819	3.863		3.668	3.811	3.747
9/16/2008	3.854	4.398	3.806	3.844		3.688	3.803	3.736
9/17/2008	3.855	4.399	3.796	3.837		3.704	3.802	3.728
9/18/2008	3.835	4.389	3.791	3.829		3.702	3.793	3.719
9/22/2008	3.739	4.297	3.738	3.705		3.608	3.736	3.669
9/23/2008	3.726	4.319	3.738	3.704		3.599	3.725	3.659
9/25/2008	3.700	4.300	3.718	3.689		3.593	3.711	3.642
9/29/2008	3.643	4.275	3.687	3.654		3.526	3.674	3.609
10/1/2008	3.619	4.235	3.670	3.612		3.533	3.660	3.594
10/2/2008	3.598	4.243	3.657	3.581		3.519	3.646	3.579
10/3/2008	3.576	4.230	3.637	3.553		3.505	3.633	3.556
10/6/2008	3.504	4.224	3.591	3.493		3.443	3.584	3.510
10/7/2008	3.480	4.158	3.581	3.477		3.412	3.571	3.492
10/8/2008	3.447	4.156	3.559	3.446		3.376	3.556	3.460
10/9/2008	3.403	4.165	3.532	3.398		3.300	3.530	3.419
10/10/2008	3.350	4.107	3.500	3.334		3.224	3.496	3.373
10/13/2008	3.206	4.088	3.411	3.252		3.096	3.404	3.270
10/14/2008	3.163	4.071	3.400	3.203		3.061	3.376	3.248

REG. GAS DAILYS ALL TAXES INCLUDED								Bold = Spike in price
DATE	NATIONAL	ALASKA	IDAHO	MONTANA	NORTH DAKOTA	SOUTH DAKOTA	WASHINGTON	WYOMING
9/12/2008		4.393	3.819	3.863	3.753	3.668	3.814	3.747
9/16/2008	3.854	4.398	3.806	3.844	3.744	3.688	3.803	3.736
9/17/2008	3.855	4.399	3.796	3.837	3.719	3.704	3.802	3.728
9/18/2008	3.835	4.389	3.791	3.829	3.709	3.702	3.793	3.719
9/22/2008	3.739	4.297	3.738	3.705	3.646	3.608	3.736	3.669
9/23/2008	3.726	4.319	3.738	3.704	3.690	3.599	3.725	3.659
9/25/2008	3.700	4.300	3.718	3.689	3.624	3.593	3.711	3.642
9/29/2008	3.643	4.275	3.687	3.654	3.572	3.526	3.674	3.609
10/1/2008	3.619	4.235	3.670	3.612	3.580	3.533	3.660	3.594
10/2/2008	3.598	4.243	3.657	3.581	3.581	3.519	3.646	3.579
10/3/2008	3.576	4.230	3.637	3.553	3.535	3.505	3.633	3.556
10/6/2008	3.504	4.224	3.591	3.493	3.446	3.443	3.584	3.510
10/7/2008	3.480	4.158	3.581	3.477	3.402	3.412	3.571	3.492
10/8/2008	3.447	4.156	3.559	3.446	3.378	3.376	3.556	3.460
10/9/2008	3.403	4.165	3.532	3.398	3.333	3.300	3.530	3.419
10/10/2008	3.350	4.107	3.500	3.334	3.242	3.224	3.496	3.373
10/13/2008	3.206	4.088	3.411	3.252	3.088	3.096	3.404	3.270
10/14/2008	3.163	4.071	3.400	3.203	3.013	3.061	3.376	3.248

REG. GAS	DAILYS	ALL TAXES	INCLUDED				Bold = Spike in price	
10/15/2008	3.125	4.066	3.380	3.179	3.004	3.017	3.347	3.238
10/16/2008	3.084	4.068	3.349	3.135	2.940	2.972	3.311	3.174
10/20/2008	2.923	3.887	3.244	2.985	2.810	2.832	3.130	3.045
10/21/2008	2.889	3.844	3.201	2.966	2.750	2.779	3.095	3.012

REG. GAS	DAILYS	ALL TAXES	INCLUDED			Bold = Spike in price		
10/15/2008	3.125	4.066	3.380	3.179		3.017	3.347	3.238
10/16/2008	3.084	4.068	3.349	3.135		2.972	3.311	3.174
10/20/2008	2.923	3.887	3.244	2.985		2.832	3.130	3.045
10/21/2008	2.889	3.844	3.201	2.966	2.790	2.779	3.095	3.012

DIESEL	DAILYS	ALL TAXES	INCLUDED		Bold = Spike in price			
DATE	NATIONAL	ALASKA	IDAHO	MONTANA	NORTH DAKOTA	SOUTH DAKOTA	WASHINGTON	WYOMING
9/12/2008		4.994	4.224	4.262	4.077	4.025	4.368	4.155
9/16/2008	4.020	5.032	4.195	4.214	4.066	3.989	4.320	4.118
9/17/2008	4.052	5.002	4.196	4.209	4.053	3.979	4.317	4.121
9/18/2008	4.036	4.956	4.180	4.188	4.052	3.968	4.295	4.096
9/22/2008	4.101	4.908	4.117	4.070	4.031	3.904	4.160	4.049
9/23/2008	4.105	4.864	4.087	4.073	4.017	3.920	4.142	4.035
9/25/2008	4.102	4.883	4.082	4.070	4.009	3.915	4.130	4.009
9/29/2008	4.084	4.858	4.061	4.058	4.050	3.961	4.108	3.990
10/1/2008	4.087	4.870	4.052	4.063	4.052	3.986	4.096	3.993
10/2/2008	4.076	4.858	4.047	4.057	4.056	3.981	4.086	3.981
10/3/2008	4.065	4.857	4.034	4.043	4.055	3.963	4.059	3.965
10/6/2008	4.016	4.844	3.992	4.005	4.021	3.938	4.005	3.930
10/7/2008	4.006	4.849	3.985	3.990	3.988	3.927	3.984	3.918
10/8/2008	3.990	4.842	3.975	3.972	3.988	3.906	3.959	3.911
10/9/2008	3.960	4.822	3.945	3.947	3.971	3.881	3.927	3.889
10/10/2008	3.927	4.795	3.927	3.900	3.939	3.845	3.891	3.865
10/13/2008	3.837	4.732	3.871	3.821	3.841	3.751	3.791	3.781
10/14/2008	3.815	4.716	3.849	3.781	3.822	3.723	3.768	3.762

DIESEL								Bold = Spike in price	
DATE	DAILYS	ALL TAXES INCLUDED			NORTH DAKOTA	SOUTH DAKOTA	WASHINGTON	WYOMING	
	NATIONAL	ALASKA	IDAHO	MONTANA					
9/12/2008		4.994	4.224	4.262	4.107	4.025	4.369	4.155	
9/16/2008	4.020	5.032	4.195	4.214	4.066	3.989	4.320	4.118	
9/17/2008	4.052	5.002	4.196	4.209	4.063	3.979	4.317	4.121	
9/18/2008	4.036	4.956	4.180	4.188	4.052	3.968	4.295	4.096	
9/22/2008	4.101	4.908	4.117	4.070	4.031	3.904	4.160	4.049	
9/23/2008	4.105	4.864	4.087	4.073	4.017	3.920	4.142	4.035	
9/25/2008	4.102	4.883	4.082	4.070	4.009	3.915	4.130	4.009	
9/29/2008	4.084	4.858	4.061	4.058	4.050	3.961	4.108	3.990	
10/1/2008	4.087	4.870	4.052	4.063	4.052	3.986	4.096	3.993	
10/2/2008	4.076	4.858	4.047	4.057	4.056	3.981	4.086	3.981	
10/3/2008	4.065	4.857	4.034	4.043	4.055	3.963	4.059	3.965	
10/6/2008	4.016	4.844	3.992	4.005	4.021	3.938	4.005	3.930	
10/7/2008	4.006	4.849	3.985	3.990	3.988	3.927	3.984	3.918	
10/8/2008	3.990	4.842	3.975	3.972	3.988	3.906	3.959	3.911	
10/9/2008	3.960	4.822	3.945	3.947	3.971	3.881	3.927	3.889	
10/10/2008	3.927	4.795	3.927	3.900	3.939	3.845	3.891	3.865	
10/13/2008	3.837	4.732	3.871	3.821	3.841	3.751	3.791	3.781	
10/14/2008	3.815	4.716	3.849	3.781	3.822	3.723	3.768	3.762	

DIESEL	DAILYS	ALL TAXES	INCLUDED		Bold = Spike in price			
10/15/2008	3.795	4.700	3.844	3.781	3.818	3.682	3.767	3.752
10/16/2008	3.764	4.668	3.816	3.746	3.778	3.650	3.731	3.706
10/20/2008	3.637	4.655	3.719	3.634	3.673	3.456	3.588	3.608
10/21/2008	3.619	4.655	3.697	3.588	3.654	3.453	3.585	3.581

DIESEL	DAILYS	ALL TAXES	INCLUDED		Bold = Spike in price			
10/15/2008	3.795	4.700	3.844	3.781		3.682	3.787	3.752
10/16/2008	3.764	4.668	3.816	3.746		3.650	3.731	3.706
10/20/2008	3.637	4.655	3.719	3.634		3.456	3.588	3.608
10/21/2008	3.619	4.655	3.697	3.588	3.654	3.453	3.585	3.581

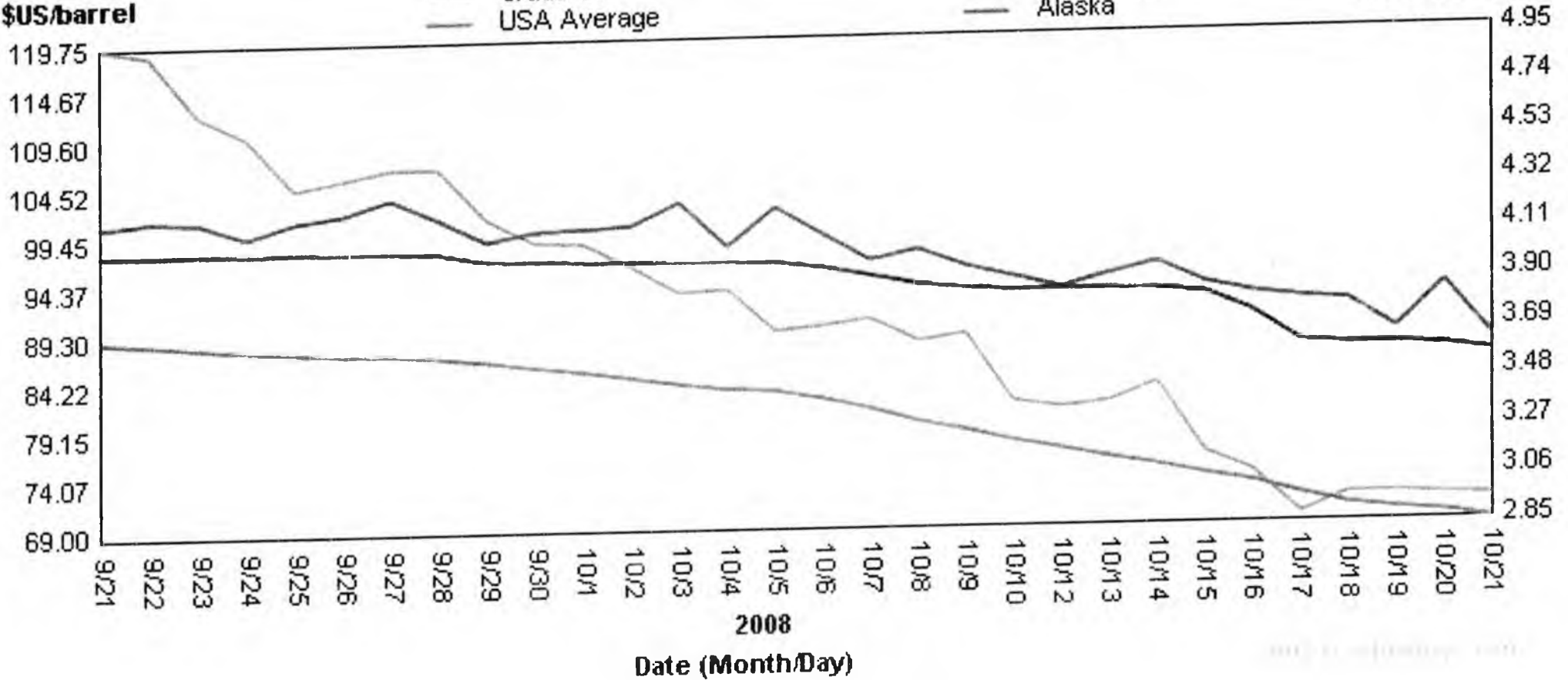
1 Month Average Retail Price Chart

Crude Oil
\$US/barrel

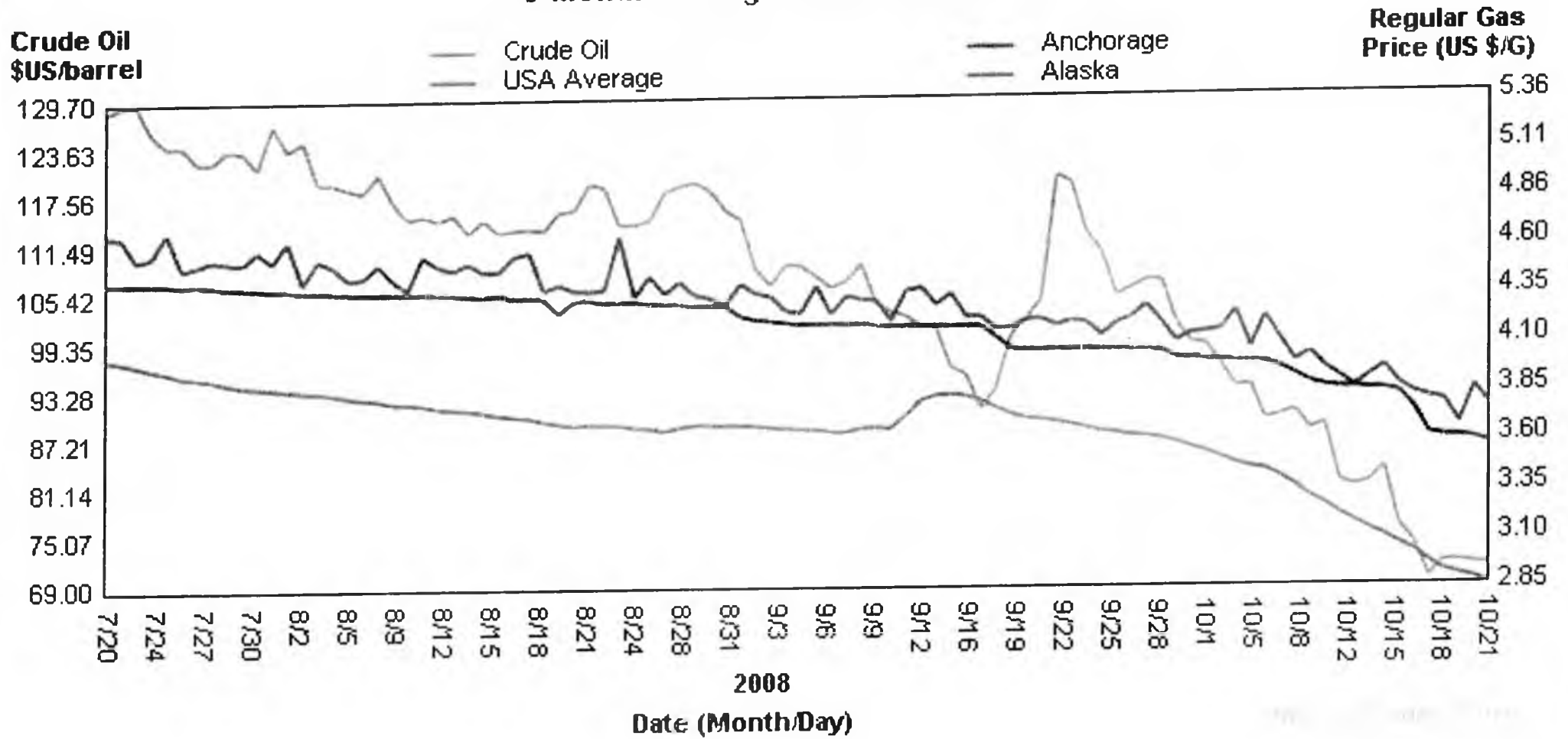
Regular Gas
Price (US \$/G)

— Crude Oil
— USA Average

— Anchorage
— Alaska



3 Month Average Retail Price Chart



		Diesel Vehicle Fuel Economy Improvement									
		55%	50%	45%	40%	35%	30%	25%	20%	15%	10%
Retail Gasoline	Diesel fuel can cost this much more than gasoline and still break even with gasoline fuel cost										
\$2.00	\$1.10	\$1.00	\$0.90	\$0.80	\$0.70	\$0.60	\$0.50	\$0.40	\$0.30	\$0.20	
\$2.25	\$1.24	\$1.13	\$1.01	\$0.90	\$0.79	\$0.68	\$0.56	\$0.45	\$0.34	\$0.23	
\$2.50	\$1.38	\$1.25	\$1.13	\$1.00	\$0.88	\$0.75	\$0.63	\$0.50	\$0.38	\$0.25	
\$2.75	\$1.51	\$1.38	\$1.24	\$1.10	\$0.96	\$0.83	\$0.69	\$0.55	\$0.41	\$0.28	
\$3.00	\$1.65	\$1.50	\$1.35	\$1.20	\$1.05	\$0.90	\$0.75	\$0.60	\$0.45	\$0.30	
\$3.25	\$1.79	\$1.63	\$1.46	\$1.30	\$1.14	\$0.98	\$0.81	\$0.65	\$0.49	\$0.33	
\$3.50	\$1.93	\$1.75	\$1.58	\$1.40	\$1.23	\$1.05	\$0.88	\$0.70	\$0.52	\$0.35	
\$3.75	\$2.06	\$1.88	\$1.69	\$1.50	\$1.31	\$1.13	\$0.94	\$0.75	\$0.56	\$0.38	
\$4.00	\$2.20	\$2.00	\$1.80	\$1.60	\$1.40	\$1.20	\$1.00	\$0.80	\$0.60	\$0.40	
\$4.25	\$2.34	\$2.13	\$1.91	\$1.70	\$1.49	\$1.28	\$1.06	\$0.85	\$0.64	\$0.43	
\$4.50	\$2.48	\$2.25	\$2.03	\$1.80	\$1.58	\$1.35	\$1.13	\$0.90	\$0.68	\$0.45	
\$4.75	\$2.61	\$2.38	\$2.14	\$1.90	\$1.66	\$1.43	\$1.19	\$0.95	\$0.71	\$0.48	
\$5.00	\$2.75	\$2.50	\$2.25	\$2.00	\$1.75	\$1.50	\$1.25	\$1.00	\$0.75	\$0.50	

Example:

Diesel cost 53 cents more / gallon than regular grade gasoline. (Source CEC Weekly Transportation Fuels Trend 4/10/08) (Diesel \$4.18/gal - regular gasoline \$3.65/gal = diesel is 53 cents/gallon more than gasoline)

Assume the diesel Acura gets 45% higher fuel economy (actual 52% city, 46% highway, 48% combined)

Using the above table and \$3.50 for gasoline and 45% Diesel improvement you get \$1.58 / gallon break even price.

The diesel Acura saves \$1.05 / gallon compared to the gasoline Acura \$1.58 (fuel economy benefit) - 0.53 (higher retail price) = \$1.05 cents /gallon

For more information, visit www.dieselforum.org

Fuel taxes

Another factor in diesel and gasoline costs are motor fuel taxes collected at the federal, state and sometimes the local levels. The federal motor fuels tax goes toward the highway trust fund, which was established to repair and maintain the nation's highway infrastructure. State taxes are used for a variety of purposes.

Since October 1, 1997, the federal government has imposed a 24.4 cents-per-gallon tax on diesel fuel compared to an 18.4 cents-per-gallon tax on gasoline. Every state also levies a diesel tax, the average of which is 22 cents per gallon (ranging from 8 cents in Alaska to 32.9 cents in Wisconsin). Some states levy the same tax rate on gasoline and diesel fuel; however, 15 states currently tax diesel more than gasoline with only six states imposing higher gasoline taxes. More information about state fuel taxes can be found [here](#).

Future diesel fuel prices

All energy prices are expected to remain high in the near future. EIA's Short-Term Energy Outlook is projecting that diesel fuel will continue to sell at a higher price than gasoline through the 2008 summer, although the price differential between the two fuels is expected to narrow. Retail diesel fuel prices in 2008 are projected to average \$3.94 per gallon, and then drop to an average of \$3.67 per gallon in 2009.

Continuing or expanding economic growth in developing countries like India and China will add pressure to crude oil and finished distillate product prices. However, there are several key U.S. policy influences and market developments that could reduce the demand for crude oil and petroleum products in the U.S. – particularly gasoline.

- Oil companies are responding to the increasing demand for diesel fuel through new refining capacity and shifts in production.¹ Seven separate refinery

¹ **Marathon Petroleum** announced in 2007 an expansion of its Garyville (LA) refinery to increase production by 180,000 barrels/day or 1.2 billion gallons of distillate products annually.

Shell Oil Products US announced an expansion of its Port Arthur (TX) refinery that will make it able to refine 600,000 barrels/day, and make it the largest US refinery. It currently produces 52,000 b/d of distillate products.

Valero plans to spend \$3.8 billion through 2011 to increase diesel production at two of its 17 refineries, the ones in Port Arthur and St. Charles, La. The investment will yield an additional 103,000 barrels per day of ultra-low sulfur diesel coming online in 2010.

NuStar Energy LP is considering adding more than \$300 million in diesel-making equipment at one of two U.S. asphalt refineries it acquired recently from Venezuela. It's making the diesel investment in the one on the Delaware River. New diesel production there could start in 2011.

Tesoro Corp. is switching some gasoline production to diesel without making any large equipment investments. Executives at San Antonio-based Tesoro declined to say how much more diesel is being produced, but the Los Angeles refinery already has shifted production to make 7,000 to 9,000 additional barrels of distillates, including diesel, per day.

Saudi Aramco and Total announced May 15, plans to build a 400,000 barrels per day refinery in Jubail, Saudi Arabia focused mainly on ultralow sulfur distillates, beginning operations end of 2012.

Saudi Aramco and ConnocoPhillips announced May 2008, a 400,000 barrel per day export refinery in Yanbu, Saudi Arabia. That will produce ultra-low sulfur refined products. This refinery will be online by 2013.