
SUBSTITUTE HOUSE BILL 1924

State of Washington 52nd Legislature 1991 Regular Session

By House Committee on Energy & Utilities (originally sponsored by Representatives Grant, Belcher, Rasmussen, Ludwig, Bray, Rayburn and Inslee).

Read first time March 6, 1991.

1 AN ACT Relating to the marketing of motor fuels; adding a new
2 chapter to Title 78 RCW; creating new sections; and declaring an
3 emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** DECLARATION OF POLICY. The legislature
6 finds and declares that the distribution and sale of motor fuels in the
7 state of Washington vitally affects the general economy of the state
8 and the public interest and the public welfare, and that in order to
9 promote the public interest and public welfare, it is necessary to
10 eliminate excessive wholesale prices and prevent unfair allocation of
11 motor fuels.

12 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions set forth in
13 this section apply throughout this chapter.

1 (1) "Affiliate" means a person, firm, or corporation controlling or
2 controlled by an oil company, and includes a subsidiary or affiliated
3 corporation in which the oil company or its shareholders, officers,
4 agents, or employees hold or control more than twenty-five percent of
5 the voting shares.

6 (2) "Brand name" or "trademark" means a trademark, trade name,
7 service mark, or other identifying symbol or name.

8 (3) "Company-operated station" means a service station that is
9 operated by an oil company, its subsidiary, or its affiliate.

10 (4) "Cost of selling motor fuel to the public" means the fair
11 market value of transporting the motor fuel from the terminal to the
12 company-operated station, goods, services, facilities, space,
13 construction, utilities, insurance, labor, repair, maintenance, and all
14 products, services, or materials consumed, furnished, expended, or
15 incurred by an oil company to own and operate a company-operated
16 station and sell motor fuel at that facility. "Cost of selling motor
17 fuel to the public" does not include the cost of refining crude oil
18 into motor fuel, the cost of delivering motor fuel to the truck loading
19 terminal, or the cost of selling products or services other than motor
20 fuel at the company-operated station.

21 (5) "Dealer price" means the net price per gallon of motor fuel
22 sold to an independent dealer and delivered to a service station by an
23 oil company after adjustment for the fair market value of
24 transportation of the motor fuel from the truck loading terminal,
25 commissions, brokerages, rebates, discounts, services or facilities
26 furnished, or other such adjustment. An adjustment of the dealer price
27 must take into account the service station rents, credit fees,
28 franchise fees, or other charges related to the sale of motor fuel paid
29 to the oil company by the independent dealer.

1 (6) "Discriminatory wholesale price" means a price that is
2 prohibited by section 4 of this act.

3 (7) "Independent dealer" means a person who or entity that operates
4 a service station, whether or not the station is owned by an oil
5 company, its subsidiary, or its affiliate. "Independent dealer" does
6 not include an oil company.

7 (8) "Motor fuel" means a particular blend of gasoline or diesel
8 fuel used in motor vehicles, however modified, that meets industry
9 standards for composition and octane and that is marketed under the
10 same brand name or trademark.

11 (9) "Oil company" means a person, firm, or corporation, including
12 an affiliate of the person, firm, or corporation, engaged in the
13 refining of crude oil into motor fuel.

14 (10) "Retail price" means the net price per gallon of motor fuel
15 sold by an oil company at a company-operated station to a retail
16 customer, after adjustment for the costs of selling motor fuel to the
17 public.

18 (11) "Service station" means a facility that sells motor fuels that
19 are dispensed directly into motor vehicles and not operated by an oil
20 company.

21 (12) "Truck loading terminal" means the point of transfer of motor
22 fuel from a pipeline or a tank storage facility into a truck or other
23 vehicle for delivery to a wholesale purchaser or retail service
24 station.

25 (13) "Wholesale price" means the net price per gallon of motor fuel
26 sold to a wholesale purchaser by an oil company at a truck loading
27 terminal after adjustment for the fair market value of commissions,
28 brokerages, rebates, discounts, services or facilities furnished, or
29 other such adjustment. An adjustment of the wholesale price must take
30 into account the service station rents, credit fees, franchise fees, or

1 other charges related to the sale of motor fuel paid to the oil company
2 by the wholesale purchaser.

3 (14) "Wholesale purchaser" means a person, firm, or corporation
4 that purchases motor fuel from an oil company for resale to the public
5 or others. "Wholesale purchaser" does not include government agencies,
6 railroad companies, airlines, public utilities, or an oil company.

7 NEW SECTION. **Sec. 3.** SUPPLY LIMITATIONS--UNIFORMITY. If the
8 supply of motor fuel is limited by an oil company for any reason, the
9 oil company shall impose the limitations equally and uniformly on
10 company-operated stations, independent dealers, and all wholesale
11 purchasers that have a supply agreement with the oil company and are
12 supplied motor fuel from the same truck loading terminal.

13 NEW SECTION. **Sec. 4.** DISCRIMINATORY OIL COMPANY WHOLESALE PRICES.
14 (1) When establishing a retail price, dealer price, or wholesale price
15 for motor fuel sold at or delivered from the same truck loading
16 terminal, an oil company may not:

17 (a) Discriminate in dealer price between independent dealers or
18 charge a dealer price that is higher than its retail price;

19 (b) Discriminate in wholesale price between wholesale purchasers or
20 charge a higher wholesale price than either its dealer price or its
21 retail price.

22 (2) Nothing in this section prevents differentials that make only
23 due allowance for differences in an oil company's actual cost of
24 manufacture, sale, or delivery resulting from the differing methods or
25 quantities in which motor fuels are sold or delivered to independent
26 dealers or wholesale purchasers.

1 NEW SECTION. **Sec. 5.** DISCRIMINATORY WHOLESale PRICES--ILLEGALITY.

2 It is unlawful for an oil company to charge an independent dealer or
3 wholesale purchaser a discriminatory wholesale price. Charging a
4 discriminatory wholesale price is a violation of this chapter.

5 NEW SECTION. **Sec. 6.** RECORDS. An oil company that sells motor

6 fuel in this state shall keep for three years from the date of sale a
7 written record consisting of its wholesale prices, its dealer prices,
8 and its retail prices for each location in this state at which it sells
9 or delivers motor fuel and for each grade of motor fuel sold.

10 NEW SECTION. **Sec. 7.** CIVIL ACTIONS BY THE ATTORNEY GENERAL. (1)

11 The attorney general may bring an action in the name of the state
12 against an oil company to restrain and prevent an oil company from
13 violating any provision of this chapter. In the discretion of the
14 court, the attorney general may recover the costs of the action,
15 including a reasonable attorney's fee.

16 (2) The court may make such additional orders or judgments as may
17 be necessary to restore to a person in interest any moneys or property,
18 real or personal, that may have been acquired by an oil company as a
19 result of violations of this chapter.

20 NEW SECTION. **Sec. 8.** CIVIL ACTIONS BY A PURCHASER. An

21 independent dealer or wholesale purchaser of motor fuel from an oil
22 company who has been damaged by a violation of this chapter may bring
23 an action in superior court to enjoin further violation of this chapter
24 and to recover damages sustained, including costs of the suit and
25 reasonable attorneys' fees.

1 NEW SECTION. **Sec. 9.** DAMAGES. (1) In an action brought under
2 this chapter, upon proof that a discriminatory wholesale price has been
3 charged and paid, the court shall conclusively presume that the damages
4 sustained are at least equal to the number of gallons sold at the
5 discriminatory wholesale price times the amount that the price exceeds
6 either:

7 (a) The dealer price under section 4 of this act, if the motor fuel
8 was delivered to the purchaser; or

9 (b) The wholesale price under section 4 of this act, if delivery of
10 the motor fuel was taken at the truck loading terminal.

11 (2) In addition to the damages established under subsection (1) of
12 this section, the plaintiff may establish any further damages sustained
13 as a result of a violation of this chapter, including but not limited
14 to costs of the suit and reasonable attorneys' fees.

15 NEW SECTION. **Sec. 10.** SHORT TITLE. This act shall be known as
16 the "Gasoline Price and Supply Fairness Act."

17 NEW SECTION. **Sec. 11.** SEVERABILITY. If any provision of this act
18 or its application to any person or circumstance is held invalid, the
19 remainder of the act or the application of the provision to other
20 persons or circumstances is not affected.

21 NEW SECTION. **Sec. 12.** PROSPECTIVE APPLICATION. This act applies
22 prospectively to all actions and conduct occurring after the effective
23 date of this act.

24 NEW SECTION. **Sec. 13.** LIBERAL CONSTRUCTION. This act shall be
25 liberally construed to give full effect to the objectives and purposes
26 for which it was enacted.

1 NEW SECTION. **Sec. 14.** CAPTIONS. Section headings used in this
2 act do not constitute any part of the law.

3 NEW SECTION. **Sec. 15.** CODIFICATION. Sections 1 through 9 of this
4 act shall constitute a new chapter in Title 78 RCW, mines, minerals,
5 and petroleum law.

6 NEW SECTION. **Sec. 16.** EFFECTIVE DATE. This act is necessary for
7 the immediate preservation of the public peace, health, or safety, or
8 support of the state government and its existing public institutions,
9 and shall take effect immediately.