

HOUSE BILL REPORT

HB 1924

*As Reported By House Committee on:
Energy & Utilities*

Title: An act relating to the marketing of motor fuels.

Brief Description: Regulating motor fuel marketing.

Sponsor(s): Representatives Grant, Belcher, Rasmussen,
Ludwig, Bray, Rayburn and Inslee.

Brief History:

Reported by House Committee on:
Energy & Utilities, March 5, 1991, DPS.

**HOUSE COMMITTEE ON
ENERGY & UTILITIES**

Majority Report: *That Substitute House Bill No. 1924 be substituted therefor, and the substitute bill do pass.*

Signed by 7 members: Representatives Grant, Chair; H. Myers, Vice Chair; Bray; Cooper; R. Fisher; Jacobsen; and Rayburn.

Minority Report: *Do not pass.* Signed by 4 members: Representatives May, Ranking Minority Member; Hochstatter, Assistant Ranking Minority Member; Casada; and Miller.

Staff: Fred Adair (786-7113).

Background: There is concern whether discrimination by oil companies exists in the distribution of their petroleum products. The concern is over both quantities distributed and prices charged by the oil companies. Regulation of distribution and pricing is seen as a means to control inequities.

Petroleum products have become essential to public health and welfare in the State.

Summary of Substitute Bill: If motor fuel supply is limited, an oil company must impose limitations equally and uniformly on company stations, independent dealers, and wholesale purchasers that have a supply agreement with the company and are supplied from the same truck loading terminal.

Key price definitions:

- Dealer price: What an oil company charges an independent dealer.
- Retail price: What an oil company charges the public at company stations.
- Wholesale price: What an oil company charges a wholesale purchaser.

These prices are to be adjusted from their actual values to "net" values by application of marketing cost components. Then the net prices will be used to determine possible violations.

For motor fuel sold at the same terminal, an oil company may not:

- Discriminate in dealer prices or charge a dealer price higher than a retail price; and
- Discriminate in wholesale prices or charge a wholesale price higher than either dealer or retail prices.

These price comparisons may be adjusted for varying marketing factors.

An oil company may not charge an independent dealer or wholesale purchaser a discriminatory price. Doing so is a violation of the act.

Oil companies shall keep for three years records of motor fuel wholesale prices, retail prices, and dealer prices for each sale location in the State. Separate records shall be kept for each grade of motor fuel sold.

The attorney general may bring action to restrain and prevent an oil company from violating the act. A court may allow the attorney general to recover costs of an action. A court may enable monetary or property restorations to persons as a result of violations of the act.

An independent dealer or wholesale purchaser damaged by a violation may bring action in superior court to enjoin further violation of the act and to recover damages sustained and suit costs.

Upon finding a violation, a court shall presume that damages sustained are at least the product of the amount of overpricing and the gallons sold. The plaintiff may

establish further damages including suit costs and attorneys' fees.

The act applies prospectively, shall be construed liberally, and shall take effect immediately.

Substitute Bill Compared to Original Bill: The antitrust tax and motor fuel antitrust enforcement trust account provisions are deleted.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains an emergency clause and shall take effect immediately.

Testimony For: Competition is being reduced by oil companies giving favored pricing to company stations. Independent marketers have been the ones who have introduced innovative market practices such as self-service. "Little Oil" wants a level playing field from "Big Oil." "Big Oil" wants to control oil from the oil field to the automobile tank. Consumers pay more in rural areas than they should. The independent wholesale purchaser-resellers have been discriminated against in quantity during periods of fuel shortage as well as in price. Prices in various localities are not an accurate reflection of the differing costs to supply motor fuel to these localities.

Testimony Against: This is protectionist legislation which guarantees a profit margin to even the least efficient independent wholesale purchaser-resellers at the expense of the petroleum products consumer. Competition will be curtailed and an expensive and cumbersome bureaucracy will be created in order to meet the requirements of the bill. The accounting cost will be tremendous. Gasoline prices for the motorist will be higher. Presently the oil and motor fuel markets are competitive.

Witnesses: Pro: Norm Sather, Pacific Oil Products and Washington Oil Marketers Association; Lowell Waldrip, a Seattle Texaco wholesaler; and Tim Hamilton, Automotive United Trades Organization. Con: Vern Lindskog, Washington State Petroleum Association; Stu McDonald, ARCO; and Larry Day, Regional Manager, Chevron.