SENATE BILL REPORT

SB 5547

AS OF FEBRUARY 19, 1991

Brief Description: Regulating unfair petroleum marketing practices.

SPONSORS: Senators Thorsness, Rasmussen and Talmadge; by request of Attorney General.

SENATE COMMITTEE ON ENERGY & UTILITIES

Staff: Phil Moeller (786-7445)

Hearing Dates: February 19, 1991

BACKGROUND:

Several petroleum companies market their products in the state of Washington. A limited number of companies are refiners of oil and also sell refined product on the retail market.

In some instances, such as the period immediately following the Alaska oil spill in 1989 and during the invasion of Kuwait in 1990, the potential for a disruption in the supply of oil has contributed to a sudden increase in the price of oil and the price of refined products at the retail level.

Several petroleum companies have recently undertaken efforts in the state of Washington to acquire assets of competitors. Some economists argue that increasing concentration in the petroleum marketplace will have detrimental pricing impacts on consumers.

SUMMARY:

An unfair margin for the sale of motor fuel or heating oil is prohibited. For a refiner of petroleum, "margin" is defined as the difference between the prior day's high closing price per gallon for Alaska North Slope crude oil on the Los Angeles spot market and the price per gallon at which the refiner sells the motor fuel or heating oil. For a wholesaler or retailer, "margin" is defined as the difference between the purchase and sales price on a per gallon basis. An "unfair margin" is defined as occurring when the margin of a sale is 25 percent or more higher than the average margin during the preceding 28 days and the selling price is higher than the previous day's final selling price.

A supplier of motor fuel or heating oil is prohibited from limiting or allocating the quantity of product available to a purchaser purchasing under contract unless the limitations are applied in a nondiscriminatory manner among all wholesalers and retailers.

Direct or indirect purchasers, or the Attorney General on behalf of consumers may bring a civil action in superior court against a supplier. The court shall impose a civil penalty in an amount not to exceed $1 per gallon sold by the supplier for either a violation of charging an unfair margin or for a violation of failing to allocate supplies in a nondiscriminatory manner.

Before any supplier may acquire from another supplier voting securities or assets worth at least $1 million, both suppliers must notify the Attorney General's office at least 60 days prior to the date of the proposed acquisition. This notification requirement includes information pertaining to specific details of the acquisition, supplier ownership, potential market impacts, and documents submitted to federal agencies. Any person failing to comply with the notification requirements is liable for up to one-tenth of 1 percent of the market value of the acquired assets for each day of violation. The Attorney General may terminate the 60 day waiting period early if good cause exists.

Except for the requirements pertaining to supplier acquisition notification, the Governor may suspend the operation of the act if an energy emergency is declared pursuant to the guidelines in RCW 43.21G.040.

Unfair petroleum marketing practices are declared as matters affecting the public interest for the purpose of applying the Consumer Protection Act, Chapter 19.86 RCW.

Appropriation: none

Revenue: none

Fiscal Note: available