
HOUSE BILL 3044

State of Washington 59th Legislature 2006 Regular Session

By Representatives Conway, Chase, Hasegawa, Ormsby, Simpson, Dickerson, Morrell, Green, Sells, Appleton, Cody and Schual-Berke

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1 AN ACT Relating to protecting Washington businesses and consumers
2 from rising oil costs; amending RCW 80.01.040; adding a new chapter to
3 Title 80 RCW; creating a new section; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** The legislature recognizes that there is a
6 need to assure that motor fuel and other petroleum products are
7 available at fair prices to all consumers in Washington. Although oil
8 companies are entitled to receive a fair return on their investments,
9 they should be discouraged from using natural disasters, emergencies,
10 or other events to dramatically increase profitability by raising
11 prices to Washington consumers. The legislature further recognizes
12 that prices and availability of petroleum impact the economy of the
13 state and the quality of life for Washington residents. It is the
14 intent of the legislature to require oil companies to disclose certain
15 materially significant information in order to protect consumers and
16 businesses from rising costs.

17 **Sec. 2.** RCW 80.01.040 and 1985 c 450 s 10 are each amended to read
18 as follows:

1 The utilities and transportation commission shall:

2 (1) Exercise all the powers and perform all the duties prescribed
3 therefor by this title and by Title 81 RCW, or by any other law.

4 (2) Regulate in the public interest, as provided by the public
5 service laws, the rates, services, facilities, and practices of all
6 persons engaging in the transportation by whatever means of persons or
7 property within this state for compensation, and related activities;
8 including, but not limited to, air transportation companies, auto
9 transportation companies, express companies, freight and freight line
10 companies, motor freight companies, motor transportation agents,
11 private car companies, railway companies, sleeping car companies,
12 steamboat companies, street railway companies, toll bridge companies,
13 storage warehousemen, and wharfingers and warehousemen.

14 (3) Regulate in the public interest, as provided by the public
15 service laws, the rates, services, facilities, and practices of all
16 persons engaging within this state in the business of supplying any
17 utility service or commodity to the public for compensation, and
18 related activities; including, but not limited to, electrical
19 companies, gas companies, irrigation companies, telecommunications
20 companies, and water companies.

21 (4) Facilitate the availability of information to consumers
22 regarding the price and availability of petroleum products.

23 (5) Make such rules and regulations as may be necessary to carry
24 out its other powers and duties.

25 NEW SECTION. **Sec. 3.** The definitions in this section apply
26 throughout this chapter unless the context clearly requires otherwise.

27 (1) "Bulk quantities" means transactions of volumes exceeding the
28 capacity of trucks or vehicles utilizing public roads, including but
29 not limited to petroleum products transported via rail, ship, barge,
30 pipeline, or other means.

31 (2) "Class of trade" means a class of purchasers, such as motor
32 fuel retailers or wholesale distributors, that purchase petroleum
33 products from an oil company. Retail motor fuel outlets operated by an
34 oil company, its subsidiary, or its affiliate shall be considered in
35 the same class of trade as motor fuel retailers as defined in RCW
36 19.120.010(7). Class of trade does not include end users that purchase
37 petroleum products for their own consumption.

1 (3) "Commission" means the utilities and transportation commission.

2 (4) "Oil company" means any person, firm, corporation, or entity
3 engaged in the refining of crude oil into petroleum products within
4 Washington state or the exporting of bulk quantities of petroleum
5 products refined in Washington outside the boundaries of the state.
6 "Oil company" includes any person, firm, corporation, or entity that
7 controls or is controlled by an oil company, and includes any
8 subsidiary or affiliated corporation in which the oil company or its
9 shareholders, officers, agents, or employees hold more than twenty-five
10 percent of the voting shares.

11 (5) "Petroleum products" means gasoline, gasoline components,
12 diesel, and residential heating oil.

13 (6) "Price" means the net purchase price, after adjustment for
14 commission, brokerage, rebate, discount, or any other adjustment. The
15 value of petroleum products exchanged or transferred between oil
16 companies or motor fuel delivered to a retail motor fuel outlet
17 operated by the same oil company, its subsidiary, or its affiliate
18 shall be considered the price.

19 NEW SECTION. **Sec. 4.** (1) Each oil company must file with the
20 commission schedules in the form the commission prescribes, containing
21 the following information:

22 (a) All prices established, enforced, or to be charged in each
23 location of the state that are set and known to the oil company before
24 a sale, transfer, or assignment of petroleum products to any persons
25 within any class of trade;

26 (b) All recent intrastate transactions or export shipments of bulk
27 quantities of petroleum products, including but not limited to the
28 following information:

29 (i) The date and location of the petroleum products;

30 (ii) The type, volume, and price of the petroleum products;

31 (iii) The parties involved in the transaction; and

32 (iv) The port of exit and final destination of petroleum products
33 exported out of the state;

34 (c) The recent refining profit margins for each petroleum product
35 refined in a refinery within the state of Washington; and

36 (d) Any other information deemed necessary by the commission.

1 (2) An oil company shall not charge, demand, collect, or receive
2 compensation for any product at a rate or price that differs from the
3 schedule that is effective on the date of the transaction.

4 NEW SECTION. **Sec. 5.** (1) No change shall be made in any price for
5 petroleum products contained in a schedule filed by an oil company in
6 compliance with section 4 of this act without filing prior notice to
7 the commission, in the form the commission prescribes, stating the
8 changes to be made to the schedule then in force.

9 (2) The commission shall provide oil companies with the ability to
10 file notices at any point in time throughout the year.

11 NEW SECTION. **Sec. 6.** (1) The commission shall:

12 (a) Exercise all the powers and perform all the duties prescribed
13 by this chapter;

14 (b) Make rules necessary to carry out the purposes, powers, or
15 duties assigned by this chapter;

16 (c) Utilizing the best technology then readily available, provide
17 public access to petroleum pricing and supply information; and

18 (d) Regulate, make rules, or enforce this chapter consistent with
19 the powers and duties granted to the commission and attorney general
20 for public service companies under this title.

21 (2) Nothing in this chapter shall be construed to give the
22 commission the power to set or establish prices, rates, charges, or
23 compensation of an oil company.

24 (3) In all respects in which the commission has power and authority
25 under this chapter, complaints may be made and filed with it, process
26 issued, hearings held, opinions, orders, and decisions made and filed,
27 petitions for rehearing filed and acted upon, and petitions for writs
28 of review, to the superior court filed therewith, appeals or mandate
29 filed with the supreme court of this state, considered and disposed of
30 by the courts in the manner, under the conditions, and subject to the
31 limitations, and with the effect specified in this title for public
32 service companies generally.

33 NEW SECTION. **Sec. 7.** (1) Any oil company that violates or fails
34 to comply with the provisions of this chapter is subject to a civil

1 penalty of not less than two thousand dollars for each violation or
2 failure to comply.

3 (2) Each day upon which a violation occurs constitutes a separate
4 violation for the purposes of subsection (1) of this section.

5 NEW SECTION. **Sec. 8.** (1) The attorney general may bring an action
6 in the name of the state against any oil company to restrain and
7 prevent the doing of any act prohibited or declared unlawful in this
8 chapter. The attorney general may, in the discretion of the court,
9 recover the costs of an action, including reasonable attorneys' fees.
10 The court may make such additional orders or judgments as may be
11 necessary to restore to any person in interest any moneys or property,
12 real or personal, which may have been acquired by means of an act
13 prohibited or declared to be unlawful in this chapter.

14 (2) Nothing in this chapter limits the power of the state to punish
15 any oil company for any conduct that constitutes a crime by statute or
16 at common law.

17 NEW SECTION. **Sec. 9.** (1) Every oil company subject to regulation
18 by the commission shall, by April 1st of each year, file with the
19 commission a statement on oath showing its gross operating revenue from
20 intrastate operations for the preceding calendar year.

21 (2) Unless decreased as provided in subsection (3) of this section,
22 every oil company subject to regulation by the commission shall pay to
23 the commission a fee equal to one-tenth of one percent of the first
24 fifty thousand dollars of gross operating revenue, plus two-tenths of
25 one percent of any gross operating revenue in excess of fifty thousand
26 dollars. The fee shall, in no case, be less than one dollar.

27 (3) The percentage rates of fees as set forth in subsection (2) of
28 this section may be decreased by the commission by general order
29 entered before March 1st of such year.

30 (4) All money collected under the provisions of this section shall
31 within thirty days be paid to the state treasurer and credited to the
32 public service revolving fund.

33 NEW SECTION. **Sec. 10.** This act may be known and cited as the
34 petroleum consumers bill of rights act.

1 NEW SECTION. **Sec. 11.** This act applies prospectively to all
2 actions and conduct occurring after the effective date of this act.

3 NEW SECTION. **Sec. 12.** This act shall be liberally construed to
4 give full effect to the objectives and purposes for which it was
5 enacted.

6 NEW SECTION. **Sec. 13.** Sections 3 through 12 of this act
7 constitute a new chapter in Title 80 RCW.

8 NEW SECTION. **Sec. 14.** If any provision of this act or its
9 application to any person or circumstance is held invalid, the
10 remainder of the act or the application of the provision to other
11 persons or circumstances is not affected.

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