
SUBSTITUTE SENATE BILL 5350

State of Washington

53rd Legislature

1993 Regular Session

By Senate Committee on Law & Justice (originally sponsored by Senators A. Smith, Erwin, Skratek, Loveland, Owen, L. Smith, Drew, Amondson, Snyder, Barr, Winsley and M. Rasmussen)

Read first time 2/17/93.

1 AN ACT Relating to prohibiting artificially high wholesale prices
2 and resale price maintenance in gasoline marketing; and adding a new
3 chapter to Title 19 RCW.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the marketing of
6 motor fuel in the state of Washington has become highly concentrated.
7 The industry includes a limited number of refiners of crude oil, some
8 of which are integrated with retail operations. Such concentration
9 permits refiners to sell motor fuel, or maintain the resale price of
10 motor fuel, at artificially high wholesale prices. This conduct is
11 harmful to consumers in the state of Washington and should be
12 prohibited.

13 NEW SECTION. **Sec. 2.** Unless the context clearly requires
14 otherwise, the definitions in this section apply throughout this
15 chapter.

16 (1) "Affiliate" means any person who directly or indirectly
17 controls, is controlled by, or is under common control with any other
18 person.

1 (2) "Control" means the direct or indirect power to direct or cause
2 the direction of the management and policies of a person, whether
3 through the ownership of voting securities, by contract, or otherwise.

4 (3) "Cost of doing business" means the expenses, on a per gallon
5 sold basis, incurred by an oil company to sell motor fuel at a company-
6 operated retail service station. "Cost of doing business" includes,
7 without limitation, the value of all goods, services, facilities,
8 labor, and overhead used, consumed, expended, or allocated by an oil
9 company in connection with such retail activity. If the independent
10 wholesale reseller takes delivery of the product at a truck loading
11 terminal, "cost of doing business" includes the fair market value of
12 transporting the motor fuel from the truck loading terminal to the
13 company-operated station. "Cost of doing business" does not include
14 the cost of extracting or purchasing raw crude oil, the cost of
15 refining crude oil into motor fuel, or the cost of delivering motor
16 fuel to the truck loading terminal.

17 (4) "Company-operated service station" means a retail service
18 station which is operated by a refiner's personnel, a subsidiary
19 company, an affiliate, a commissioned agent, or a consignee.

20 (5) "Grade of motor fuel" means motor fuel of a particular quality
21 or class and sold under a particular trademark, trade name, or brand.

22 (6) "Independent wholesale reseller" means a person, firm, or
23 corporation that is not an affiliate of an oil company and that buys
24 motor fuel primarily for resale to others.

25 (7) "Market wholesale price" means the per gallon price at which a
26 refiner sells or offers to sell to the public a grade of motor fuel at
27 a company-owned service station, less the cost of doing business at
28 that service station.

29 (8) "Motor fuel" means any liquid petroleum product used for the
30 propulsion of motor vehicles, not including airplanes, trains, or
31 marine vessels.

32 (9) "Person" means a natural person, partnership, corporation,
33 trust, or unincorporated association.

34 (10) "Price" means the price of a gallon of motor fuel paid to a
35 refiner by a purchaser less the value, on a per gallon sold basis, of
36 all rebates, discounts, credits, incentives, and other benefits
37 extended by the refiner to the purchaser as compensation for such
38 purchase.

1 (11) "Refiner" or "oil company" means any person, firm, or
2 corporation engaged in the production or refining of petroleum into
3 motor fuel, whether such production or refining occurs in this state or
4 elsewhere, and includes an affiliate of such refiner with respect to
5 such affiliate's sale of motor fuel.

6 (12) "Retail service station" or "service station" means a
7 facility, including land and improvements, where motor fuel is sold at
8 retail to the motoring public.

9 (13) "Set or attempt to set" includes but is not limited to actions
10 that put an independent wholesale purchaser at an economic disadvantage
11 if he or she fails to comply with a suggested price or margin.

12 NEW SECTION. **Sec. 3.** (1) No refiner may offer to sell motor fuel
13 to an independent wholesale reseller at a price that exceeds the then-
14 current market wholesale price of motor fuel of the same grade that is
15 delivered from the same truck loading terminal.

16 (2) No refiner may deliver motor fuel from different truck loading
17 terminals to company-operated service stations and independent service
18 stations, or restrict the truck loading terminals from which
19 independent wholesale resellers may purchase motor fuel, where the
20 effect of such action is to circumvent subsection (1) of this section,
21 unless such delivery or restriction serves a legitimate business
22 purpose.

23 (3) No refiner may set or attempt to set, either directly or
24 indirectly, the retail prices or margins of profit of motor fuel at any
25 retail service station other than a company-operated service station.

26 NEW SECTION. **Sec. 4.** The federal price discrimination act, 15
27 U.S.C. Sec. 13, as existing on January 11, 1993, applies as a matter of
28 state law to the sale of motor fuel in this state.

29 NEW SECTION. **Sec. 5.** The legislature finds that the practices
30 covered by this chapter are matters vitally affecting the public
31 interest for the purpose of applying the consumer protection act,
32 chapter 19.86 RCW. Violations of this chapter are not reasonable in
33 relation to the development and preservation of business. A violation
34 of this chapter is a monopolization of trade or commerce and an unfair
35 method of competition for the purpose of applying the consumer

1 protection act, chapter 19.86 RCW. This remedy is in addition to any
2 other remedy authorized by law.

3 NEW SECTION. **Sec. 6.** If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected.

7 NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act shall
8 constitute a new chapter in Title 19 RCW.

--- END ---