
SECOND SUBSTITUTE SENATE BILL 5350

State of Washington

53rd Legislature

1994 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 02/04/94.

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. The legislature feels
9 that the federal price discrimination act should be supplemented by
10 state law to prevent harm to consumers in the state of Washington.

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

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

1 (2) "Company-operated gasoline retail outlet" means a gasoline
2 retail outlet which is operated by a refiner's personnel, a subsidiary
3 company, an affiliate, a commissioned agent, or a consignee.

4 (3) "Expenses of operating a company-operated gasoline retail
5 outlet" means the fair market value of all goods, services, facilities,
6 labor, and overhead used, consumed, expended, or allocated by an oil
7 company in connection with the retail selling of motor fuel at a
8 company-operated retail outlet and, for those independent resellers
9 that take delivery at a truck loading terminal, the value of
10 transporting the motor fuel from the truck loading terminal to the
11 company-operated retail outlet. "Expenses of operating a company-
12 operated gasoline retail outlet" does not include the cost of acquiring
13 crude oil, manufacturing motor fuel, or transporting motor fuel to the
14 truck loading terminal or expenses related to the retail sale of
15 products other than motor fuel.

16 (4) "Gasoline retail outlet" means a facility, including land and
17 improvements, where motor fuel is sold at retail to the motoring
18 public.

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

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

24 (7) "Motor fuel" means any liquid petroleum product used for the
25 propulsion of motor vehicles, not including airplanes, trains, or
26 marine vessels.

27 (8) "Net wholesale price" means the price at which a refiner sells
28 or offers to sell to the public a grade of motor fuel at a company-
29 operated gasoline retail outlet, less, on a per gallon basis, the
30 expenses of operating that same company-operated gasoline retail
31 outlet.

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 in connection with or as
38 compensation for such 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) "Set or attempt to set" includes but is not limited to actions
7 that put an independent wholesale purchaser at an economic disadvantage
8 if he or she fails to comply with a suggested price or margin.

9 (13) "Distributor" means any refiner, oil marketer, jobber, person,
10 firm, or corporation engaged in the wholesaling of motor fuel.

11 NEW SECTION. **Sec. 3.** (1) No distributor may sell or offer to sell
12 a grade of motor fuel to an independent reseller at a price that
13 exceeds the contemporaneous net wholesale price of the same grade of
14 motor fuel delivered from the same truck loading terminal.

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

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

26 NEW SECTION. **Sec. 4.** The legislature finds that the practices
27 covered by this chapter are matters vitally affecting the public
28 interest for the purpose of applying the consumer protection act,
29 chapter 19.86 RCW. Violations of this chapter are not reasonable in
30 relation to the development and preservation of business. A violation
31 of this chapter is a monopolization of trade or commerce and an unfair
32 method of competition for the purpose of applying the consumer
33 protection act, chapter 19.86 RCW. This remedy is in addition to any
34 other remedy authorized by law.

35 NEW SECTION. **Sec. 5.** If any provision of this act or its
36 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

3 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act shall
4 constitute a new chapter in Title 19 RCW.

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