
SENATE BILL 5350

State of Washington

53rd Legislature

1993 Regular Session

By Senators A. Smith, Erwin, Skratek, Loveland, Owen, L. Smith, Drew, Amondson, Snyder, Barr, Winsley and M. Rasmussen

Read first time 01/25/93. Referred to Committee on Law & Justice.

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.** Refiners shall not be allowed to maintain
6 the resale price of motor fuel or sell motor fuel at artificially high
7 wholesale prices. Such practices are found to be harmful to the
8 consumers of the state of Washington.

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

12 (1) "Affiliate" means any person who, by means of direct or
13 indirect authority of a person to vote more than fifty percent of the
14 voting stock or partnership interest in another person, controls, is
15 controlled by, or is under common control with any other person.

16 (2) "Cost of doing business" means the expenses, on a per gallon
17 sold basis, of all goods, services, facilities, space, construction,
18 utilities, insurance, labor, repair, and maintenance that are consumed,

1 furnished, expended, or incurred by an oil company to sell motor fuel
2 at a company-operated retail service station. If the wholesale
3 reseller takes delivery of the product at a truck loading terminal, the
4 "cost of doing business" includes the fair market value of transporting
5 the motor fuel from the truck loading terminal to the company-operated
6 station. "Cost of doing business" does not include the cost of
7 refining crude oil into motor fuel or the cost of delivering motor fuel
8 to the truck loading terminal.

9 (3) "Company-operated service station" means a retail service
10 station which is operated by a refiner's personnel, a subsidiary
11 company, an affiliate, a commissioned agent, or a consignee.

12 (4) "Grade of motor fuel" means motor fuel sold under a trademark,
13 trade name, or brand.

14 (5) "Independent wholesale reseller" means a person, firm, or
15 corporation that is not an affiliate of an oil company and that buys
16 motor fuel primarily for resale to others.

17 (6) "Motor fuel" means any liquid petroleum product used for the
18 propulsion of motor vehicles, not including airplanes, trains, or
19 marine vessels.

20 (7) "Price" means the net price, including the value on a per
21 gallon sold basis, of rebates, discounts, credits, incentives, and all
22 other benefits extended by a refiner to a purchaser as compensation for
23 purchase of motor fuel.

24 (8) "Refiner" or "oil company" means any person, firm, or
25 corporation engaged in the production or refining of petroleum into
26 motor fuel, whether such production or refining occurs in this state or
27 elsewhere, and includes an affiliate of such refiner with respect to
28 such affiliate's sale of motor fuel.

29 (9) "Retail service station" or "service station" means a facility,
30 including land and improvements, where motor fuel is sold at retail to
31 the motoring public.

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

35 NEW SECTION. **Sec. 3.** (1) It is unlawful for any refiner to sell
36 or offer for sale any grade of motor fuel to an independent wholesale
37 reseller at a price higher than the price it contemporaneously sells or
38 offers for sale to the public at a company-operated service station the

1 same grade of motor fuel delivered from the same truck loading terminal
2 minus the cost of doing business at that service station.

3 (2) It is unlawful for a refiner to deliver motor fuel from
4 different truck loading terminals to company-operated service stations
5 and independent service stations, or to restrict the truck loading
6 terminals from which wholesale resellers may purchase motor fuel, where
7 the effect is to circumvent subsection (1) of this section, unless such
8 delivery or restriction serves a legitimate business purpose.

9 (3) It is unlawful for a refiner to set or attempt to set, either
10 directly or indirectly, the retail prices or margins of profit of motor
11 fuel at any retail service station other than a company-operated
12 service station.

13 NEW SECTION. **Sec. 4.** The legislature finds that the practices
14 covered by this chapter are matters vitally affecting the public
15 interest for the purpose of applying the consumer protection act,
16 chapter 19.86 RCW. Violations of this chapter are not reasonable in
17 relation to the development and preservation of business. A violation
18 of this chapter is a monopolization of trade or commerce and an unfair
19 method of competition for the purpose of applying the consumer
20 protection act, chapter 19.86 RCW. This remedy is in addition to any
21 other remedy authorized by law.

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

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

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