RICHARD BLUMENTHAL
ATTORNEY GENERAL

55 Elm Street
P.O. Box 120
Hartford, CT 06141-0120

Office of The Attorney General
State of Connecticut

TESTIMONY OF ATTORNEY GENERAL RICHARD BLUMENTHAL BEFORE THE GENERAL LAW COMMITTEE FEBRUARY 26, 2009

I appreciate the opportunity to comment on House Bill 6518, An Act Concerning the Fair Pricing of Gasoline.

This proposal prohibits zone pricing and other forms of price discrimination by gasoline wholesalers and refiners except to reflect actual transportation costs and other discounts or rebates. The proposal also creates a separate price-gouging statute for gasoline in the event of a gasoline supply emergency. The proposal requires the Attorney General to declare the existence of an imminent abnormal market disruption and creates a safe harbor for a business to raise prices during an emergency as long as the margin is not higher than the highest margin in the 90 days prior to the onset of the emergency.

As I have urged repeatedly and consistently for more than a decade of legislative sessions, this legislation bans zone pricing and requires that gasoline wholesalers to offer gasoline to a retailer at the same price and on the same conditions as any other retailer purchasing the same gasoline at that time. The legislation requires that any discounts or rebates on gasoline sold by a wholesaler be applied equally to all purchasers. This provision does not prohibit differences in gasoline prices on account of volume or other criteria. Rather, any volume discount must be offered to any retailer that meets the minimum sales requirement.

Zone pricing practices remain a menace for consumers and retailers alike. Producers and distributors continue to sell gasoline at higher prices to certain franchisees in areas where consumers are believed capable of paying higher prices. Such zone or street pricing practices seek to control the retail price for gasoline undercutting competition. They circumvent current law, which prohibits gasoline producers and distributors from requiring franchisees to "sell any product at a price suggested by the successor owner or supplier." Conn. Gen. Stat. § 42-133l(e).

Surveys demonstrate how consumers are held hostage by major oil companies. Some gasoline dealers indicate they are charged 20 cents more than their same brand name retailer just a few miles away. There is no legitimate reason for such price disparities. Transportation costs are no higher. The amount purchased is no different.

Local prices should be determined by local retailers responding to local economic factors. The handful of big oil company suppliers headquartered in Texas or California or abroad should not be allowed to manipulate the local retail price of gasoline.

In addition, all retailers should be provided the same opportunity to obtain gasoline at the same price and under the same conditions as their competitors.

With regard to the price gouging statute, the committee should maintain the same price gouging law and process for all energy products. The law is clear that any person who raises prices during a supply emergency or when such supply emergency in Connecticut is imminent, eg. a hurricane hits the Gulf of Mexico disrupting the flow of gasoline from the gulf refiners, can only raise prices to reflect additional cost to the retailer of the product. I urge the committee to delete section 3 and add the provisions of subsection (d) of that section to section 2.

I support the establishment of a safe harbor provision so retailers can understand that their price margins cannot exceed their normal price margins as reflected in the previous 90 days. I would urge the committee to consider adding the words "in the ordinary course of business" after the word 'gasoline' on line 124. This will ensure that retailers cannot create an artificially high profit margin for a period of time in order to allow for a greater profit margin during a supply emergency.

Thank you.