



General Assembly

January Session, 2009

**Raised Bill No. 6518**

LCO No. 3738

\*03738 \_\_\_\_\_ GL\_\*

Referred to Committee on General Law

Introduced by:

(GL)

***AN ACT CONCERNING THE FAIR PRICING OF GASOLINE.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2009*) (a) (1) Notwithstanding any  
2 other provision of the general statutes to the contrary, no person  
3 engaged in the business of furnishing gasoline to a person that sells  
4 gasoline at retail in this state shall use a pricing system under which  
5 the wholesale price paid for such gasoline by such retail seller is  
6 determined based on the geographic location of such retail seller in  
7 any geographic zone in this state, or any other pricing system that  
8 would prevent retail sellers of gasoline from paying lower prices on an  
9 equal basis with other retail sellers of gasoline in this state. No such  
10 person shall discriminate in the price of such gasoline charged to a  
11 retail seller of gasoline in this state, except to recover actual  
12 transportation costs and to offer discounts or rebates, as determined by  
13 such person from time to time. If any such discounts or rebates are  
14 offered to one such retail seller, all such discounts or rebates shall be  
15 disclosed in writing by such person to such retail seller and shall be  
16 offered by such person to all of its retail sellers on equal terms and  
17 conditions. When offered, all such discounts or rebates and the time

18 period for which they are offered shall be listed as a separate line item  
19 entry on each invoice to each retail seller accepting such offer.

20 (2) The provisions of this section shall apply to an individual,  
21 partnership, corporation, limited liability company, association or  
22 other entity, including, but not limited to, a manufacturer, refiner,  
23 supplier, wholesaler, hauler, blender, agent, jobber, consignment agent  
24 or distributor who supplies gasoline intended for immediate or  
25 eventual resale to consumers in this state.

26 (b) Each person engaged in the business of furnishing gasoline  
27 pursuant to subsection (a) of this section shall keep and maintain  
28 written or electronic records for not less than five years for each sale of  
29 gasoline to a person that sells gasoline at retail in this state. Such  
30 records shall include, but not be limited to, the date and time of sale,  
31 name of purchaser, delivery or purchase location of such gasoline, the  
32 amount and price of all gasoline sold to such retail seller of gasoline  
33 and any discounts or rebates offered pursuant to subsection (a) of this  
34 section.

35 (c) The records kept and maintained pursuant to subsection (b) of  
36 this section may, from time to time and within available resources and  
37 upon prior written request, be inspected by the Commissioner of  
38 Consumer Protection and the Attorney General or by their duly  
39 authorized representatives. If a person fails to supply such records  
40 within five business days after receiving a written request for such  
41 records pursuant to this subsection, such person shall forfeit and pay  
42 to the state a civil penalty of not more than one thousand dollars per  
43 day for each day the submission of such records is refused or delayed.  
44 The Attorney General, acting in the name of the state, may petition for  
45 recovery of such penalties.

46 (d) Records provided pursuant to subsection (c) of this section shall  
47 be considered confidential and proprietary trade secret information  
48 and shall be held in confidence by the Commissioner of Consumer  
49 Protection and the Office of Attorney General and shall not be released

50 to third parties except by court order or with the written consent of the  
51 person who kept and maintained such records.

52 (e) A violation of the provisions of subsection (a) or (b) of this  
53 section constitutes an unfair trade practice under subsection (a) of  
54 section 42-110b of the general statutes.

55 Sec. 2. Section 42-234 of the general statutes is repealed and the  
56 following is substituted in lieu thereof (*Effective October 1, 2009*):

57 (a) As used in this section:

58 (1) "Energy resource" shall include, but not be limited to, middle  
59 distillate, residual fuel oil, [motor gasoline,] propane, aviation gasoline  
60 and aviation turbine fuel, natural gas, electricity, coal and coal  
61 products, wood fuels and any other resource yielding energy;

62 (2) "Seller" shall include, but not be limited to, a supplier,  
63 wholesaler, distributor or retailer involved in the sale or distribution in  
64 this state of an energy resource; and

65 (3) "Abnormal market disruption" refers to any stress to an energy  
66 resource market resulting from weather conditions, acts of nature,  
67 failure or shortage of a source of energy, strike, civil disorder, war,  
68 national or local emergency, oil spill or other extraordinary adverse  
69 circumstance.

70 (b) No seller during any period of abnormal market disruption or  
71 during any period in which an imminent abnormal market disruption  
72 is reasonably anticipated shall sell or offer to sell an energy resource  
73 for an amount that represents an unconscionably excessive price.

74 (c) Evidence that (1) the amount charged represents a gross  
75 disparity between the price of an energy resource that was the subject  
76 of the transaction and the price at which such energy resource was  
77 sold or offered for sale by the seller in the usual course of business  
78 immediately prior to (A) the onset of an abnormal market disruption,

79 or (B) any period in which an imminent abnormal market disruption is  
80 reasonably anticipated, and (2) the amount charged by the seller was  
81 not attributable to additional costs incurred by the seller in connection  
82 with the sale of such product, shall constitute prima facie evidence that  
83 a price is unconscionably excessive.

84 (d) This section shall not be construed to limit the ability of the  
85 Commissioner of Consumer Protection or the courts to establish  
86 certain acts or practices as unfair or unconscionable in the absence of  
87 abnormal market disruptions.

88 Sec. 3. (NEW) (*Effective October 1, 2009*) (a) As used in this section:

89 (1) "Abnormal market disruption" means any stress to a motor  
90 gasoline market resulting from weather conditions, acts of nature,  
91 failure or shortage of a source of energy, strike, civil disorder, war,  
92 national or local emergency, oil spill, other extraordinary adverse  
93 circumstance or a disaster emergency declaration issued by the  
94 Governor pursuant to chapter 517 of the general statutes;

95 (2) "Profit margin" means the excess of a motor gasoline seller's  
96 selling price for such gasoline over such seller's cost for such gasoline;

97 (3) "Seller" includes, but is not limited to, a manufacturer, refiner,  
98 supplier, wholesaler, hauler, blender, agent, jobber, consignment  
99 agent, distributor or retailer involved in the sale or distribution in this  
100 state of motor gasoline.

101 (b) No seller during any period of abnormal market disruption or  
102 during any period in which an imminent abnormal market disruption  
103 is reasonably anticipated, as determined by the Attorney General and  
104 after notice of such imminent abnormal market disruption is given by  
105 the Attorney General to sellers of motor gasoline, shall sell or offer to  
106 sell motor gasoline for an amount that represents an unconscionably  
107 excessive price.

108 (c) Evidence that (1) the amount charged represents a gross

109 disparity between the price of motor gasoline that was the subject of  
110 the transaction and the price at which such motor gasoline was sold or  
111 offered for sale by the seller in the usual course of business  
112 immediately prior to (A) the onset of an abnormal market disruption,  
113 or (B) any period in which an imminent abnormal market disruption is  
114 reasonably anticipated, and (2) the amount charged by the seller was  
115 not attributable to additional costs incurred by the seller in connection  
116 with the sale of such motor gasoline, shall constitute prima facie  
117 evidence that a price is unconscionably excessive.

118 (d) Notwithstanding the provisions of subsections (b) and (c) of this  
119 section, it shall not be a violation of this section if a seller sells or offers  
120 to sell motor gasoline during an abnormal market disruption or any  
121 period in which an imminent abnormal market disruption is  
122 reasonably anticipated if the seller's profit margin for such motor  
123 gasoline is equal to or not greater than such seller's maximum profit  
124 margin on the sale of such motor gasoline during the ninety-day  
125 period prior to the onset of the abnormal market disruption or period  
126 in which an imminent abnormal market disruption is reasonably  
127 anticipated.

128 (e) This section shall not be construed to limit the ability of the  
129 Commissioner of Consumer Protection or the courts to establish  
130 certain acts or practices as unfair or unconscionable in the absence of  
131 abnormal market disruptions.

132 (f) The Attorney General, upon referral by the Commissioner of  
133 Consumer Protection, may bring a civil action in the superior court for  
134 the judicial district of Hartford against any person who violates any  
135 provision of this section to recover a civil penalty of not more than ten  
136 thousand dollars per violation and such equitable relief as the court  
137 deems appropriate.

138 (g) The Attorney General, upon referral by the Commissioner of  
139 Consumer Protection, may bring a civil action in the superior court for  
140 the judicial district of Hartford against any person who knowingly

141 violates any provision of this section to recover a civil penalty of not  
142 more than ten thousand dollars per violation, double damages and  
143 such equitable relief as the court deems appropriate.

144 (h) A violation of this section shall be deemed to be an unfair trade  
145 practice within the provisions of chapter 735a of the general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2009</i>	New section
Sec. 2	<i>October 1, 2009</i>	42-234
Sec. 3	<i>October 1, 2009</i>	New section

**Statement of Purpose:**

To ban the practice of gasoline zone pricing and to discourage gasoline price gouging.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*