
A BILL FOR AN ACT

RELATING TO PETROLEUM PRICE GOUGING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Hawaii's geographic isolation has made it
2 particularly vulnerable to high gas prices, particularly during
3 abnormal disruptions of the petroleum market. Gasoline is one
4 product that consumers can not do without. No one should be
5 allowed to take advantage of abnormal market conditions to gouge
6 Hawaii consumers of this precious resource.

7 Due to recent catastrophic events, the cost of petroleum
8 has become a concern for consumers nationally and locally. The
9 purpose of this Act is to protect Hawaii consumers from price
10 gouging in the purchase of petroleum during periods of abnormal
11 disruption of the marketplace caused by extraordinary adverse
12 circumstances.

13 Currently, absent a local natural disaster, and the
14 effectuating provisions of chapter 209, Hawaii Revised Statutes,
15 the only way that the State can prosecute someone for price
16 gouging is pursuant to the unfairness doctrine of chapter 480,
17 Hawaii Revised Statutes. This Act will enhance that enforcement
18 authority by specifically making it an unfair or deceptive trade

1 practice for any petroleum-related business to sell or offer to
2 sell any petroleum product for an amount that represents an
3 unconscionably excessive price during any abnormal disruption of
4 the market, whether it occurred in Hawaii or in other parts of
5 the world.

6 SECTION 2. The Hawaii Revised Statutes is amended by
7 adding to title 26 a new chapter to be appropriately designated
8 and to read as follows:

9 "CHAPTER

10 PETROLEUM PRICE GOUGING

11 § -1 **Short title.** This chapter shall be known and may
12 be cited as the "Petroleum Price Gouging Act of 2006."

13 § -2 **Petroleum price gouging as unfair or deceptive act**
14 **or practice.** (a) It shall constitute an unfair or deceptive
15 act or practice in the conduct of any trade or commerce under
16 section 480-2 for any petroleum-related business to sell or
17 offer to sell any petroleum product for an amount that
18 represents an unconscionably excessive price during any abnormal
19 disruption of the market. For purposes of this section, the
20 phrase "abnormal disruption of the market" means any change in
21 the market resulting from an actual or imminently threatened
22 stress of weather, convulsion of nature, failure or shortage of

1 electric power or other source of energy, strike, civil
2 disorder, war, military action, or national or local emergency.

3 (b) A price is unconscionably excessive if the amount
4 charged represents a gross disparity between the price of the
5 petroleum product and

6 (1) The price at which the same grade of petroleum product
7 was sold or offered for sale by the petroleum-related
8 business in the usual course of business immediately
9 prior to the onset of the abnormal disruption of the
10 market; or

11 (2) The price at which the same or similar grade of
12 petroleum product is readily obtainable by other
13 buyers in the trade area;

14 and the disparity is not substantially attributable to increased
15 prices charged by suppliers to the petroleum-related business or
16 increased costs attributable to market forces beyond the control
17 of the petroleum-related business selling or offering to sell
18 the petroleum product."

H .B. NO. 2328

1 SECTION 3. This Act shall take effect upon its approval.

2 INTRODUCED BY: Calvin K. Boy

3 BY REQUEST

JAN 23 2006

HB2328

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO PETROLEUM PRICE GOUGING.

PURPOSE: Create a new chapter in the Hawaii Revised Statutes designed to protect Hawaii consumers from price gouging in the purchase of petroleum during periods of abnormal disruption of the marketplace caused by extraordinary adverse circumstances.

MEANS: Add a new chapter to title 26 of the Hawaii Revised Statutes.

JUSTIFICATION: Due to recent catastrophic events, the cost of petroleum has become a concern for consumers nationally and locally. On the mainland, some petroleum service stations have used events to raise the price of fuel to unconscionably high levels. This bill seeks to provide Hawaii law enforcement with additional tools to address this circumstance. Currently, absent a local natural disaster, and the effectuating provisions of chapter 209, Hawaii Revised Statutes, the only way that the State can prosecute someone for price gouging is pursuant to the unfairness doctrine of chapter 480, Hawaii Revised Statutes. This bill would enhance that enforcement authority by specifically making it an unfair or deceptive trade practice for any petroleum-related business to sell or offer to sell any petroleum product for an amount that represents an unconscionably excessive price during any abnormal disruption of the market, whether it occurred in Hawaii or in other parts of the world.

Impact on the public: This measure will deter local petroleum businesses from raising gasoline

prices to unconscionably high levels.

Impact on the department and other agencies:
This bill will assist the department and law enforcement in stabilizing gasoline prices.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: CCA-110.

OTHER AFFECTED
AGENCIES: Federal Trade Commission

EFFECTIVE DATE: Upon approval.