

JAN 25 2006

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**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 authority by specifically making it an unfair or deceptive trade  
2 practice for any petroleum-related business to sell or offer to  
3 sell any petroleum product for an amount that represents an  
4 unconscionably excessive price during any abnormal disruption of  
5 the market, whether it occurred in Hawaii or in other parts of  
6 the world.

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

10 "CHAPTER

11 PETROLEUM PRICE GOUGING

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

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

1 stress of weather, convulsion of nature, failure or shortage of  
2 electric power or other source of energy, strike, civil  
3 disorder, war, military action, or national or local emergency.

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

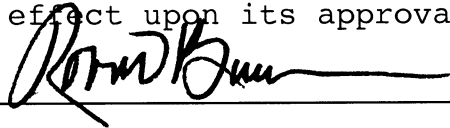
7 (1) The price at which the same grade of petroleum product  
8 was sold or offered for sale by the petroleum-related  
9 business in the usual course of business immediately  
10 prior to the onset of the abnormal disruption of the  
11 market; or

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

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

S . B . NO . 2291

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

2 INTRODUCED BY: 

3 BY REQUEST

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.