

JAN 22 2007

A BILL FOR AN ACT

RELATING TO GASOLINE 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 gasoline prices, particularly
3 during abnormal disruptions of the gasoline market. Gasoline is
4 one 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 gasoline has
8 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 gasoline during periods of abnormal
11 disruption of the marketplace caused by extraordinary adverse
12 circumstances.

13 Currently, absent a local natural disaster, or a formal
14 declaration of emergency by the governor, the only way that the
15 State can prosecute someone for price gouging is pursuant to the
16 unfairness doctrine of chapter 480, Hawaii Revised Statutes.
17 This Act will enhance enforcement authority by specifically

1 making it an unfair or deceptive trade practice for any
2 gasoline-related business to sell or offer to sell any gasoline
3 product for an amount that represents an unconscionably
4 excessive price during any abnormal disruption of the market,
5 whether that disruption 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 GASOLINE PRICE GOUGING

12 § -1 Short title. This chapter shall be known and may
13 be cited as the "Gasoline Price Gouging Act of 2007."

14 § -2 Definitions. "Gasoline" includes gasoline, benzol,
15 benzine, naphtha, and any other liquid prepared, advertised,
16 offered for sale, sold for use as, or used for, the generation
17 of power for the propulsion of motor vehicles, including any
18 product obtained by blending together any one or more petroleum
19 products with or without other products, if the resultant
20 product is capable of the same use.

21 § -3 Gasoline price gouging as unfair or deceptive act
22 or practice. (a) It shall constitute an unfair or deceptive

1 act or practice in the conduct of any trade or commerce under
2 section 480-2 for any gasoline-related business to sell or
3 offer to sell any gasoline product for an amount that represents
4 an unconscionably excessive price during any abnormal disruption
5 of the market. For purposes of this section, the phrase "abnormal
6 disruption of the market" means any change in the market
7 resulting from an actual or imminently threatened stress of
8 weather, convulsion of nature, failure or shortage of electric
9 power or other source of energy, strike, civil disorder, war,
10 military action, or national or local emergency.

11 (b) A price is unconscionably excessive if the amount
12 charged represents a gross disparity between the price of the
13 gasoline product and:

14 (1) The price at which the same grade of gasoline product
15 was sold or offered for sale by the gasoline-related
16 business in the usual course of business immediately
17 prior to the onset of the abnormal disruption of the
18 market; or

19 (2) The price at which the same or similar grade of
20 gasoline product is readily obtainable by other buyers
21 in the trade area;

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1 and the disparity is not substantially attributable to increased
2 prices charged by suppliers to the gasoline-related business or
3 increased costs attributable to market forces beyond the control
4 of the gasoline-related business selling or offering to sell the
5 gasoline product."

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

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INTRODUCED BY: _____

BY REQUEST

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JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

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

PURPOSE: To protect Hawaii consumers from price gouging in the purchase of gasoline 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 gasoline has become a concern for consumers nationally and locally. On the mainland, some gasoline 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, or a formal declaration of emergency by the governor, 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 gasoline-related business to sell or offer to sell any gasoline 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 gasoline 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.