
A BILL FOR AN ACT

RELATING TO GASOLINE PRICE GOUGING.

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

1 SECTION 1. The legislature finds that Hawaii's geographic
2 isolation makes it vulnerable to high gasoline prices,
3 particularly during abnormal disruptions of the market. The
4 legislature further finds that the rising cost of gasoline
5 became a growing concern in Hawaii and throughout the country
6 because of recent inflation and the 2022 Russian invasion of
7 Ukraine. In the summer of 2022, gas prices jumped to a record
8 national average of \$5.02 per gallon, which led to the current
9 President of the United States releasing approximately one
10 million barrels of oil each day from the nation's Strategic
11 Petroleum Reserve. Gas prices in Hawaii also reached record
12 highs in 2022, with the average price for a gallon of regular
13 unleaded gasoline reaching \$5.60 in July 2022.

14 The legislature additionally finds that, according to an
15 analysis performed by the watchdog group Accountable.US, as gas
16 prices soared for consumers, ExxonMobil, Chevron, and other
17 major oil companies announced surging profits totaling



1 \$41,000,000,000 in the first quarter of 2022. Over the same
2 period, oil companies also spent billions of dollars on stock
3 buybacks and dividend payments to investors. Moreover, a survey
4 conducted by the Federal Reserve Bank of Dallas found that
5 nearly sixty per cent of oil executives cited investor pressure
6 to maintain capital discipline as the main reason for failing to
7 act to reduce gasoline prices.

8 The legislature further finds that the State is currently
9 limited in its ability to investigate someone from price
10 gouging, absent a formal declaration of a state of emergency by
11 the governor or a declaration of a local state of emergency by a
12 county mayor. This Act will strengthen enforcement authority
13 over the petroleum industry by making it an unfair trade
14 practice for any gasoline dealer to sell or offer to sell any
15 gasoline for an amount that represents an unconscionably
16 excessive price during any abnormal disruption of the market,
17 whether that disruption occurred in Hawaii or in other parts of
18 the world.

19 The legislature also finds that climate change is an
20 existential threat to the State. The overwhelming consensus of
21 scientists who have studied the issue is that climate change is



1 occurring primarily as a result of the combustion of fossil
2 fuels. According to the Hawai'i climate change mitigation and
3 adaptation commission, over the next thirty to seventy years,
4 sea level rise will expose approximately 6,500 structures and
5 19,800 people statewide to chronic flooding, costing the State
6 at least \$19,000,000,000 and endangering public health. One way
7 to hold gasoline dealers accountable for their impact on the
8 climate crisis is by enabling the courts to order civil
9 penalties to be deposited into the energy security special fund,
10 which may then be used to expand clean energy programs.

11 The purpose of this Act is to:

- 12 (1) Protect Hawaii consumers from gasoline price gouging
13 by making the sale of gasoline for an unconscionably
14 excessive price during periods of abnormal disruption
15 of the market an unfair trade practice;
- 16 (2) Increase penalties for violations of the law
17 regulating unfair trade practices by the petroleum
18 industry; and
- 19 (3) Authorize a court to order all or a portion of any
20 civil penalty imposed to be deposited into the energy
21 security special fund.



1 SECTION 2. Section 201-12.8, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) There is created within the state treasury an energy
4 security special fund, which shall consist of:

5 (1) The portion of the environmental response, energy, and
6 food security tax specified under section 243-3.5;

7 (2) Moneys appropriated to the fund by the legislature;

8 (3) All interest attributable to investment of money
9 deposited in the fund; and

10 (4) Moneys allotted to the fund from other sources,
11 including under ~~[section]~~ sections 196-6.5[-] and
12 486B-4."

13 SECTION 3. Section 486B-1, Hawaii Revised Statutes, is
14 amended as follows:

15 1. By amending the definition of "gasoline" to read:

16 "Gasoline" [means a volatile mixture of liquid
17 hydrocarbons, generally containing small amounts of additives,
18 suitable for use as a fuel in spark-ignition internal combustion
19 engines.] includes gasoline, benzol, benzine, naphtha, and any
20 other liquid prepared, advertised, offered for sale, sold for
21 use as, or used for, the generation of power for the propulsion



1 of motor vehicles, including any product obtained by blending
2 together any one or more petroleum products with or without
3 other products, if the resultant product is capable of the same
4 use."

5 2. By adding five new definitions to be appropriately
6 inserted and to read:

7 "Abnormal disruption of the market" means any change in
8 the market resulting from an actual or imminently threatened
9 stress of weather; convulsion of nature; failure or shortage of
10 electric power or other source of energy; strike; civil
11 disorder; national emergency, state of emergency, or local state
12 of emergency; international or national crisis impacting oil
13 markets; economic downturn; or period of economic inflation.

14 "Gasoline dealer" has the same meaning as in section
15 486H-1.

16 "Petroleum distributor" has the same meaning as in section
17 486H-1.

18 "Petroleum supplier" means any person that makes the first
19 sale of any petroleum product into the state distribution system
20 for consumption within the State.



1 "Unconscionably excessive price" means a price at which the
2 amount charged represents a gross disparity between the price of
3 the gasoline and:

4 (1) The price at which the same grade of gasoline was sold
5 or offered for sale by the gasoline dealer in the
6 usual course of business immediately prior to the
7 onset of the abnormal disruption of the market; or

8 (2) The price at which the same or similar grade of
9 gasoline may be purchased by buyers in areas with a
10 consumer price index that is similar to the consumer
11 price index for the Honolulu area, as measured by
12 United States Department of Labor Consumer Price Index
13 for All Urban Consumers, or a successor index;

14 and the disparity exceeds that which can be reasonably
15 attributed to increased prices charged by petroleum suppliers to
16 petroleum distributors."

17 SECTION 4. Section 486B-3, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "~~§~~486B-3 **Unlawful profiteering.** Any person who
20 sells petroleum products and who, with intent to enhance the
21 price or restrict the supply of petroleum products:



- 1 (1) Wilfully causes or permits preventable waste in the
- 2 production, manufacture, storage, or distribution of
- 3 petroleum products;
- 4 (2) Prevents, limits, lessens, or restricts the
- 5 manufacture, production, supply, or distribution of
- 6 petroleum products;
- 7 (3) Enters into any contract, combination, or conspiracy
- 8 in restraint of trade or commerce;
- 9 (4) Exacts or demands any unjust or unreasonable profit in
- 10 the sale, exchange, or handling of petroleum products;
- 11 [~~or~~]
- 12 (5) Sells or offers to sell any gasoline for an amount
- 13 that represents an unconscionably excessive price
- 14 during any abnormal disruption of the market; or
- 15 [~~5~~] (6) In any way aids or abets the doing of any act
- 16 prohibited in paragraphs (1) to [~~4~~], (5),
- 17 commits an unlawful trade practice."

18 SECTION 5. Section 486B-4, Hawaii Revised Statutes, is
 19 amended to read as follows:

20 "~~[§]486B-4[§]~~ **Penalty.** (a) Any person who violates this
 21 chapter shall be fined not more than [~~\$10,000~~] \$50,000 for



1 ~~[each]~~ the first violation and \$100,000 for each subsequent
 2 violation, ~~[or imprisoned]~~ imprisonment for not more than five
 3 years, or both~~[-]~~; provided that a court may order that all or a
 4 portion of any civil penalty imposed under this section be
 5 deposited into the energy security special fund established
 6 pursuant to section 201-12.8.

7 (b) In assessing the penalty provided by subsection (a),
 8 each day of a continuing violation shall be considered a
 9 separate violation.

10 (c) The court shall take into consideration, among other
 11 factors, the seriousness of the violation and the efforts of the
 12 person committing the violation to remedy the harm caused by the
 13 violation in a timely manner."

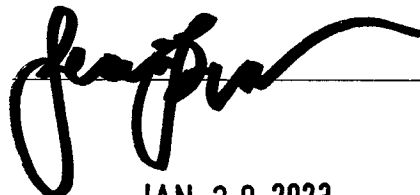
14 SECTION 6. This Act does not affect rights and duties that
 15 matured, penalties that were incurred, and proceedings that were
 16 begun before its effective date.

17 SECTION 7. Statutory material to be repealed is bracketed
 18 and stricken. New statutory material is underscored.

19 SECTION 8. This Act shall take effect upon its approval.

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INTRODUCED BY:



H.B. NO. 557

Report Title:

Petroleum; Gasoline; Price Gouging; Unfair Trade Practices;
Civil Penalties; Energy Security Special Fund

Description:

Makes the sale of gasoline for an unconscionably excessive price during periods of abnormal disruption of the market an unfair trade practice. Increases penalties for violations of the law regulating unfair trade practices by the petroleum industry. Authorizes the courts to order all or a portion of any civil penalty imposed to be deposited into the energy security special fund.

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