
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2051 Session of
2005

INTRODUCED BY GEORGE, THOMAS, BEBKO-JONES, BELARDI, BELFANTI,
BLACKWELL, BLAUM, CALTAGIRONE, COHEN, COSTA, DeLUCA, DeWEESE,
FABRIZIO, FRANKEL, GOOD, GOODMAN, GRUCELA, HANNA, HERMAN,
JAMES, JOSEPHS, LaGROTTA, LEACH, LEDERER, MANN, MARKOSEK,
McGEEHAN, McILHATTAN, MUNDY, PETRARCA, PETRONE, PISTELLA,
RAYMOND, RUBLEY, SANTONI, SATHER, SHANER, STABACK, STURLA,
SURRA, TANGRETTI, TIGUE, WALKO, WANSACZ AND YOUNGBLOOD,
OCTOBER 17, 2005

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, OCTOBER 17, 2005

AN ACT

1 Prohibiting price gouging; authorizing the Attorney General to
2 investigate energy price increases; and imposing penalties.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Protection
7 from Liquid Fuels and Propane Price Gouging Act.

8 Section 2. Purpose.

9 The General Assembly finds and declares as follows:

10 (1) Americans have recently experienced high prices and
11 significant price volatility for liquid fuels and propane.

12 (2) In the very near future, Americans may risk higher
13 prices and supply disruptions resulting from many causes,
14 including extreme weather conditions, depletion of
15 stockpiles, labor strikes, civil disorder, natural or manmade

emergencies or disasters and military action.

(3) In these turbulent times, our Commonwealth should be mindful of the possibility that manufacturers and distributors of liquid fuels and propane may take unfair advantage of this situation by charging unnecessary grossly excessive prices or price gouging.

(4) To prevent this, the General Assembly should prohibit price gouging on liquid fuels and propane, impose penalties on violators and authorize the Attorney General to investigate and prosecute complaints of these illegal actions.

Section 3. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Chain of distribution." Parties, including, but not limited to, any manufacturer, supplier, wholesaler and distributor, involved in the manufacturing and distribution of liquid fuels or propane.

"Liquid fuels." The term includes, but is not limited to, gasoline, diesel fuel, heating oil and kerosene.

Section 4. Price gouging prohibited.

(a) General rule.--During a state of disaster emergency declared by the Governor pursuant to the provisions of 35 Pa.C.S. § 7301(c) (relating to general authority of Governor), no party within a chain of distribution may sell or offer to sell liquid fuels or propane at a price which is unnecessarily excessive.

(b) Determination of "unnecessarily excessive."--A price shall be deemed unnecessarily excessive if:

1 (1) The amount charged represents a gross disparity
2 between the price of the liquid fuels or propane and:

3 (i) the price at which the liquid fuels or propane
4 were sold or offered for sale by the party within the
5 chain of distribution in the usual course of business
6 occurred within seven days immediately prior to the
7 declaration of the state of disaster emergency; or

8 (ii) the price is equal to the price at which the
9 same or similar liquid fuels or propane are readily
10 obtainable by other similar buyers in the trade area.

11 (2) The disparity is not substantially attributable to
12 additional costs to the party with the chain of distribution
13 in connection with the sale of liquid fuels or propane,
14 including replacement costs, taxes and transportation costs
15 incurred by the seller.

16 Section 5. Investigation.

17 (a) Authority.--

18 (1) If the Attorney General has reason to believe that a
19 violation of this act has occurred, the Attorney General
20 shall investigate on behalf of the Commonwealth, its citizens
21 or a political subdivision.

22 (2) The Bureau of Consumer Protection in the Office of
23 Attorney General shall investigate any complaints received by
24 it concerning violations of this act. If after investigating
25 any complaint the Attorney General finds that there has been
26 a violation of this act, the Attorney General may bring an
27 action to impose a civil penalty and to seek other relief,
28 including, but not limited to, injunctive relief, under the
29 act of December 17, 1968 (P.L.1224, No.387), known as the
30 Unfair Trade Practices and Consumer Protection Law.

1 (b) Procedure.--

2 (1) Prior to the institution of a civil action, the
3 Attorney General shall require the attendance and testimony
4 of witnesses and the production of documents. For this
5 purpose, the Attorney General may issue subpoenas, examine
6 witnesses and receive evidence. If a person objects to or
7 otherwise fails to comply with a subpoena or request for
8 testimony, the Attorney General may file in Commonwealth
9 Court an action to enforce the subpoenas or request.

10 (2) Notice of hearing of the action and a copy of all
11 pleadings shall be served upon the person who may appear in
12 opposition.

13 (c) Confidentiality.--

14 (1) Any testimony taken or material produced shall be
15 kept confidential by the Attorney General, except:

16 (i) to the extent that the Attorney General may use
17 the information in a judicial proceeding;

18 (ii) if the information is already available to the
19 public;

20 (iii) if the disclosure is authorized by the court
21 for good cause shown; or

22 (iv) confidentiality is waived by the person being
23 investigated and by the person who has testified,
24 answered interrogatories or produced materials.

25 (2) The Attorney General shall disclose the information
26 to appropriate Federal, State or local law enforcement
27 officials if the Attorney General determines that the
28 disclosure of the information is necessary to prevent or
29 restrain a violation of Federal or State law.

30 Section 6. Violations.

1 In addition to any appropriate fines or fees under the act of
2 December 17, 1968 (P.L.1224, No.387), known as the Unfair Trade
3 Practices and Consumer Protection Law, the penalty for a
4 violation of this section shall be \$10,000 and, where
5 appropriate, the court may order restitution to the aggrieved
6 buyer.

7 Section 7. Effective date.

8 This act shall take effect immediately.