



General Assembly

February Session, 2006

Raised Bill No.

502

LCO No. 2458



Referred to Committee on

Introduced by: **GENERAL LAW**
(GL)

AN ACT CONCERNING UNFAIR TRADE PRACTICES AND CASH DISCOUNTS FOR GASOLINE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (c) of section 42-133ff of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2006*):

4 (c) Nothing in this section shall prohibit any seller from offering a
5 discount to a buyer to induce such buyer to pay by cash, check or
6 similar means rather than by credit card. No person engaged in the
7 business of furnishing gasoline to a retail distributor of gasoline in this
8 state shall prohibit such retailer from offering a discount to a buyer to
9 pay cash for such gasoline. A violation of this subsection shall be
10 deemed an unfair or deceptive trade practice under subsection (a) of
11 section 42-110b.

This act shall take effect as follows and shall amend the following sections:

Section 1	October 1, 2006	42-133ff(c)
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Statement of Purpose:

To allow gasoline retailers to offer customers cash discounts.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]



Senate

General Assembly

File No. 104

February Session, 2006

Senate Bill No. 502

Senate, March 23, 2006

The Committee on General Law reported through SEN. COLAPIETRO of the 31st Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING UNFAIR TRADE PRACTICES AND CASH DISCOUNTS FOR GASOLINE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (c) of section 42-133ff of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2006*):

4 (c) Nothing in this section shall prohibit any seller from offering a
5 discount to a buyer to induce such buyer to pay by cash, check or
6 similar means rather than by credit card. No person engaged in the
7 business of furnishing gasoline to a retail distributor of gasoline in this
8 state shall prohibit such retailer from offering a discount to a buyer to
9 pay cash for such gasoline. A violation of this subsection shall be
10 deemed an unfair or deceptive trade practice under subsection (a) of
11 section 42-110b.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2006</i>	42-133ff(c)
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GL *Joint Favorable*

1067

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 07 \$	FY 08 \$
Consumer Protection, Dept.; Attorney General	Various - Revenue Gain	Potential Minimal	Potential Minimal

Municipal Impact: None

Explanation

The bill makes it an unfair trade practice for a gasoline supplier to prohibit its retailer from offering a cash discount to a customer. Under the Connecticut Unfair Trade Practices Act (CUTPA), the Department of Consumer Protection (DCP) and the Attorney General can impose CUTPA fines.

In the case of settlements, depending on the negotiation terms, funds are either deposited into the DCP's Consumer Protection Settlement Account or the unrestricted resources of the General Fund. Funds deposited into the Consumer Protection Settlement Account are used only to enhance activities that further consumer protection. In FY 05, \$92,298 in CUTPA fines were deposited into the DCP Consumer Protection Settlement Account. Additionally, in FY 05, \$356,751 in CUTPA fines were deposited into the General Fund as a result of settlements negotiated by the Office of the Attorney General (OAG). The state agencies could accommodate the workload associated with enforcement of the bill without requiring additional resources. To the extent that the bill increases the potential for future violations, the bill could result in a minimal revenue gain to the state.

The Out Years

CONNECTICUT
STATE LIBRARY
LEGISLATIVE REFERENCE
SECTION

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

067

**OLR Bill Analysis
SB 502**

AN ACT CONCERNING UNFAIR TRADE PRACTICES AND CASH DISCOUNTS FOR GASOLINE.

SUMMARY:

This bill prohibits gasoline suppliers from prohibiting their retailers from offering discounts to cash customers. Sellers may offer discounts for cash, check, or similar means other than a credit card. The bill makes a violation of either provision an unfair trade practice.

EFFECTIVE DATE: October 1, 2006

BACKGROUND

Connecticut Unfair Trade Practices Act (CUTPA)

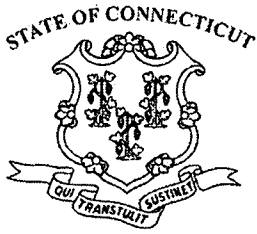
The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the consumer protection commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. The act also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorneys fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order.

COMMITTEE ACTION

General Law Committee

Joint Favorable
Yea 15 Nay 0 (03/09/2006)

**CONNECTICUT
STATE LIBRARY
LEGISLATIVE REFERENCE
SECTION**



General Assembly

[SENATE] Amendment (A.)

February Session, 2006

LCO No. 4638



Offered by:

SEN. COLAPIETRO, 31st Dist.
SEN. GAFFEY, 13th Dist.
SEN. HANDLEY, 4th Dist.
SEN. MCDONALD, 27th Dist.
SEN. FINCH, 22nd Dist.
SEN. CRISCO, 17th Dist.
SEN. GOMES, 23rd Dist.
SEN. LEBEAU, 3rd Dist.

SEN. DUFF, 25th Dist.
SEN. PRAGUE, 19th Dist.
SEN. HERLIHY, 8th Dist.
SEN. FREEDMAN, 26th Dist.
SEN. COLEMAN, 2nd Dist.
SEN. CIOTTO, 9th Dist.
SEN. HARP, 10th Dist.
REP. MAZUREK, 80th Dist.

To: Senate Bill No. 502

File No. 104

Cal. No. 117

"AN ACT CONCERNING UNFAIR TRADE PRACTICES AND CASH DISCOUNTS FOR GASOLINE."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Section 16a-23 of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective July 1, 2006*):

5 (a) No person engaged in the business of refining petroleum into
6 gasoline and furnishing gasoline to retail distributors of gasoline for
7 sale to the public in this state shall fail to furnish gasoline to
8 independent retail distributors of gasoline in this state, whether or not
9 franchised by such person, at wholesale prices in reasonable quantities

10 as long as [he] such person continues to furnish gasoline to retail
11 distributors of gasoline in this state which are wholly owned by [him]
12 such person or operated under a franchise granted by [him] such
13 person.

14 (b) It shall constitute, prima facie, a violation of the provisions of
15 subsection (a) of this section for any such person (1) during any
16 calendar month beginning after July 1, 1973, to deliver to independent
17 retail distributors of gasoline in this state a percentage of the total
18 gallons of gasoline delivered by [him] such person to all retail
19 distributors of gasoline in this state during that month which is lower
20 than the percentage of the total gallons of gasoline delivered by [him]
21 such person to all retail distributors of gasoline in this state during the
22 period from July 1, 1971, to June 30, 1972, which was delivered by
23 [him] such person to independent retail distributors of gasoline in this
24 state during that period, or (2) to sell gasoline to independent retail
25 distributors of gasoline in this state at a price during any such month
26 which is greater than (A) the average price at which [he] such person
27 sold gasoline to such distributors during the period from July 1, 1971,
28 to June 30, 1972, increased by (B) a percentage equal to the percentage
29 by which the average price for gasoline sold during that month to
30 retail distributors of gasoline which are wholly owned by, or operated
31 under a franchise granted by [] that person exceeds the average price
32 for gasoline sold to such distributors during the period from July 1,
33 1971, to June 30, 1972.

34 (c) No producer or refiner of petroleum products who is subject to
35 the provisions of section 14-344a and furnishes gasoline to a person
36 that sells gasoline at retail in this state shall use a pricing system under
37 which the wholesale price paid for such gasoline by such retail seller is
38 determined based on the geographic location of such retail seller in
39 any geographic zone in this state, or any other system that would
40 prevent retail sellers of gasoline from paying lower prices on an equal
41 basis with other retail sellers of gasoline in this state. Such producer or
42 refiner shall sell such gasoline at the posted rack price of such
43 producer or refiner. For purposes of this subsection, "posted rack

44 price" means the price of each brand and grade of gasoline offered for
45 sale by such producer and refiner. The posted rack price shall be
46 promulgated by such producer or refiner at six o'clock p.m. each day.
47 Such posted rack price shall be the controlling price for the twenty-
48 four-hour period commencing the following twelve o'clock a.m. Such
49 producer or refiner shall promulgate the posted rack price by: (1)
50 Posting a sign conspicuously listing such price at the point of sale, and
51 (2) sending notices to all franchisees and, upon request, to other retail
52 sellers, by facsimile, electronic mail or other means. Such producer and
53 refiner shall not discriminate in the price of such gasoline charged to
54 retail sellers of gasoline in this state, except to charge the actual cost of
55 transportation for gasoline delivered in this state or to offer discounts
56 or rebates that may be determined by such producer or refiner from
57 time to time. Such discounts or rebates shall be disclosed by the
58 producer or refiner to the retail sellers and shall be offered by the
59 producer or refiner to all of its retail sellers on equal terms and
60 conditions. When offered, all such discounts or rebates and the time
61 period they are offered shall be listed as a separate line item entry on
62 each invoice.

63 [(c)] (d) A violation of the provisions of subsection (a) or (c) of this
64 section or of section 502 of this act constitutes an unfair trade practice
65 [within the provisions of chapter 735a] under subsection (a) of section
66 42-110b.

67 (e) The provisions of subsection (c) of this section shall expire two
68 years from the effective date of this section.

69 Sec. 502. (NEW) *(Effective July 1, 2006)* Each retailer who sells
70 gasoline in this state shall sell such gasoline based on the actual price
71 such retailer paid for the gasoline located in underground storage
72 tanks located on the premises of the retail gasoline station at which
73 such gasoline is sold. Such retailer shall not raise the retail price of
74 such gasoline in anticipation of market based price increases.

75 Sec. 503. (NEW) *(Effective July 1, 2006)* The Commissioner of

76 Consumer Protection shall adopt emergency regulations, effective July
77 1, 2006, in accordance with the provisions of chapter 54 of the general
78 statutes, to monitor and enforce gasoline refiner, producer and retailer
79 compliance with the provisions of section 16a-23 of the general
80 statutes, as amended by this act, and section 502 of this act and to
81 require such refiners, producers and retailers to maintain and provide
82 records for inspection by said commissioner and by the Attorney
83 General in order to verify such compliance.

84 (1) Such records shall include, but not be limited to, the following
85 information for such retailers: (A) The volume of gasoline purchased,
86 (B) the purchase price of such gasoline, (C) the date such gasoline was
87 purchased, and (D) the supplier of such gasoline.

88 (2) Such records shall include, but not be limited to, the following
89 information for such producers and refiners: (A) The volume of
90 gasoline sold, (B) the sales price of such gasoline, (C) the date such
91 gasoline was sold, (D) the purchaser of such gasoline, and (E)
92 information regarding discounts, rebates and transportation costs
93 offered or charged pursuant to subsection (c) of section 16a-23 of the
94 general statutes, as amended by this act."

117

SENATE AMENDMENT

Calendar: 117

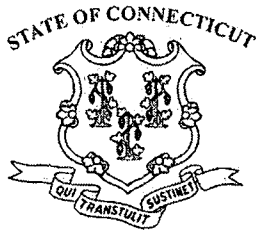
LCO: 4638

Bill: 502

A

ADOPTED voice REJECTED voice

ADOPTED roll REJECTED roll



General Assembly

February Session, 2006

~~SENATE~~ Amendment

LCO No. 4377



Offered by:

SEN. KISSEL, 7th Dist.

To: Senate Bill No. 502

File No. 104

Cal. No. 117

"AN ACT CONCERNING UNFAIR TRADE PRACTICES AND CASH DISCOUNTS FOR GASOLINE."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Subsections (b) and (c) of section 12-587 of the 2006
4 supplement to the general statutes are repealed and the following is
5 substituted in lieu thereof (*Effective July 1, 2006*):

6 (b) (1) Except as otherwise provided in subdivision (2) of this
7 subsection, any company which is engaged in the refining or
8 distribution, or both, of petroleum products and which distributes
9 such products in this state shall pay a quarterly tax on its gross
10 earnings derived from the first sale of petroleum products within this
11 state. Each company shall on or before the last day of the month next
12 succeeding each quarterly period render to the commissioner a return
13 on forms prescribed or furnished by the commissioner and signed by
14 the person performing the duties of treasurer or an authorized agent or
15 officer, including the amount of gross earnings derived from the first

16 sale of petroleum products within this state for the quarterly period
17 and such other facts as the commissioner may require for the purpose
18 of making any computation required by this chapter. Except as
19 otherwise provided in subdivision (3) of this subsection, the rate of tax
20 shall be (A) five per cent with respect to calendar quarters prior to July
21 1, 2005; (B) five and eight-tenths per cent with respect to calendar
22 quarters commencing on or after July 1, 2005, and prior to July 1, [2006]
23 2007; (C) six and three-tenths per cent with respect to calendar quarters
24 commencing on or after July 1; [2006] 2007, and prior to July 1, [2007]
25 2008; (D) [seven] six and eight-tenths per cent with respect to calendar
26 quarters commencing on or after July 1, [2007] 2008, and prior to July 1,
27 [2008] 2013; and (E) seven and [one-half] three-tenths per cent with
28 respect to calendar quarters commencing on or after July 1, [2008] 2013.
29 [, and prior to July 1, 2013; and (F) eight and one-tenth per cent with
30 respect to calendar quarters commencing on or after July 1, 2013.]

31 (2) Gross earnings derived from the first sale of the following
32 petroleum products within this state shall be exempt from tax: (A) Any
33 petroleum products sold for exportation from this state for sale or use
34 outside this state; (B) the product designated by the American Society
35 for Testing and Materials as "Specification for Heating Oil D396-69",
36 commonly known as number 2 heating oil, to be used exclusively for
37 heating purposes or to be used in a commercial fishing vessel, which
38 vessel qualifies for an exemption pursuant to section 12-412, as
39 amended; (C) kerosene, commonly known as number 1 oil, to be used
40 exclusively for heating purposes, provided delivery is of both number
41 1 and number 2 oil, and via a truck with a metered delivery ticket to a
42 residential dwelling or to a centrally metered system serving a group
43 of residential dwellings; (D) the product identified as propane gas, to
44 be used exclusively for heating purposes; (E) bunker fuel oil,
45 intermediate fuel, marine diesel oil and marine gas oil to be used in
46 any vessel having a displacement exceeding four thousand dead
47 weight tons; (F) for any first sale occurring prior to July 1, 2008,
48 propane gas to be used as a fuel for a motor vehicle; (G) for any first
49 sale occurring on or after July 1, 2002, grade number 6 fuel oil, as

50 defined in regulations adopted pursuant to section 16a-22c, to be used
51 exclusively by a company which, in accordance with census data
52 contained in the Standard Industrial Classification Manual, United
53 States Office of Management and Budget, 1987 edition, is included in
54 code classifications 2000 to 3999, inclusive, or in Sector 31, 32 or 33 in
55 the North American Industrial Classification System United States
56 Manual, United States Office of Management and Budget, 1997 edition;
57 (H) for any first sale occurring on or after July 1, 2002, number 2
58 heating oil to be used exclusively in a vessel primarily engaged in
59 interstate commerce, which vessel qualifies for an exemption under
60 section 12-412, as amended; (I) for any first sale occurring on or after
61 July 1, 2000, paraffin or microcrystalline waxes; or (J) for any first sale
62 occurring prior to July 1, 2008, petroleum products to be used as a fuel
63 for a fuel cell, as defined in subdivision (113) of section 12-412, as
64 amended.

65 (3) The rate of tax on gross earnings derived from the first sale of
66 grade number 6 fuel oil, as defined in regulations adopted pursuant to
67 section 16a-22c, to be used exclusively by a company which, in
68 accordance with census data contained in the Standard Industrial
69 Classification Manual, United States Office of Management and
70 Budget, 1987 edition, is included in code classifications 2000 to 3999,
71 inclusive, or in Sector 31, 32 or 33 in the North American Industrial
72 Classification System United States Manual, United States Office of
73 Management and Budget, 1997 edition, or number 2 heating oil used
74 exclusively in a vessel primarily engaged in interstate commerce,
75 which vessel qualifies for an exemption under section 12-412, as
76 amended, shall be: (A) Four per cent with respect to calendar quarters
77 commencing on or after July 1, 1998, and prior to July 1, 1999; (B) three
78 per cent with respect to calendar quarters commencing on or after July
79 1, 1999, and prior to July 1, 2000; (C) two per cent with respect to
80 calendar quarters commencing on or after July 1, 2000, and prior to
81 July 1, 2001; and (D) one per cent with respect to calendar quarters
82 commencing on or after July 1, 2001, and prior to July 1, 2002.

83 (c) (1) Any company which imports or causes to be imported into

84 this state petroleum products for sale, use or consumption in this state,
85 other than a company subject to and having paid the tax on such
86 company's gross earnings from first sales of petroleum products
87 within this state, which earnings include gross earnings attributable to
88 such imported or caused to be imported petroleum products, in
89 accordance with subsection (b) of this section, shall pay a quarterly tax
90 on the consideration given or contracted to be given for such
91 petroleum product if the consideration given or contracted to be given
92 for all such deliveries during the quarterly period for which such tax is
93 to be paid exceeds three thousand dollars. Except as otherwise
94 provided in subdivision (3) of this subsection, the rate of tax shall be
95 (A) five per cent with respect to calendar quarters commencing prior to
96 July 1, 2005; (B) five and eight-tenths per cent with respect to calendar
97 quarters commencing on or after July 1, 2005, and prior to July 1, [2006]
98 2007; (C) six and three-tenths per cent with respect to calendar quarters
99 commencing on or after July 1, [2006] 2007, and prior to July 1, [2007]
100 2008; (D) [seven] six and eight-tenths per cent with respect to calendar
101 quarters commencing on or after July 1, [2007] 2008, and prior to July 1,
102 [2008] 2013; and (E) seven and [one-half] three-tenths per cent with
103 respect to calendar quarters commencing on or after July 1, [2008] 2013.
104 [, and prior to July 1, 2013; and (F) eight and one-tenth per cent with
105 respect to calendar quarters commencing on or after July 1, 2013.] Fuel
106 in the fuel supply tanks of a motor vehicle, which fuel tanks are
107 directly connected to the engine, shall not be considered a delivery for
108 the purposes of this subsection.

109 (2) Consideration given or contracted to be given for petroleum
110 products, gross earnings from the first sale of which are exempt from
111 tax under subdivision (2) of subsection (b) of this section, shall be
112 exempt from tax.

113 (3) The rate of tax on consideration given or contracted to be given
114 for grade number 6 fuel oil, as defined in regulations adopted
115 pursuant to section 16a-22c, to be used exclusively by a company
116 which, in accordance with census data contained in the Standard
117 Industrial Classification Manual, United States Office of Management

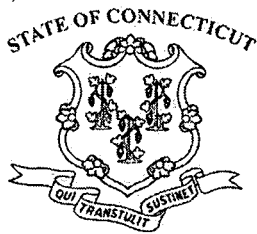
118 and Budget, 1987 edition, is included in code classifications 2000 to
119 3999, inclusive, or in Sector 31, 32 or 33 in the North American
120 Industrial Classification System United States Manual, United States
121 Office of Management and Budget, 1997 edition, or number 2 heating
122 oil used exclusively in a vessel primarily engaged in interstate
123 commerce, which vessel qualifies for an exemption under section 12-
124 412, as amended, shall be: (A) Four per cent with respect to calendar
125 quarters commencing on or after July 1, 1998, and prior to July 1, 1999;
126 (B) three per cent with respect to calendar quarters commencing on or
127 after July 1, 1999, and prior to July 1, 2000; (C) two per cent with
128 respect to calendar quarters commencing on or after July 1, 2000, and
129 prior to July 1, 2001; and (D) one per cent with respect to calendar
130 quarters commencing on or after July 1, 2001, and prior to July 1, 2002."

SENATE AMENDMENT

Calendar: 117
LCO: 4377
Bill: 502

ADOPTED yeics REJECTED yeico

ADOPTED roll REJECTED roll



General Assembly

(SENATE) Amendment

February Session, 2006

LCO No. 4375



Offered by:
SEN. KISSEL, 7th Dist.

To: Senate Bill No. 502

File No. 104

Cal. No. 117

"AN ACT CONCERNING UNFAIR TRADE PRACTICES AND CASH DISCOUNTS FOR GASOLINE."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Subdivision (2) of subsection (a) of section 12-458 of the
4 general statutes is repealed and the following is substituted in lieu
5 thereof (*Effective July 1, 2006*):

6 (2) On said date and coincident with the filing of such return each
7 distributor shall pay to the commissioner for the account of the
8 purchaser or consumer a tax (A) on each gallon of such fuels sold or
9 used in this state during the preceding calendar month of twenty-six
10 cents on and after January 1, 1992, twenty-eight cents on and after
11 January 1, 1993, twenty-nine cents on and after July 1, 1993, thirty cents
12 on and after January 1, 1994, thirty-one cents on and after July 1, 1994,
13 thirty-two cents on and after January 1, 1995, thirty-three cents on and
14 after July 1, 1995, thirty-four cents on and after October 1, 1995, thirty-
15 five cents on and after January 1, 1996, thirty-six cents on and after

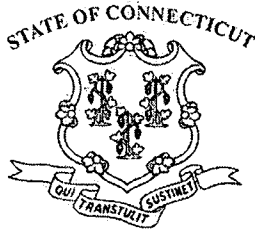
16 April 1, 1996, thirty-seven cents on and after July 1, 1996, thirty-eight
17 cents on and after October 1, 1996, thirty-nine cents on and after
18 January 1, 1997, thirty-six cents on and after July 1, 1997, thirty-two
19 cents on and after July 1, 1998, [and] twenty-five cents on and after July
20 1, 2000, and twenty cents on and after July 1, 2006; and (B) in lieu of
21 said taxes, each distributor shall pay a tax on each gallon of gasohol, as
22 defined in section 14-1, as amended, sold or used in this state during
23 such preceding calendar month, of twenty-five cents on and after
24 January 1, 1992, twenty-seven cents on and after January 1, 1993,
25 twenty-eight cents on and after July 1, 1993, twenty-nine cents on and
26 after January 1, 1994, thirty cents on and after July 1, 1994, thirty-one
27 cents on and after January 1, 1995, thirty-two cents on and after July 1,
28 1995, thirty-three cents on and after October 1, 1995, thirty-four cents
29 on and after January 1, 1996, thirty-five cents on and after April 1,
30 1996, thirty-six cents on and after July 1, 1996, thirty-seven cents on
31 and after October 1, 1996, thirty-eight cents on and after January 1,
32 1997, thirty-five cents on and after July 1, 1997, thirty-one cents on and
33 after July 1, 1998, and twenty-four cents on and after July 1, 2000, [and]
34 twenty-five cents on and after July 1, 2004, and twenty cents on and
35 after July 1, 2006; and (C) in lieu of such rate, on each gallon of diesel
36 fuel, propane or natural gas sold or used in this state during such
37 preceding calendar month, of eighteen cents on and after September 1,
38 1991, [and] twenty-six cents on and after August 1, 2002, and twenty-
39 one cents on and after July 1, 2006."

SENATE AMENDMENT

Calendar: 117
LCO: 4375
Bill: 502

ADOPTED voice REJECTED voice

ADOPTED roll REJECTED roll



General Assembly

[SENATE] Amendment

February Session, 2006

LCO No. 3815



Offered by:

SEN. COLAPIETRO, 31st Dist.

To: Senate Bill No. 502

File No. 104

Cal. No. 117

"AN ACT CONCERNING UNFAIR TRADE PRACTICES AND CASH DISCOUNTS FOR GASOLINE."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 16a-23 of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective July 1, 2006*):

5 (a) No person engaged in the business of refining petroleum into
6 gasoline and furnishing gasoline to retail distributors of gasoline for
7 sale to the public in this state shall fail to furnish gasoline to
8 independent retail distributors of gasoline in this state, whether or not
9 franchised by such person, at wholesale prices in reasonable quantities
10 as long as [he] such person continues to furnish gasoline to retail
11 distributors of gasoline in this state which are wholly owned by [him]
12 such person or operated under a franchise granted by [him] such
13 person.

14 (b) It shall constitute, prima facie, a violation of the provisions of

15 subsection (a) of this section for any such person (1) during any
16 calendar month beginning after July 1, 1973, to deliver to independent
17 retail distributors of gasoline in this state a percentage of the total
18 gallons of gasoline delivered by [him] such person to all retail
19 distributors of gasoline in this state during that month which is lower
20 than the percentage of the total gallons of gasoline delivered by [him]
21 such person to all retail distributors of gasoline in this state during the
22 period from July 1, 1971, to June 30, 1972, which was delivered by
23 [him] such person to independent retail distributors of gasoline in this
24 state during that period, or (2) to sell gasoline to independent retail
25 distributors of gasoline in this state at a price during any such month
26 which is greater than (A) the average price at which [he] such person
27 sold gasoline to such distributors during the period from July 1, 1971,
28 to June 30, 1972, increased by (B) a percentage equal to the percentage
29 by which the average price for gasoline sold during that month to
30 retail distributors of gasoline which are wholly owned by, or operated
31 under a franchise granted by [,] that person exceeds the average price
32 for gasoline sold to such distributors during the period from July 1,
33 1971, to June 30, 1972.

34 (c) No producer or refiner of petroleum products who is subject to
35 the provisions of section 14-344a and furnishes gasoline to a retail
36 distributor in this state shall use a pricing system under which the
37 wholesale price paid for such gasoline by such retail distributor is
38 determined based on the geographic location of such retail distributor
39 in any geographic zone in this state, or any other system that would
40 prevent retail distributors of gasoline from paying lower prices on an
41 equal basis with other retail distributors in this state. A producer or
42 refiner of petroleum products who is subject to the provisions of
43 section 14-344a and furnishes gasoline to a retail distributor in this
44 state shall sell such gasoline at the posted rack price of such producer
45 or refiner on the date and time of pickup for delivery of such gasoline.
46 Such producer and refiner shall not discriminate from the posted rack
47 price of such gasoline charged to retail distributors in this state, except
48 to offer discounts or rebates that may be determined by such producer

49 or refiner from time to time. Such discounts or rebates shall be
50 disclosed by the producer or refiner to the retail distributor in advance
51 and shall be offered by the producer or refiner to all of its retail
52 distributors on equal terms and conditions. When offered, all such
53 discounts or rebates and the time period they are offered shall be listed
54 as a separate line item entry on each invoice.

55 [(c)] (d) A violation of the provisions of subsection (a) or (c) of this
56 section constitutes an unfair trade practice [within the provisions of
57 chapter 735a] under subsection (a) of section 42-110b.

58 (e) The provisions of subsection (c) of this section shall expire two
59 years from the effective date of this section.

60 Sec. 2. (NEW) (Effective July 1, 2006) (a) No retailer who sells
61 gasoline intended for use in the propelling of motor vehicles using
62 combustion type engines over the highways of this state shall charge
63 consumers a price per gallon for such gasoline that is more than the
64 price per gallon that such retailer paid for such gasoline plus fifteen
65 per cent.

66 (b) Each retailer who sells gasoline intended for use in the
67 propelling of motor vehicles using combustion type engines over the
68 highways of this state shall sell such gasoline pursuant to subsection
69 (a) of this section based on the actual price such retailer paid for the
70 gasoline located in underground storage tanks located on the premises
71 of the retail gasoline station at which such gasoline is sold. Such
72 retailer shall not raise the retail price of such gasoline in anticipation of
73 market based price increases.

74 Sec. 3. (NEW) (Effective July 1, 2006) The Commissioner of Consumer
75 Protection shall adopt emergency regulations, in accordance with the
76 provisions of chapter 54 of the general statutes, to monitor and enforce
77 gasoline refiner, producer and retailer compliance with the provisions
78 of section 16a-23 of the general statutes, as amended by this act, and
79 section 2 of this act and to require such refiners, producers and
80 retailers to maintain and provide records for inspection by said

81 commissioner and by the Attorney General in order to verify such
82 compliance."

This act shall take effect as follows and shall amend the following sections:

Section 1	July 1, 2006	16a-23
Sec. 2	July 1, 2006	New section
Sec. 3	July 1, 2006	New section

SENATE AMENDMENT

Calendar: 117
LCO: 3815
Bill: 502

ADOPTED voice REJECTED voice

ADOPTED roll REJECTED roll

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SB-502

AN ACT CONCERNING UNFAIR TRADE PRACTICES AND CASH DISCOUNTS FOR GASOLINE.

As Amended by Senate "A" (LCO 4638)

House Calendar No.: 450

Senate Calendar No.: 117

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 07 \$	FY 08 \$
Consumer Protection, Dept.; Attorney General	Various - Revenue Gain	Potential Minimal	Potential Minimal
Consumer Protection, Dept.; State Comptroller - Fringe Benefits	GF - Cost	Potential	Potential

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 07 \$	FY 08 \$
All Municipalities	Cost/Savings	Potential Minimal	Potential Minimal

Explanation

The bill as amended makes it an unfair trade practice for a gasoline supplier to prohibit its retailer from offering a cash discount to a customer. Under the Connecticut Unfair Trade Practices Act (CUTPA), the Department of Consumer Protection (DCP) and the Attorney General can impose CUTPA fines.

In the case of settlements, depending on the negotiation terms, funds are either deposited into the DCP's Consumer Protection Settlement Account or the unrestricted resources of the General Fund. Funds deposited into the Consumer Protection Settlement Account are used only to enhance activities that further consumer protection. In FY 05, \$92,298 in CUTPA fines were deposited into the DCP Consumer

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Contributing Analyst(s):

4/27/06

Protection Settlement Account. Additionally, in FY 05, \$356,751 in CUTPA fines were deposited into the General Fund as a result of settlements negotiated by the Office of the Attorney General (OAG). The state agencies could accommodate the workload associated with enforcement of the bill as amended without requiring additional resources. To the extent that the bill as amended increases the potential for future violations, the bill as amended could result in a minimal revenue gain to the state.

The bill as amended also places a temporary ban on gasoline zone pricing. The elimination of zone pricing for gasoline could raise or lower the cost of gasoline to the municipalities depending on where it is purchased. The state purchases gasoline under a wholesale contract and therefore would be unaffected by the provision.

The bill as amended also requires the Department of Consumer Protection (DCP) to adopt emergency regulations, effective on July 1, 2006, to monitor and enforce compliance with the provisions of the bill. Due to the inspection provisions and potential for additional administrative hearings under the bill, DCP could need to hire two Consumer Protection Inspectors (annual salary of \$51,205) and one Administrative Hearings Attorney (annual salary of \$70,077)¹.

Senate "A" temporarily bans gasoline zone pricing and requires the DCP commissioner to adopt emergency regulations. The fiscal impact is described above.

The Out Years

¹ The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The estimated first year fringe benefit rate as a percentage of payroll is 23.6%, effective July 1, 2005. The first year fringe benefit costs for new positions do not include pension costs. The state's pension contribution is based upon the prior year's certification by the actuary for the State Employees Retirement System (SERS). The SERS 2005-06 fringe benefit rate is 34.7%, which when combined with the non pension fringe benefit rate would total 58.3%.

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

The preceding Fiscal Impact statement is prepared for the benefit of the members of the General Assembly, solely for the purposes of information, summarization and explanation and does not represent the intent of the General Assembly or either House thereof for any purpose.