

2001 DRAFTING REQUEST

Bill

Received: **05/25/2001**

Received By: **mdsida**

Wanted: **As time permits**

Identical to LRB:

For: **Marlin Schneider (608) 266-0215**

By/Representing: **Judy**

This file may be shown to any legislator: **NO**

Drafter: **mdsida**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - miscellaneous
Trade Regulation - other**

Extra Copics: **rlr**

Submit via email: **NO**

Pre Topic:

No specific pre topic given

Topic:

Energy company price gouging

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/P1		hhagen 11/28/2001	jfrantze 11/05/2001	_____	lrb_docadmin 11/05/2001		S&L
/1			pgreensl	_____	lrb_docadmin	lrb_docadmin	

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				_____		lrb_docadmin	
				_____		11/30/2001	

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May Contact:

Addl. Drafters: ~~kunkemd~~

Subject: Criminal Law - miscellaneous
Public Util. - energy

Extra Copies: rlr

Mgg

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Requester's email:

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FE Sent For:

<END>

Miller, Steve

From: Frydenlund, Judy
Sent: Wednesday, May 16, 2001 3:10 PM
To: Miller, Steve
Subject: Proposed Legislation


Steve:

Marlin would like several more bill drafts:

1) making it a Class A felony for any energy company engaged in price gouging. The CEO would be held accountable.

Thank you.

Judy
6-0215

7/18
Plc to 
she will call me back

Plc w/ Judy - She had me talk to Rep Schneider
Wants to cover in

Dsida, Michael

From: Dsida, Michael
Sent: Wednesday, August 29, 2001 9:52 AM
To: Schneider, Marlin
Subject: Price gouging

As I mentioned in our phone conversation last week, there are legislative proposals regarding price gouging that have been or are being considered elsewhere. Here is a link to a story about one of them:

<http://www.ltg.ca.gov/newsroom/pressreleases/pr042601.asp>

In addition, you may want to go to:

<http://thomas.loc.gov>

and look at H.R. 3902 from the 106th session of Congress and H.R. 1468 from the current (107th) session.

If you would like to discuss this issue further, please let me know.

Mike Dsida
Legislative Reference Bureau
608/266-9867
michael.dsida@state.legis.wi.us

Dsida, Michael

From: Dsida, Michael
Sent: Wednesday, August 29, 2001 11:09 AM
To: Schneider, Marlin
Subject: Price gouging after disasters

It appears that other states address this through their consumer protection statutes. According to our trade regulation drafting attorney, price gouging may be considered an unfair trade practice under s. 100.20. That section, however, does not include any criminal penalties. Other states (such as Arkansas, whose statute is the discussed in the first website below) do provide criminal penalties.
<http://www.ag.state.ar.us/consumer/pricegouging.html>

http://www.state.ia.us/government/ag/fld_pri.htm

http://www.leg.state.fl.us/Statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=&URL=CH0501/SEC160.HTM

Dsida, Michael

From: Schneider, Marlin
Sent: Wednesday, August 29, 2001 11:18 AM
To: Dsida, Michael
Subject: RE: Price gouging after disasters

Well, after looking this over, I think we should go with a bill that attacks both the oil companies with a definition like the federal one we discussed and provides consumer protection like Iowa's in the event of emergencies when price gouging may occur. I don't know if we have a statute or an administrative rule on the latter, however. - Marlin

-----Original Message-----

From: Dsida, Michael
Sent: Wednesday, August 29, 2001 11:09 AM
To: Schneider, Marlin
Subject: Price gouging after disasters

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<http://www.ag.state.ar.us/consumer/pricegouging.html>

http://www.state.ia.us/government/ag/fld_pri.htm

http://www.leg.state.fl.us/Statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=&URL=CH0501/SEC160.HTM

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	Doc Contents	

GPO's PDF version of this bill	References to this bill in the Congressional Record	Link to the Bill Summary & Status file.	Full Display - 2,362 bytes. [Help]
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Fuel Pricing Fairness Act of 2000 (Introduced in the House)

IIR 3902 III

106th CONGRESS

2d Session

H. R. 3902

To impose a civil penalty on any energy-producing company that implements an unreasonable price increase for crude oil, residual fuel oil, or refined petroleum products.

IN THE HOUSE OF REPRESENTATIVES

March 9, 2000

Mr. TRAFICANT introduced the following bill; which was referred to the Committee on Commerce

A BILL

To impose a civil penalty on any energy-producing company that implements an unreasonable price increase for crude oil, residual fuel oil, or refined petroleum products.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Fuel Pricing Fairness Act of 2000'.

SEC. 2. CIVIL PENALTY FOR UNREASONABLE PRICE INCREASE FOR CRUDE OIL, RESIDUAL FUEL OIL, OR REFINED PETROLEUM PRODUCTS.

(a) IN GENERAL- Not later than 3 months after the date of enactment of this Act, the Secretary of Energy shall issue regulations that--

(1) apply to all crude oil, residual fuel oil, or refined petroleum products that are sold in the United States;

(2) prohibit any unreasonable price increase for such products by an energy-producing company (as defined in section 205(h)(6) of the Department of Energy Organization Act (42 U.S.C. 7135(h)(6))); and

(3) impose a civil penalty of not more than \$100,000,000 for each unreasonable price increase.

(b) UNREASONABLE PRICE INCREASE DEFINED- For purposes of this section, the term 'unreasonable price increase' means any price increase that exceeds any concurrent increase in the production or operation costs of the energy-producing company that are directly related to the products being sold.

(c) DETERMINATION OF UNREASONABLE PRICE INCREASE- The Administrator of the Energy Information Administration shall determine at least annually whether any energy-producing company has implemented an unreasonable price increase in violation of regulations issued under subsection (a).

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Consumer Advisory

Iowa Attorney General Tom Miller

Consumer Protection Division

Consumer and Law Enforcement Bulletin -- May 2001

Price-Gouging Rule in Effect in Storm- and Flood-damaged Counties

Attorney General Tom Miller has announced that the State's anti-price-gouging rule is in effect in counties where disaster declarations have been issued in the wake of floods or other storms.

Price gouging is the practice of taking advantage of disaster victims by substantially raising the prices for needed goods or services without justification. *Price gouging is considered an unfair practice under the Iowa Consumer Fraud Act when a disaster declaration is in effect for a county.* Iowa Administrative Rules describe the practice as raising prices unreasonably above the price at which the merchandise or service was sold in the usual course of business immediately prior to the onset of the emergency. (The rule recognizes the fact that prices sometimes may be higher because sellers also often incur increased costs.) The rule applies during the emergency declaration and "subsequent recovery period" up to six months.

The price-gouging rule -- which was adopted at the time of 1993's widespread floods -- covers but is not limited to water, food, medicines, sanitation supplies, utilities, and materials, goods, or services for clean-up or repair. Unconscionable price gouging might include unjustified high prices for materials or supplies that victims of storm damage may have little choice but to buy. In 1993, for example, there were price gouging allegations in the rental of "porta-potties" and water pumping equipment.

Complaints about possible price gouging may be brought to local authorities or to the Attorney General's Office -- 515-281-5926.

For more information on avoiding scams that tend to hit in the wake of floods and storms, please

Dsida, Michael

From: Schneider, Marlin
Sent: Tuesday, September 18, 2001 4:12 PM
To: Dsida, Michael
Subject: RE: Questions re: price gouging bill

I want to include, retailers, wholesalers, and manufacturers as far up and down the American energy industry ladder we can go. I want this bill so item 3 would be fine and item 2 can wait but I would appreciate you drafting a sub amendment when you get the main draft done so I can include that eventually.

-----Original Message-----

From: Dsida, Michael
Sent: Monday, September 17, 2001 11:07 AM
To: Schneider, Marlin
Subject: Questions re: price gouging bill

1. Did you want to cover wholesalers as well as retailers?
2. Your e-mail of 8/29 referred to Iowa's price gouging rule (a civil consumer protection provision) and your interest in providing consumer protection through this bill. I wasn't sure if that meant that you want to include specific provisions in our state consumer protection statutes to provide a civil cause of action in price gouging cases. Do you? (It will probably take a bit more time to draft if you do.)
3. If you do not want to create a price gouging-based civil remedy, the language from the federal statute should cover any price gouging that would be covered by the Iowa rule, so would you have any objection if I just used the concept embodied in the federal statute?

Mike Dsida
Legislative Reference Bureau
608/266-9867
michael.dsida@state.legis.wi.us



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-3364(2)

MGD:hmh

PI

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT ^{Generate} ...; relating to: fuel price gouging and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill prohibits a retail or wholesale seller of petroleum-based fuel (such as gasoline, diesel fuel, propane, or liquefied petroleum gas) from increasing the fuel's price by more than the amount of any increase in the price that the person paid in acquiring the fuel or by more than the amount of any concurrent increase in the person's production, distribution, or operating costs. A person who violates this prohibition may be fined not more than \$10,000 or imprisoned for not more than 15 years, or both.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 943.29 of the statutes is created to read:

3 **943.29 Fuel price gouging.** (1) In this section, "fuel" means gasoline, diesel
4 fuel, fuel oil, kerosene, propane, liquefied petroleum gas, or any other
5 petroleum-based product that is used for heating or providing power.



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-3364/P1

MGD:hmh:jf
Stays

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

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soon

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State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

November 28, 2001

MEMORANDUM

To: Representative Schneider

MSB

From: Michael Dsida, Legislative Attorney

Re: LRB-3364/1 Energy company price gouging

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-9867 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.