

1 H.458

2 Introduced by Representative Keenan of St. Albans City

3 Referred to Committee on

4 Date:

5 Subject: Commerce; petroleum and heating fuel products; predatory pricing

6 Statement of purpose: This bill proposes to amend Vermont's existing price
7 gouging law to prohibit the sale of petroleum and heating fuel products at
8 unconscionably high prices, irrespective of whether there is a market
9 emergency.

10 An act relating to predatory pricing of petroleum and heating fuel products

11 It is hereby enacted by the General Assembly of the State of Vermont:

12 Sec. 1. 9 V.S.A. § 2461d is amended to read:

13 § 2461d. PRICE GOUGING OF PETROLEUM PRODUCTS AND
14 HEATING FUEL PRODUCTS

15 (a) ~~Definitions.~~ For the purposes of this section:

16 (1) ~~A "market emergency" shall be declared by the governor. The~~
17 ~~market emergency shall continue for 30 days or until terminated by the~~
18 ~~governor. The governor may extend the market emergency for additional~~
19 ~~30-day periods. "Market emergency" means any abnormal disruption of any~~
20 ~~market for petroleum products or heating fuel products, including any actual or~~

1 ~~threatened shortage in the supply of petroleum products or heating fuel~~
2 ~~products or any actual or threatened increase in the price of petroleum products~~
3 ~~or heating fuel products resulting from severe weather, convulsion of nature,~~
4 ~~supply manipulation, failure or shortage of electric power or other source of~~
5 ~~energy, strike, civil disorder, act of war, terrorist attack, national or local~~
6 ~~emergency, or other extraordinary adverse circumstances.~~

7 (2) “Petroleum or heating fuel product” means motor fuels, liquefied
8 petroleum gas, fuel oil, kerosene, and wood pellets used for heating or cooking
9 purposes.

10 (3)(2) “Petroleum or heating fuel-related business” means any producer,
11 supplier, wholesaler, distributor, or retail seller of any petroleum or heating
12 fuel product.

13 (b) It is an unfair and deceptive act and practice in commerce and a
14 violation of section 2453 of this title for any petroleum or heating fuel-related
15 business ~~during a market emergency or seven days prior thereto~~ to sell or offer
16 to sell any petroleum product or heating fuel product for an amount that
17 represents an unconscionably high price.

18 (c) A price is unconscionably high if:

19 (1) the amount charged ~~during the market emergency or seven days~~
20 ~~prior thereto~~ represents a gross disparity between the price of the petroleum

1 product or heating fuel product charged by the petroleum or heating fuel
2 related business and:

3 ~~(A) the price at which the same product was sold or offered for sale~~
4 ~~by that business in the usual course of business immediately prior to the date of~~
5 ~~the declaration of the market emergency; or~~

6 ~~(B)~~ the price at which the same or similar petroleum product or
7 heating fuel product is readily obtainable by the buyer and other buyers in the
8 trade area in which the petroleum- or heating-fuel-related business markets the
9 product; and

10 (2) the disparity is not substantially attributable to increased prices
11 charged by the petroleum product or heating fuel product suppliers or
12 increased costs ~~due to a market emergency.~~