

1 AN ACT concerning motor fuel pricing.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 1. Short title. This Act may be cited as the  
5 Motor Fuel Fair Marketing Practices Act.

6 Section 5. Policy. The legislature declares that there is  
7 a need for a neutral guideline on which to base fuel prices.  
8 Oil Price Information Services (OPIS) is a publication that  
9 is used as a benchmark by the world to buy and sell U.S.  
10 Gasoline and Diesel. OPIS has no stake in fuel transactions,  
11 is not funded by the oil industry initiatives, and strictly  
12 adheres to antitrust guidelines determined by independent  
13 legal counsel.

14 Section 10. Definitions.

15 (a) The definitions in the Motor Fuel Tax Law apply to  
16 this Act.

17 (b) "Below cost sale" means the selling of gasoline or  
18 No. 2 low sulfur clear diesel fuel at retail in the State of  
19 Illinois at a price that is below the regional Oil Price  
20 Information Service average on the previous day for unleaded  
21 regular gasoline or No. 2 low sulfur clear diesel fuel, plus  
22 all applicable taxes, and \$0.04 per gallon transportation  
23 expense.

24 (c) "Disaster" has the meaning given in Section 4 of the  
25 Illinois Emergency Management Agency Act.

26 (d) "Motor fuel price gouging" means the sale of  
27 gasoline or No. 2 low sulfur clear diesel fuel at retail in  
28 the State of Illinois that is more than the applicable  
29 regional Oil Price Information Service average on the  
30 previous day for unleaded regular gasoline or No. 2 low

1 sulfur clear diesel fuel, plus \$0.25 per gallon, and \$0.04  
2 per gallon transportation expense.

3 (e) "Oil Price Information Service" (OPIS) means the  
4 daily publication containing oil price information that is a  
5 widely accepted independent fuel price benchmark for supply.

6 Section 15. Motor fuel price gouging.

7 (a) It is a violation of this Act to engage in motor  
8 fuel price gouging in response to the occurrence of a  
9 disaster. Each sale constitutes a separate violation.

10 (b) Motor fuel price gouging that occurs within the 7  
11 days following the occurrence of a disaster is rebuttably  
12 presumed to have been in response to the occurrence of the  
13 disaster.

14 Section 20. Violation of Robinson-Patman Act. Violation  
15 of any provision of the federal Robinson-Patman Act (15  
16 U.S.C. 13 et seq.) with respect to the retail sale of motor  
17 fuel in Illinois constitutes a violation of this Act.

18 Section 25. Sale below cost. It is a violation of this  
19 Act to sell motor fuel below cost, where the effect is to  
20 injure or lessen competition, except in response to the  
21 equally low prices of a competitor.

22 Each sale constitutes a separate violation.

23 Sec. 30. Violations.

24 (a) If the Attorney General determines that a violation  
25 of this Section has occurred or is about to occur, he or she  
26 may bring an action in circuit court for appropriate  
27 injunctive relief and a civil penalty of up to \$1,000 per  
28 actual violation. The court may award attorney's fees and  
29 costs to the prevailing party.

30 (b) Civil penalties collected by the Attorney General

1 under this Act shall be deposited into the Attorney General's  
2 State Project and Court Order Distribution Fund.

3 (c) Any person who is harmed by a violation of this  
4 Section, or the Attorney General on behalf of such persons,  
5 may bring an action in circuit court to recover the damages  
6 sustained. Upon finding a violation of this Section, the  
7 court may award appropriate relief, including restitution,  
8 injunctive relief, court costs, and reasonable attorney's  
9 fees.

10 Section 35. Powers and duties. The Attorney General has  
11 the following powers and duties:

12 (1) to investigate complaints regarding violations  
13 of this Act;

14 (2) to seek injunctive relief as appropriate;

15 (3) to seek restitution for victims of motor fuel  
16 price gouging and other violations of this Act; and

17 (4) to institute an action to collect a civil  
18 penalty for a violation of this Act.

19 Section 40. Confidentiality.

20 (a) Information obtained by the Attorney General in the  
21 course of an investigation under this Act, including  
22 information from a person who responds to the investigation  
23 and designates the information as confidential, must be  
24 maintained as confidential until the investigation is  
25 completed by the Attorney General and a course of action is  
26 determined. The Attorney General may not make known in any  
27 manner information obtained in the course of the  
28 investigation to persons other than those specified in  
29 subsection (c) of this Section. Once the investigation is  
30 completed, if there is a settlement or if charges are filed,  
31 the information becomes public.

32 (b) This Section does not prohibit the use of

1 confidential information to prepare statistics or other  
2 general data for publication, if the information is presented  
3 in a manner that prevents identification of particular  
4 persons or locations under investigation.

5 (c) For purposes of this Section, references to the  
6 Attorney General include other individuals designated in  
7 writing and acting on behalf of the Attorney General during  
8 the investigation. A person so designated shall preserve the  
9 confidentiality of information as provided for in subsection  
10 (a) of this Section.

11 (d) A person who is served with a request for  
12 information, a subpoena to give testimony orally or in  
13 writing, or to produce books, papers, correspondence,  
14 memoranda, agreements, or other documents or records under  
15 this Act may apply to the circuit court for protection  
16 against abuse or hardship.

17 Section 99. Effective date. This Act takes effect July  
18 1, 2004.