

**As Introduced**

**12th General Assembly  
Regular Session  
2007-2008**

**S. B. No. 193**

**Senator Grendell**

**Cosponsors: Senators Schuring, Cafaro, Cates, Goodman, Miller, D.,  
Kearney, Smith, Padgett, Miller, R., Mason, Mumper**

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**A B I L L**

To amend section 1345.02 and to enact sections 1  
3741.20 and 3741.21 of the Revised Code to make 2  
charging a price for a grade of gasoline that does 3  
not bear a reasonable relationship to the costs of 4  
making the particular grade of gasoline available 5  
to consumers an unfair or deceptive consumer sales 6  
practice; to require refiners and wholesalers of 7  
petroleum products to submit monthly reports to 8  
the Director of Commerce regarding petroleum 9  
products shipped into, used in, and exported from 10  
this state; to require retail sellers of gasoline 11  
to submit a written notice to the Director if the 12  
retail seller increases the price of gasoline sold 13  
at the pump by seven cents or more during a 14  
calendar week; and to create the Gasoline 15  
Practices Oversight Commission for the period 16  
ending December 31, 2009. 17

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 1345.02 be amended and sections 18  
3741.20 and 3741.21 of the Revised Code be enacted to read as 19

follows: 20

**Sec. 1345.02.** (A) No supplier shall commit an unfair or 21  
deceptive act or practice in connection with a consumer 22  
transaction. Such an unfair or deceptive act or practice by a 23  
supplier violates this section whether it occurs before, during, 24  
or after the transaction. 25

(B) Without limiting the scope of division (A) of this 26  
section, the act or practice of a supplier in representing any of 27  
the following is deceptive: 28

(1) That the subject of a consumer transaction has 29  
sponsorship, approval, performance characteristics, accessories, 30  
uses, or benefits that it does not have; 31

(2) That the subject of a consumer transaction is of a 32  
particular standard, quality, grade, style, prescription, or 33  
model, if it is not; 34

(3) That the subject of a consumer transaction is new, or 35  
unused, if it is not; 36

(4) That the subject of a consumer transaction is available 37  
to the consumer for a reason that does not exist; 38

(5) That the subject of a consumer transaction has been 39  
supplied in accordance with a previous representation, if it has 40  
not, except that the act of a supplier in furnishing similar 41  
merchandise of equal or greater value as a good faith substitute 42  
does not violate this section; 43

(6) That the subject of a consumer transaction will be 44  
supplied in greater quantity than the supplier intends; 45

(7) That replacement or repair is needed, if it is not; 46

(8) That a specific price advantage exists, if it does not; 47

(9) That the supplier has a sponsorship, approval, or 48  
affiliation that the supplier does not have; 49

(10) That a consumer transaction involves or does not involve 50  
a warranty, a disclaimer of warranties or other rights, remedies, 51  
or obligations if the representation is false. 52

(C) In construing division (A) of this section, the court 53  
shall give due consideration and great weight to federal trade 54  
commission orders, trade regulation rules and guides, and the 55  
federal courts' interpretations of subsection 45 (a)(1) of the 56  
"Federal Trade Commission Act," 38 Stat. 717 (1914), 15 U.S.C.A. 57  
41, as amended. 58

(D) No supplier shall offer to a consumer or represent that a 59  
consumer will receive a rebate, discount, or other benefit as an 60  
inducement for entering into a consumer transaction in return for 61  
giving the supplier the names of prospective consumers, or 62  
otherwise helping the supplier to enter into other consumer 63  
transactions, if earning the benefit is contingent upon an event 64  
occurring after the consumer enters into the transaction. 65

(E)(1) No supplier, in connection with a consumer transaction 66  
involving natural gas service or public telecommunications service 67  
to a consumer in this state, shall request or submit, or cause to 68  
be requested or submitted, a change in the consumer's provider of 69  
natural gas service or public telecommunications service, without 70  
first obtaining, or causing to be obtained, the verified consent 71  
of the consumer. For the purpose of this division and with respect 72  
to public telecommunications service only, the procedures 73  
necessary for verifying the consent of a consumer shall be those 74  
prescribed by rule by the public utilities commission for public 75  
telecommunications service under division (D) of section 4905.72 76  
of the Revised Code. Also, for the purpose of this division, the 77  
act, omission, or failure of any officer, agent, or other 78  
individual, acting for or employed by another person, while acting 79

within the scope of that authority or employment, is the act or 80  
failure of that other person. 81

(2) Consistent with the exclusion, under 47 C.F.R. 82  
64.1100(a)(3), of commercial mobile radio service providers from 83  
the verification requirements adopted in 47 C.F.R. 64.1100, 84  
64.1150, 64.1160, 64.1170, 64.1180, and 64.1190 by the federal 85  
communications commission, division (E)(1) of this section does 86  
not apply to a provider of commercial mobile radio service insofar 87  
as such provider is engaged in the provision of commercial mobile 88  
radio service. However, when that exclusion no longer is in 89  
effect, division (E)(1) of this section shall apply to such a 90  
provider. 91

(3) The attorney general may initiate criminal proceedings 92  
for a prosecution under division (C) of section 1345.99 of the 93  
Revised Code by presenting evidence of criminal violations to the 94  
prosecuting attorney of any county in which the offense may be 95  
prosecuted. If the prosecuting attorney does not prosecute the 96  
violations, or at the request of the prosecuting attorney, the 97  
attorney general may proceed in the prosecution with all the 98  
rights, privileges, and powers conferred by law on prosecuting 99  
attorneys, including the power to appear before grand juries and 100  
to interrogate witnesses before grand juries. 101

(F) Concerning a consumer transaction in connection with a 102  
residential mortgage, and without limiting the scope of division 103  
(A) or (B) of this section, the act of a supplier in doing either 104  
of the following is deceptive: 105

(1) Knowingly failing to provide disclosures required under 106  
state and federal law; 107

(2) Knowingly providing a disclosure that includes a material 108  
misrepresentation. 109

(G) The owner of a gasoline service station violates division 110

(A) of this section if the station charges consumers a price for a 111  
grade of gasoline that does not bear a reasonable relationship to 112  
the costs necessary to make the particular grade of gasoline 113  
available to consumers. 114

**Sec. 3741.20.** (A) Each refiner of petroleum products and each 115  
wholesaler of petroleum products doing business in this state 116  
shall prepare and submit to the director of commerce on a monthly 117  
basis a report that specifies all of the following amounts that 118  
are attributable to the activities of the refiner or wholesaler: 119

(1) The amount of unrefined and refined petroleum products 120  
that the refiner or wholesaler had brought into this state during 121  
the previous calendar month; 122

(2) The amount of the petroleum products described in 123  
division (A)(1) of this section that were consumed in this state 124  
during the previous calendar month; 125

(3) The amount of the petroleum products described in 126  
division (A)(1) of this section that were exported from this state 127  
during the previous calendar month. 128

(B) Each refiner and wholesaler shall submit the report 129  
required under division (A) of this section to the director not 130  
later than the tenth day of the month immediately following the 131  
month covered in the report. The director shall post a copy of 132  
each refiner and wholesaler's report on the web site maintained by 133  
the department of commerce. 134

**Sec. 3741.21.** As used in this section, "calendar week" means 135  
the time period beginning at midnight on Sunday and ending at 136  
midnight on the Sunday immediately following that initial Sunday. 137

If a retail seller of gasoline increases the price of 138  
gasoline sold directly to consumers at a gasoline pump during a 139  
calendar week, and the total amount of any increases occurring in 140

that week equals or will equal an increase of seven cents or more 141  
in the price of gasoline sold as compared to the price of gasoline 142  
sold on the previous Sunday of that calendar week, the retail 143  
seller shall submit a written notice to the director of commerce 144  
informing the director that the retail seller has or will increase 145  
by seven cents or more the price of gasoline sold during that 146  
calendar week. The retail seller shall include in the notice the 147  
reason for that price increase. The retail seller shall submit the 148  
notice at any time during the time period beginning twenty-four 149  
hours prior to the time the price increase that results or will 150  
result in an increase of seven cents or more in the price of 151  
gasoline during that calendar week takes effect and ending 152  
twenty-four hours after the time such a price increase takes 153  
effect. 154

**Section 2.** That existing section 1345.02 of the Revised Code 155  
is hereby repealed. 156

**Section 3.** (A) There is hereby created the Ohio Gasoline 157  
Practices Oversight Commission consisting of ten members. The 158  
President of the Senate and the Speaker of the House of 159  
Representatives each shall appoint three persons from their 160  
respective houses to serve as members of the Commission. Not more 161  
than two of the members from each house shall be of the same 162  
political party. The Governor, the Attorney General, the Auditor 163  
of State, and the Ohio Consumers' Counsel each shall appoint one 164  
person to serve as a member of the Commission. A vacancy shall be 165  
filled in the same manner as the original appointment. 166

The Commission shall elect from among its members a 167  
chairperson and a vice-chairperson and shall appoint a secretary 168  
who need not be a member of the Commission. Six members of the 169  
Commission constitute a quorum, and the affirmative vote of six 170  
members is necessary for any action that the Commission takes. A 171

vacancy in the membership of the Commission does not impair the 172  
rights of a quorum to exercise all the rights and perform all the 173  
duties of the Commission. 174

(B) The Commission shall do all of the following: 175

(1) Examine and review the existing infrastructure that 176  
delivers and distributes petroleum products to and within this 177  
state; 178

(2) Examine the availability of petroleum products, current 179  
gasoline pricing practices, alternative fuels for motor vehicles, 180  
and government laws, rules, and regulations that affect the 181  
supply, delivery, and distribution of petroleum products generally 182  
and gasoline in particular to and within this state; 183

(3) Conduct hearings on the issues identified in divisions 184  
(B)(1) and (2) of this section and thereafter formulate and 185  
recommend a state gasoline policy to ensure both consumer 186  
confidence in this state's gasoline supply and delivery 187  
infrastructure and also to ensure a continuing and affordable 188  
supply of motor vehicle fuel within this state to the benefit of 189  
all Ohioans. 190

(C) In the discharge of its duties, the Commission has 191  
authority throughout the state to administer oaths, issue 192  
subpoenas compelling the attendance of witnesses and testimony, 193  
and cause the deposition of witnesses residing in the state. In 194  
case of disobedience on the part of any person to comply with a 195  
subpoena that the Commission issues, or on the refusal of any 196  
witness to testify to any matters regarding which the person may 197  
be lawfully interrogated, it is the duty of the county prosecutor 198  
in any county, on application of the Commission, to bring a 199  
proceeding for contempt. 200

(D) The Commission shall issue an interim report to the 201  
General Assembly not later than ninety days after the effective 202

date of this act and thereafter shall issue updated quarterly	203
reports. The Commission shall issue a final report during the	204
final quarter of 2009. On December 31, 2009, the Commission shall	205
cease to exist.	206