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*Bill Analysis*  
*Legislative Service Commission*

## **S.B. 193**

127th General Assembly  
(As Introduced)

**Sens. Grendell, Schuring, Cafaro, Cates, Goodman, D. Miller, Kearney, Smith, Padgett, R. Miller, Mason, Mumper**

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### **BILL SUMMARY**

- Provides that charging a price for a grade of gasoline that does not bear a reasonable relationship to the costs of making that grade of gasoline available to consumers is an unfair or deceptive consumer sales practice.
- Requires a retail gasoline seller to notify the Department of Commerce if the seller raises the price of gasoline sold directly to consumers by 7¢ or more during a calendar week and to provide a reason for the increase.
- Requires refiners and wholesalers of petroleum to provide monthly reports to the Department of Commerce disclosing the amount of petroleum products brought into Ohio, consumed in Ohio, and exported from Ohio.
- Creates the Gasoline Practices Oversight Commission.

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### **CONTENT AND OPERATION**

#### **Gasoline sales as unfair or deceptive consumer sales practice**

(R.C. 1345.02(G); 1345.01 [not in the bill])

The Consumer Sales Practices Act, R.C. Chapter 1345., governs a "consumer transaction," which means a sale, lease, assignment, award by chance, or other transfer of an item of goods, a service, a franchise, or an intangible, to an individual for purposes that are primarily personal, family, or household, or solicitation to supply any of these things. Under that law, a supplier is prohibited

from committing an unfair or deceptive act or practice in connection with such a consumer transaction.<sup>1</sup>

The bill provides that the owner of a gasoline service station engages in an unfair or deceptive consumer sales practice if the station charges consumers a price for a grade of gasoline that does not bear a reasonable relationship to the costs necessary to make the particular grade of gasoline available to consumers.<sup>2</sup>

**Notice of increase in gasoline prices**

(R.C. 3741.21)

Under the bill, if a retail gasoline seller increases the price of gasoline sold directly to consumers at the pump during a calendar week, and the total amount of any increases occurring in that week equals or will equal an increase of 7¢ or more as compared to the price of gasoline sold on the previous Sunday of that calendar week, the seller must submit a written notice to the Director of Commerce of the increase and must include in the notice the reason for the increase. The retail seller must submit the notice during the time period beginning 24 hours prior to the time the price increase that results or will result in the "seven cent or more" increase takes effect and ending 24 hours after the time the price increase takes effect. For purposes of this requirement, "calendar week" means the time period beginning at midnight on Sunday and ending at midnight on the Sunday immediately following that initial Sunday.

**Monthly petroleum reports**

(R.C. 3741.20)

The bill requires each refiner and each wholesaler of petroleum products doing business in Ohio to prepare and submit to the Director of Commerce a monthly report no later than the tenth day of each month that discloses (1) the amount of unrefined and refined petroleum products that the refiner or wholesaler had brought into Ohio during the previous calendar month, (2) the amount of unrefined and refined petroleum products that were brought into Ohio and then consumed in Ohio in the previous calendar month, and (3) the amount of unrefined

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<sup>1</sup> "Supplier" under the Consumer Sales Practices Act means a seller, lessor, assignor, franchisor, or other person engaged in the business of effecting or soliciting consumer transactions, whether or not the person deals directly with the consumer (R.C. 1345.01 [not in the bill]).

<sup>2</sup> "Consumer" under the Consumer Sales Practices Act means a person who engages in a consumer transaction with a supplier (R.C. 1345.01 [not in the bill]).

and refined petroleum products that were brought into Ohio and then exported from Ohio in the previous calendar month. The Director must post each report on the Department's web site.

### **Ohio Gasoline Practices Oversight Commission**

(Section 3)

#### **Creation and composition**

The bill creates the Ohio Gasoline Practices Oversight Commission, consisting of ten members. The President of the Senate and Speaker of the House of Representatives must each appoint three persons from their respective houses, with not more than two from each house being members of the same political party. The Governor, Attorney General, Auditor of State, and Consumers' Counsel must each appoint one person.

#### **Officers, quorums, and vacancies**

The Commission must elect from among its members a chairperson and vice-chairperson and must appoint a secretary, who need not be a member of the Commission. Six members constitute a quorum, and the affirmative vote of six members is necessary for any action the Commission takes. A vacancy in the Commission membership does not impair the rights of a quorum to exercise all Commission rights and perform all Commission duties. A vacancy must be filled in the same manner as the original appointment.

#### **Duties**

The Commission must (1) examine and review the existing infrastructure that delivers and distributes petroleum products to and within Ohio, (2) examine the availability of petroleum products, current gasoline pricing practices, alternative fuels for motor vehicles, and government laws, rules, and regulations that affect the supply, delivery, and distribution of petroleum products generally, and gasoline in particular, to and within Ohio, and (3) conduct hearings on the issues identified in those examinations. After the hearings, the Commission must formulate and recommend a state gasoline policy to ensure (a) consumer confidence in Ohio's gasoline supply and delivery infrastructure and (b) a continuing and affordable supply of motor vehicle fuel within Ohio to the benefit of all Ohioans.

#### **Investigatory power**

The bill grants the Commission, in the discharge of its duties, authority throughout Ohio to administer oaths, issue subpoenas compelling the attendance

of witnesses and testimony, and depose witnesses who are state residents. If a subpoena is not complied with or a witness refuses to testify on matters for which the witness can be lawfully interrogated, it is the duty of the prosecuting attorney of any county, on the Commission's application, to bring a contempt proceeding (presumably in a court of common pleas).

**Reports and termination date**

The Commission must issue an interim report to the General Assembly not later than 90 days after the bill's effective date and issue updated quarterly reports thereafter. It must issue its final report during the final quarter of 2009, and the Commission will cease to exist on December 31, 2009.

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**HISTORY**

ACTION	DATE
Introduced	06-27-07

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