

HOUSE No. 3063

By Mr. Cabral of New Bedford, a petition (accompanied by bill, House, No. 3063) of Antonio F.D. Cabral and another for legislation to require disclosure by refiners and distributors of wholesale motor fuel pricing policies. Telecommunication, Utilities and Energy.

The Commonwealth of Massachusetts

PRESENTED BY:

Antonio F.D. Cabral

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to reduce gasoline prices.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Antonio F.D. Cabral	13th Bristol
Benjamin Swan	11th Hampden

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO REDUCE GASOLINE PRICES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 94 of the General Laws is hereby amended by inserting after section 295CC the following
2 section:-

3 Section 295DD. For the purposes of this section, the following words shall have the following
4 meanings:

5 "Affiliate", any entity whose stock is more than fifty percent owned by or who, regardless of
6 stock ownership, is controlled by or is under common control with any other person or entity.

7 "Motor fuel", as defined in Section 295A of this Chapter.

8 "Refiner", any entity who produces and stores or exchanges motor fuel at a terminal facility and
9 who sells or transfers motor fuel through the loading rack at such terminal facility, and includes
10 an affiliate of such refiner with respect to such affiliate's sale of motor fuel.

11 "Retail dealer", as defined in Section 295A of this Chapter.

12 "Sale" or "sell", any retail transfer, gift, barter, sale, offer for sale, or advertisement for sale in
13 any manner or by any means whatsoever.

14 "Supplier", any entity who conveys, transports, or otherwise causes motor fuel to be delivered to
15 another entity or person, except that any entity or person who conveys, transports, or otherwise
16 causes motor fuel to be delivered as part of a retail sale shall not be considered a supplier.

17 "Wholesaler" means any entity, other than a refiner or dealer, who purchases motor fuel at a
18 terminal facility and supplies motor fuel to retail dealers.

19 It shall be a violation of this section for an owner or operator of a terminal facility to sell motor fuel from
20 the terminal facility to any person at a price in excess of the price it charges any other person, including a
21 distributor or retailer which it owns or with which it is affiliated.

22 For purposes of this section, the price an owner or operator of a terminal facility charges a distributor or
23 retailer which it owns or with which it is affiliated shall be the price determined pursuant to the
24 regulations issued under this section.

25 A sale shall not be a violation of this section if it is made pursuant to the terms of a franchise or sales
26 contract entered into before the date of the enactment of this section.

27 The commissioner of the division of standards, in conjunction with the commissioner of the division of
28 energy resources, shall promulgate rules and regulations requiring full disclosure by refiners and
29 distributors of their wholesale motor fuel pricing policies, with a separate listing of each component
30 contributing to prices, including the cost of crude oil, refining, marketing, transportation, equipment,
31 overhead, and profit, along with a description of any rebates, incentives, and market enhancement
32 allowances. Such rules and regulations shall establish procedures for determining the price an owner or
33 operator of a terminal facility charges a distributor or retailer which it owns or with which it is affiliated.

34 All information acquired pursuant to these regulations shall be made available to the general public. Such
35 information shall be disseminated to the public through the division of energy resources. Such
36 information shall be conspicuously posted at all retail motor fuel facilities in a manner clearly available

37 and understandable to retail consumers. Such information shall be included in or with each invoice for the
38 wholesale sale of motor fuel.

39 In addition to any other remedies provided by law, whenever there shall be a violation of this
40 section, an injunction may be made by the Attorney General, and, upon notice to the defendant
41 of not less than five days, to enjoin and restrain the continuance of such violations; and if it shall
42 appear to the satisfaction of a court that the defendant has, in fact, violated this section, an
43 injunction may be issued by said court, enjoining or restraining any further violation, without
44 requiring proof that any person has, in fact, been injured or damaged thereby. Whenever the
45 court shall determine that a violation of this section has occurred, the court may impose a civil
46 penalty of not more than ten thousand dollars for each violation.