



Consumer Federation of America
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U.S. PIRG
Federation of
State PIRGs



Public
Citizen



June 15, 2007

The Honorable Claire McCaskill
United States Senate
717 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator McCaskill:

On August 29, 2006 as a U.S. Senate candidate you called for the installation of temperature-sensing “smart pumps” at gas stations to end the sale of “hot fuel.” We applaud you in your role as a U.S. Senator for introducing legislation to mandate the installation of automatic temperature compensation kits on all retail pumps and offer our support toward passage of this legislation.

Most Americans have never heard of “hot fuel,” but it is a common practice in the motor fuel retail industry in which companies have been overcharging consumers to the tune of an estimated \$2 billion a year, according to the *Kansas City Star*.¹ The problem is that petroleum companies overcharge motorists for expanded hot fuel and pocket taxes paid by consumers. Congress needs to protect U.S. consumers against this industry-wide practice.

Government standards define a gallon of gasoline as being 231 cubic inches at 60 degrees Fahrenheit. When this gallon of diesel or gasoline fuel is delivered, stored and dispensed at temperatures higher than 60 degrees, it expands. At 60-degrees, a gallon of fuel delivers a certain amount of energy or BTUs. The hotter the fuel, the less energy in the gallon and the more the mileage per gallon is reduced. For example, a vehicle that averages 6 miles per gallon will travel 36 fewer miles with 200 gallons of 98 degree fuel than 60-degree fuel. For the petroleum retailers, this expansion means a station’s 9,793 gallons at 60 degrees turns into 10,000 gallons at 90 degrees.²

To make matters worse, consumers are overcharged twice when they buy hot fuel. At the pump, consumers receive less energy than they pay for. In addition, before fuel even

¹ Steve Everly, “End Sought to Overcharges,” *The Kansas City Star*, December 15, 2006

² www.ooida.com/Documents/Press_Releases/hot_fuel_momentum.html

makes it to the gas station, the oil industry benefits from state and federal tax loopholes related to hot fuel. On the wholesale level, gasoline is measured and taxed at the time of purchase. At the gas station, any additional amount of taxes paid by motorists buying hot fuel goes straight into the pockets of the oil companies and the retailers. Companies avoid an estimated \$350 million in state and federal revenue that would otherwise go to pay for road maintenance and repair.³

In addition to the tax implications, the cost of hot fuel to consumers is significant. Companies shortchange consumers an estimated 2.08 million gallons of motor fuel per day.⁴ This is out of an estimated 384.7 million gallons of gasoline purchased per day, according to the U.S. Department of Energy. On June 8, 2007 during a congressional hearing before the Domestic Policy Subcommittee of the U.S. House Committee on Oversight and Government Reform, John Siebert of the Owner-Operator Independent Drivers Association (OOIDA) Foundation told members that hot fuel adds up to a \$50 annual tax on every car in the country. A report recently released by the House Domestic Policy Subcommittee found that Americans pay an average of \$1 to \$3 per tank for fuel they never receive.

For a long time, the oil industry has known about “hot fuel” expansion. The industry controls for temperature changes of wholesale fuel. The gas station pump is the only part of the fuel production and distribution system where the temperature adjustment does not occur. Refiners’ and distributors’ wholesale prices are unfairly high because they know that retailers will make a profit with the “hot fuel” bonus.

The exception in the U.S. retail market is the state of Hawaii. Since the 1970s, gas stations in Hawaii have adjusted the standard volume of a gallon of gasoline to account for its warmer temperatures

In the 1990s in Canada, the oil industry fought for legislation to allow temperature sensing dispensers because it was in their economic interest to do so: Canada has “cold fuel,” which meant consumers received more energy per gallon than the 60-degree standard before the law changed.

The solution to “hot fuel” overcharges is simple: give all consumers the same deal for temperature-adjusted fuel that refiners, distributors, wholesalers and retailers give to each other. The “FAIR Fuel Act of 2007” – an amendment to the energy bill that is being debated in the Senate – would require all new and upgraded fuel pumps to be equipped with automatic temperature compensation equipment, and is a good start because it:

- ∞ Starts the transition from the current system of a hot fuel premium to a temperature-adjusted retail system;

³ Steve Everly, “Loophole Enhances ‘Hot Fuel’ Profits,” *The Kansas City Star*, November 12, 2006

⁴ Ibid

- ∞ Ensures that motorists will begin to receive the same amount of energy with every visit to the gas station;
- ∞ Fines companies that are out of compliance and adds additional fines if they do not make the appropriate changes within a reasonable amount of time; and
- ∞ Gives the Secretary of Commerce authority to provide grants for owners and operators of retail fuel establishments to offset the costs associated with the installation of automatic temperature compensation equipment.

This bill is a win-win for consumers and the industry. Consumers receive relief from overcharges and the Commerce Department offers grants to assist independently owned gas stations. At last, refiners and distributors will be required to price their product honestly.

As the price of gas climbs – as it historically has during the summer months – the harm to consumers increases. During a recent House hearing on this issue, one representative estimated that with temperature-adjusted fuel, American motorists could save \$1.5 billion this summer alone. Now is the time to enact this important bill, and we offer our strong support for your efforts.

Sincerely,

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