

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
Washington, DC 20580



OFFICE OF POLICY PLANNING  
BUREAU OF ECONOMICS  
BUREAU OF COMPETITION

May 2, 2007

Representative Christopher R. Stone  
State of Connecticut House of Representatives  
Legislative Office Building, Room 4100  
State Capitol  
Hartford, CT 06106-1591

Dear Representative Stone:

We are pleased to respond to your request<sup>1</sup> for our comments on Senate Bill 1136 ("SB 1136" or the "Bill"), which would regulate retail and wholesale petroleum pricing.<sup>2</sup> Specifically, the Bill would mandate that retailers sell "gasoline based on the actual price . . . paid for the gasoline located in underground storage tanks located on the premises of the retail gasoline

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prices on an equal basis with other retail sellers of gasoline in [Connecticut].”<sup>4</sup>

FTC staff recommends that the Connecticut legislature not adopt SB 1136. We are concerned that SB 1136 may result in increased retail prices and harm consumers by hindering the market’s ability to respond to supply disruptions. The ban on zone pricing also may reduce the incentives of refiners to establish gasoline stations in areas with relatively weak competition

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reformulated gasoline prices in several Midwestern states,<sup>9</sup> and of gasoline price increases in West Coast markets.<sup>10</sup> Commission staff also filed public comments with the Environmental Protection Agency concerning the likely competitive effects of “boutique fuel” regulations.<sup>11</sup> Finally, Commission staff is routinely asked by state legislators to comment on proposed state laws covering various aspects of gasoline sales.<sup>12</sup>

### Likely Effects of SB 1136

SB 1136’s proposed regulation of retail and wholesale gasoline prices potentially could harm Connecticut consumers.

#### A. Regulation of Retail Prices

The intent of Section 2 appears to be to prevent gasoline stations from raising the price of

<sup>9</sup> *FTC Final Report, Midwest Gasoline Price Investigation (Mar. 20, 2001)*, at

<http://www.ftc.gov/os/2001/03/mwgasrpt.htm>.

<sup>10</sup> *FTC Closes Western States Gasoline Investigation*, FTC Press Release (May 7, 2001), at

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gasoline to reflect higher retail prices before they have had a comparable increase in their wholesale prices.<sup>13</sup> Such a provision likely will have several related deleterious effects.

~~First, SD 1126 may interfere with the legitimate business operations of...~~

pricing decision. a restriction on subsequent price increases means that choosing a higher price

"today" preserves the option to charge a higher price "tomorrow."

To summarize, Commission staff believes that if the Connecticut legislature approves this amendment, retail gasoline prices will be higher in normal times, and the system will be less able to minimize the undesirable effects of shortages when supply disruptions occur.

**B. Regulation of Wholesale Prices**

Zone pricing is a practice whereby refiners set different wholesale prices for branded retail gasoline stations that operate in different areas served by a common gasoline terminal.<sup>15</sup>

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also reduces transaction costs through better alignment of retailer and refiner incentives.<sup>19</sup> Thus

by banning zone pricing, SB 1136 has the potential to reduce entry in what currently are less competitive areas. To the extent that there is reduced entry, and thus less competition and less choice among brands, consumers are worse off. Further, a ban on zone pricing may make it harder to align incentives in the retailer-refiner relationship, which could increase transaction costs and translate into higher retail prices.<sup>20</sup> Finally, we also believe that a ban on zone pricing is unnecessary because state and federal antitrust laws already are broad and flexible enough to

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FTC staff believes that SP 1126's proposed regulation of retail prices could potentially

harm consumers by raising retail prices and hindering the market's ability to respond to supply