

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

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Legislative Document

No. 560

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H. P. 455 House of Representatives, February 17, 1977  
Referred to Committee on Energy. Sent up for concurrence and 2,000 ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Davies of Orono.

Cosponsors: Messrs. Kerry of Old Orchard Beach, Kelleher of Bangor.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SEVEN

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**AN ACT to Prohibit the Sale of Gasoline Below Cost to Destroy Competition.**

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Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 10 MRSA § 1452, as enacted by PL 1975, c. 549, is amended by adding at the end the following new paragraph to read:

The Legislature further finds that motor fuels are becoming a scarce commodity which is essential to the transportation system of the State, and control by a small number of firms of the supply, distribution and retail sale of motor fuels would be harmful to the public welfare. Since a small number of firms presently supply and distribute a large proportion of the motor fuels purchased in Maine, and since a small number of firms are gaining a larger and larger percentage of the retail sale of motor fuels, the legislature declares it to be in the public interest to regulate the activities of oil firms to preserve competition in the retail sale of motor fuels.

Sec. 2. 10 MRSA § 1453, sub-§§ 13 and 14 are enacted to read:

13. Retail service station. Retail service station shall mean a facility operated by a retail dealer where motor fuels are sold to the public.

14. Total cost. Total cost shall mean the delivered cost of the gasoline, rents or mortgage payments, labor, taxes, employee benefit program, insurance, inventory of motor fuels, depreciation, utilities, maintenance, credit card costs and any other costs involved in the retail sale of gasoline.

Sec. 3. 10 MRSA §§ 1454-A and 1454-B are enacted to read:

**§ 1454-A. Sales of motor gasoline**

1. Distributor as a retailer. Any distributor engaged in the retail sale of gasoline will sell motor gasoline to his retail service stations at a price equal to the price that he charges to all other retail service stations that he supplies, adjusted for actual transportation costs incurred.

2. Retailer dealers. Any person, firm or corporation engaged in the retail sale of motor gasoline shall not offer or sell to the public motor gasoline at less than the total cost incurred by the retail dealer in the sale of gasoline, unless the offer or sale at less than total cost is made in good faith to meet legal competition.

**§ 1454-B. Minimum retail price**

The minimum retail price of motor gasoline as described in section 1454-A shall be determined by dividing the actual total costs that a retail dealer incurs in the sale of motor fuels for a calendar month by the total number of gallons sold during that month. All costs of other activities carried on at a retail service station except the sale of gasoline shall not be considered as part of the total cost as defined in this chapter. The assessed value of all property not actually engaged in the retail sales of gasoline shall be exempt from this chapter, and the total cost of supporting activities not engaged in the retail sale of gasoline shall also be exempt from this chapter.

**STATEMENT OF FACT**

The purpose of this bill is to preserve the competitive structure of the retail gasoline market and to prevent a few firms from gaining control of both the distribution and retail sale of gasoline. This bill would prevent firms, particularly firms which are vertically integrated, from selling gasoline at retail below cost to the dealer in order to destroy competition. This bill does not set a minimum retail price. The minimum retail price of gasoline is the price at which the most efficient firm can retail gasoline without realizing a loss. **The more efficient a retail service station operation is, the lower the minimum retail price will be.**

This bill does not establish an agency to investigate and enforce the law. Individual retail dealers who perceive violations of the law obtain redress through the court system.

The objective of the bill is to halt the present trend characterized by cut throat competition and increasing concentration in the retail gasoline market. The long run effect of this trend could be that a very small number of firms could control the distribution and retail price of gasoline.