

OFFICE of the ATTORNEY GENERAL
State of Idaho

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Op-Ed: Wasden to Idahoans: Proposed Changes to Gas Gouging Law Deserve Your Attention

FOR IMMEDIATE RELEASE

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To my fellow Idahoans:

I'm writing to make you aware of a piece of legislation currently working its way through the state Legislature. The bill is being pushed by Idaho's gas retailers and, if approved, would make it easier for these businesses to price gouge during declared emergencies.

As you are likely aware, Idaho suffers from some of the highest gas prices in the nation. And by law, I have only two tools to fight unreasonably high gas prices. One prohibits businesses from colluding to set prices. The other prohibits sellers of fuel, food, water and medicine from charging

"excessive or exorbitant" prices during an emergency. Senate Bill 1041 was proposed by the Idaho Petroleum Marketers & Convenience Store Association to undercut my ability to protect you from price gouging during an emergency.

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So why have Idaho's gas retailers made this a priority now? Well, there's a backstory here. Last March, COVID-19 prompted an emergency declaration that triggered the state's price gouging law. In the weeks that followed, oil prices fell dramatically. Gas prices at the pump, though, did not drop as quickly.

I wanted to know why. So I contacted Idaho's three largest gas retailers – Maverik, Jacksons and Stinker Stores – and asked them to explain their pricing and remind them that Idaho's price gouging law was in effect. They rejected my concerns and did not satisfactorily explain the pricing we were observing. My office soon initiated a formal investigation that focused on the retailers' margins. I did so because Idaho's current price gouging law directs that examination as a way to determine whether prices are excessive or exorbitant.

We found that during the first few weeks of the pandemic, these retailers' margins increased dramatically. Our independently-sourced data from the last 14 years showed Idaho retailers usually make about \$.10 per gallon of gas. (The gas companies contend their historical margins are closer to \$.20 per gallon.) Three weeks into the pandemic, Idaho gas retailers – including the three my office investigated – were making a record margin of \$.63 per gallon. This was well above the previous high of \$.42 per gallon set in 2008.

While retailers could buy their gas at a steep discount, those savings, by and large, weren't passed on to you. In fact, despite some increased costs connected to the pandemic and a reduction in their sales volumes, these inflated margins allowed the retailers' gas profits to swell.

After presenting our findings to the retailers, my office negotiated a settlement that includes \$1.5 million in credits that will go back to Idaho consumers this year. That settlement was announced on November 30. Less than two months later, the gas retailers were in front of the Idaho Legislature urging major changes to the very law that allowed my office to investigate them in the first place.

If the gas companies' proposed changes become law, a future investigation and settlement similar to the one initiated by my office last year would no longer be possible. So far, the gas retailers' bill has been welcomed by lawmakers. It passed unanimously in the Senate and is now headed to the House. If successful there, it could be signed into law by the governor.

It's extremely rare that I speak publicly on the merits of a particular piece of legislation. But you deserve to know about this bill. If you believe that gas prices shouldn't be excessive or exorbitant during an emergency, you need to contact your legislators now and let them know.

Sincerely,