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Bill 7

An Act to regulate the price of petroleum products

Mr. G. Bisson

Private Member's Bill

1st Reading July 31, 2018

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTE

The Bill regulates the price of petroleum products. The Ontario Energy Board is given power to regulate the retail price and wholesale mark-up with respect to the sale of petroleum products in the Province. The Lieutenant Governor in Council is given power to govern the Board's power. The Board and the Lieutenant Governor in Council are guided by the following objectives:

1. To protect the interests of consumers with respect to the predictable and consistent retail pricing of petroleum products.
2. To prevent pricing practices that undermine the stability and competitiveness of retail markets for petroleum products, including retail markets in remote, rural and northern areas.
3. To ensure transparency and reasonableness with respect to the prices of petroleum products.

An Act to regulate the price of petroleum products

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Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1 In this Act,

“Board” means the Ontario Energy Board; (“Commission”)

“mark-up” means, with respect to the retail price of a petroleum product, the difference between the wholesale price paid by the retailer and the retail price charged to the consumer; (“marge bénéficiaire”)

“Minister” means the Minister of Energy or such other member of the Executive Council as may be assigned the administration of this Act under the *Executive Council Act*; (“ministre”)

“order” means an order made under this Act; (“ordonnance”)

“petroleum product” means gasoline or diesel oil used primarily in internal combustion engines, and includes any furnace oil or stove oil that may be prescribed; (“produit pétrolier”)

“regulations” means the regulations made under this Act; (“règlements”)

“retailer” means a person who sells a petroleum product directly to consumers or keeps a petroleum product for sale directly to consumers; (“détaillant”)

“wholesaler” means a person who sells a petroleum product to a retailer for purposes of resale by the retailer to consumers or keeps a petroleum product for sale to a retailer for purposes of resale by the retailer to consumers. (“grossiste”)

Powers of Board

2 (1) The Board may, by order, and in accordance with the regulations made under subsection (3), if any,

(a) fix the weekly maximum retail price of a petroleum product; and

(b) fix the weekly minimum mark-up that applies in relation to the retail price fixed under clause (a).

Different prices and mark-ups for different areas

(2) The Board may fix different maximum retail prices and minimum mark-ups for different areas of the Province under subsection (1).

Regulations

(3) The Lieutenant Governor in Council may make regulations governing the fixing of weekly maximum retail prices and weekly minimum mark-ups, including by prescribing weekly maximum retail prices, weekly minimum mark-ups and areas of the Province.

Objectives

(4) An exercise of discretion under this section shall be guided by the following objectives:

1. To protect the interests of consumers with respect to the predictable and consistent retail pricing of petroleum products.
2. To prevent pricing practices that undermine the stability and competitiveness of retail markets for petroleum products, including retail markets in remote, rural and northern areas.
3. To ensure transparency and reasonableness with respect to the prices of petroleum products.

Retailers cannot sell beyond maximum retail prices

3 (1) No retailer shall sell a petroleum product at a price greater than the maximum retail price fixed by the Board under clause 2 (1) (a).

Wholesalers cannot sell beyond minimum mark-ups

(2) No wholesaler shall sell a petroleum product to a retailer at a price that does not allow for the minimum mark-up fixed by the Board under clause 2 (1) (b).

Duty to keep records and documents

4 (1) Every wholesaler and retailer shall keep records of each sale of a petroleum product, including such records and documents as the Board may require.

Records and documents to be kept for certain period

(2) The wholesaler and the retailer shall keep the records and documents required under subsection (1) for a period of at least five years after the sale unless the Board determines otherwise.

Complaints and inquiries

5 The Board may,

- (a) receive complaints concerning conduct that may be in contravention of section 3; and
- (b) make inquiries, gather information and attempt to resolve complaints, as appropriate, concerning any matter that comes to its attention that may be in contravention of section 3.

Contractual term of no effect

6 Any term in a contract that permits a wholesaler or retailer to sell a petroleum product at a price in contravention of this Act is of no force and effect.

Inspectors

7 (1) The Board may appoint inspectors for the purposes of this Act.

Certificate of appointment

(2) The Board shall issue a certificate of appointment to every inspector appointed under subsection (1).

Inspections

8 (1) An inspector may, without warrant, conduct inspections by,

- (a) entering at any reasonable time any business premises owned or operated by a wholesaler or retailer in relation to the sale of a petroleum product;
- (b) inquiring into all matters relating to the sale of a petroleum product;
- (c) requiring the production of any records or other documents relating to the sale of a petroleum product; and
- (d) examining any records or other documents relating to the sale of a petroleum product and making copies of them.

Identification

(2) In conducting an inspection under this section, the inspector shall, upon request, produce his or her certificate of appointment.

Duty to assist

(3) In exercising powers under this section, the inspector may require a wholesaler or retailer or their officers, directors or employees to give all reasonable assistance to the inspector.

Copying

(4) The inspector may, on giving a receipt, remove any document or record described in subsection (1) for the purpose of making copies or extracts, and shall promptly return the document or record and obtain a written acknowledgment of its return.

Documents in electronic form

(5) If a document or record is kept in electronic form, the inspector may make a copy of it or require that a copy of it be provided to him or her on paper or in a machine-readable medium, or both.

Dwellings

(6) This section does not authorize an inspector to enter a room or place actually used as a dwelling without the consent of the occupier.

Administrative penalty

9 (1) Subject to the regulations made under subsection (5), if the Board is satisfied that a retailer or wholesaler has contravened section 3, the Board may make an order requiring the retailer or wholesaler, as the case may be, to pay an administrative penalty not exceeding \$100,000 for each day or part of a day on which the contravention occurred or continues.

Purpose

(2) The purpose of an administrative penalty is to promote compliance with this Act, the regulations and the orders.

Increase in amount of penalty

(3) The Board may increase the administrative penalty that a person is required to pay under this section by an amount equal to the monetary benefit that was acquired by, or accrued to, the person as a result of the contravention.

No offence to be charged if penalty is paid

(4) If a retailer or wholesaler who is required by an order under subsection (1) to pay an administrative penalty in respect of a contravention pays the amount of the penalty in accordance with the order, the retailer or wholesaler, as the case may be, shall not be charged with an offence in respect of the contravention.

Regulations

(5) The Lieutenant Governor in Council may make regulations,

- (a) prescribing circumstances in which a retailer or wholesaler is not required to pay an administrative penalty or may be able to pay a reduced penalty;
- (b) respecting procedures applicable to the imposition of administrative penalties, including providing for reviews of an order made by the Board under subsection (1) or requiring a hearing by the Board before imposing administrative penalties;
- (c) respecting any other matter necessary for the administration of a system of penalties provided for by this section.

Legislation Act, 2006, Part III

10 Part III (Regulations) of the *Legislation Act, 2006* does not apply to orders made by the Board.

Offence and penalty

11 (1) Every wholesaler or retailer who sells a petroleum product at a price in contravention of section 3 is guilty of an offence and on conviction is liable to a fine not exceeding \$500,000.

Same

(2) Where an offence described in subsection (1) is committed by a person on more than one day or is continued for more than one day, each day on which the offence is committed or continued constitutes a separate offence.

Commencement

12 This Act comes into force on the day it receives Royal Assent.

Short title

13 The short title of this Act is the *Fairness in Petroleum Products Pricing Act, 2018*.