

SESSION OF 2004

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2330

As Amended by House Committee on
Commerce and Labor

Brief*

HB 2330 is a bill dealing with prohibited acts regarding the sale of motor fuel.

The bill contains the following provisions:

- ! Prohibits the sale of gasoline at a below cost price.
- ! Exceptions are provided during special sales events, such as a grand opening; and for good faith efforts to meet a competitor's sale price within the same or adjacent municipality.
- ! Action by the division of weights and measures in the Department of Agriculture, upon receipt of a complaint followed by a demand that the seller comply with the law, include an investigation within 10 business days, of allegations made. If the violation is confirmed, the division shall take the pumps out of service and notify the Attorney General of the violation.
- ! Action by the Attorney General may be taken to:
 - " obtain a declaratory judgment regarding the violation;
 - " obtain a restraining order against the seller;
 - " recover any penalties; and
 - " recover expenses and investigation fees.
- ! Graduated penalties under the Act include the following:
 - " first offense—notice plus a cease and desist order within 24 hours;

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org/cgi-bin/fulltext/bills.cgi>

- " second offense—\$1,000 per day; and
- " third offense—\$10,000 per day.

! Statute of limitations restrictions are within six months of a violation for a seller aggrieved by a violation of the law to bring a private cause of action to:

- " obtain a declaratory judgement;
- " obtain a restraining order against the violator; and
- " recover court costs and attorney fees.

Background

Representative Patterson appeared in favor of the bill as a measure to even the playing field for small businesses. Also appearing in support of the bill was Representative Holland. Others who appeared in support of the bill, include conferees on behalf of Petroleum Marketers and Convenience Store Association of Kansas, Taylor Oil, and Triplett, Inc. Appearing in opposition to the bill was a representative from Casey's General Store.

The fiscal note indicates that the fiscal impact cannot be determined at this time.