

Proposed Energy Pricing Protection Act

The current prohibition against price gouging that exists in the Michigan Consumer Protection Act suffers from several shortcomings. And, the Michigan Attorney General's office routinely receives complaints from consumers complaining about the price of gasoline and other energy products, like propane. To enhance the ability to protect consumers from unjustified price gouging, proposed draft legislation has been developed.

The core component of the draft legislation is to prohibit charging an excessively increased price for an energy product during and reasonably after a market disruption. The draft statute includes a presumption that a price is excessive if it is 10% higher than the price was before the market disruption occurred unless the seller can show that the increase in price was due to increased costs.

Key components:

1. "Market Disruption" is the trigger.
2. Charging an "excessively increased price" is prohibited.
3. The draft legislation retains flexibility as to what prices are too high.
4. The draft legislation is limited to energy products.
5. The limits on pricing extend up the supply chain
6. The relevant timing applies during and after the market disruption
7. The legislation gives the Attorney General the power to investigate.
8. Propriety information remains non-public.
9. The draft legislation does not have private enforcement provisions.
10. The draft includes both civil and criminal enforcement mechanisms with sufficient fines to deter violations.