

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

FAIR TRADING (FUEL PRICES) AMENDMENT BILL 2013

EXPLANATORY STATEMENT

Circulated by
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Introduction

This explanatory statement relates to the Fair Trading (Fuel Prices) Amendment Bill 2013 as presented by Mr Shane Rattenbury MLA in the Legislative Assembly. It has been prepared in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.

The Statement must to be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. What is said about a provision is not to be taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

Overview

The Bill amends the *Fair Trading (Fuel Prices) Act 1993* (the Act) to introduce a new requirement that service stations in the ACT display the price of the fuel that is available to all customers rather than, for example, a price that is available selectively, such as to customers with a discount voucher. The Bill provides that service stations must advertise the price of the four highest selling fuels (ensuring that if diesel and LPG are sold the price of these fuels is advertised) on a display that is clearly visible to anyone approaching the petrol station. The Bill also provides that service stations must display the octane rating of the fuels they sell.

It has become a common practice for service stations to prominently advertise a discounted fuel price that is only available to customers with a discount voucher. This practice may mislead consumers about the price of the fuel, so that it is not until they have entered the petrol station or accessed the bowser that they realise they have to pay a higher price than advertised.

A similar scheme was introduced in NSW and this Bill effectively implements the equivalent scheme in the ACT.¹ The NSW scheme commenced on 1 September 2012. However a transitional regulation allowed petrol stations until 1 September 2013 before they must comply.

Human Rights

The Bill does not limit any human rights. The Bill regulates the conduct of trade in motor fuels.

Delegation of legislative power

The Bill does not delegate any legislative power to any other person or body.

Notes on Clauses

Clauses 1-3 Name of Act, Commencement, Legislation amended

These are formal clauses setting out the name of the Act, its commencement date and the Act it amends. The Bill will commence on 1 September 2013. This is the same date that petrol

¹ Fair Trading Regulation 2012 (NSW) Division 3. Available at <http://www.legislation.nsw.gov.au/maintop/view/inforce/subordleg+427+2012+cd+0+N>.

stations in NSW must comply with the new display requirements. It should allow sufficient time for petrol stations in the ACT to adopt the new requirements.

Clauses 4 and 5 New part 1 heading, Part 2 Definitions

These are technical changes made as a result of the substantive changes in the Bill. The definitions set out in the clause are the same as those currently in the Act; they are simply being moved to ensure they apply to the correct part of the amended Act. Note that some of the existing definitions in the current Act have been removed as they are no longer relevant to the operation of the Act. For example, the Prices Surveillance Authority was a Commonwealth body that no longer exists.

Clause 6 New Part 3 Fuel price signs

This clause inserts a new part 3 into the Act which will regulate the display of fuel prices. The clause is modelled on the NSW Fair Trading Regulation 2012. The clause creates offences (with a maximum penalty of 50 penalty units) for failing to correctly advertise the price of fuel that is available to all customers. The clause also requires that service stations that sell up to four types of proscribed fuels must advertise the price of each fuel they sell. Service stations that sell five or more types of fuel must advertise the price of the four highest selling fuels subject to the requirement that if the petrol station sells diesel or LPG these fuels must be included in the four prices displayed.

The highest selling fuels for the month are determined by calculating the volume of each type of fuel sold at the service station in the previous six months. Fuels that are covered by the new rules are petrol, whether leaded or unleaded, diesel, LPG, liquefied natural gas, compressed gas, biodiesel and ethanol.

The clause also requires that service stations must correctly advertise the octane rating of each fuel they offer for sale. This is a current practice of most service stations and the requirement in the Bill will ensure that all service stations display this information clearly and that they do so correctly.

Clauses 7 New part 4 heading

This clause places the regulation making power in a new part 4 of the Act.

Clauses 8 – 16 Dictionary Definitions

These clauses insert a range of new definitions into the dictionary. All definitions refer back to other parts of the Act where the terms are defined.