

MARTHA COAKLEY  
ATTORNEY GENERAL

# THE COMMONWEALTH OF MASSACHUSETTS OFFICE OF THE ATTORNEY GENERAL

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April 22, 2011

Matthew Lelacheur  
Executive Director  
New England Service Station and  
Automotive Repair Association, Inc.  
574 Boston Rd., Suite #12  
Billerica, MA 01821

Steve Dodge  
Associate Director  
Massachusetts Petroleum Council  
11 Beacon Street, #1040  
Boston, MA 02108

Peter Romano  
President  
Independent Oil Marketers Association  
PO Box 1827  
North Falmouth, MA 02556

*Re: Gas Prices*

Dear Mr. Lelacheur, Dodge and Romano:

In this tough economy, as the price of gasoline continues to rise, many families and businesses in Massachusetts are feeling that additional pinch on their budgets. This has a negative effect on our economy and employment.

The Attorney General's Office recognizes that many factors, including major world events, contribute to the increase in the price at the pump. However, our Office intends to ensure that no business is unfairly capitalizing on the recent trends, and that consumers have all of the information about gas prices which the law requires, to help them to make informed decisions about purchases.

Toward that end, our Office intends to monitor compliance with all requirements of Massachusetts law regarding the pricing of gasoline and the display of gas prices and will enforce these laws and regulations against any noncompliant retailer. Two provisions are of particular relevance.

Service stations should be aware that 940 CMR 3.18, the "Massachusetts price gouging regulation", provides that:



(1) It shall be an unfair or deceptive act or practice, during any market emergency, for any petroleum-related business to sell or offer to sell any petroleum product for an amount that represents an unconscionably high price.

(2) A price is unconscionably high if:

(a) the amount charged represents a gross disparity between the price of the petroleum product and

1. the price at which the same product was sold or offered for sale by the petroleum-related business in the usual course of business immediately prior to the onset of the market emergency, or

2. the price at which the same or similar petroleum product is readily obtainable by other buyers in the trade area; and

(b) the disparity is not substantially attributable to increased prices charged by the petroleum-related business suppliers or increased costs due to an abnormal market disruption.

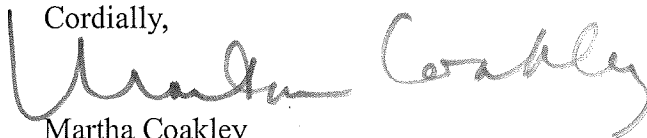
In addition, pursuant to MGL chapter 94, section 295E, a service station may not sell gasoline at any price other than the price posted at the time of sale. While MGL chapter 140D, section 28A, allows service stations to discount their prices for consumers paying with cash, service stations should be advertising the higher credit price clearly and conspicuously in their signage and if a discount is offered for cash sales, the words "cash" should be included in the applicable portion of the signs. When "cash" sales and other types of sales are made from the same dispenser, both prices shall be posted and clearly labeled with the type of sale the price refers, i.e. "cash," "credit," "credit/debit." See 202 CMR 2.06 and guidelines at [http://www.mass.gov/Eoca/docs/dos/202CMR2%2000final\\_clean.pdf](http://www.mass.gov/Eoca/docs/dos/202CMR2%2000final_clean.pdf).

If any of your organizations or your members become aware of any unlawful or potentially unlawful conduct by any entity involved in the sale and distribution of petroleum products, please notify our Office so that we may address it.

Now more than ever, consumers need fairness in the marketplace, and the information necessary to make smart choices when they shop for gasoline.

We appreciate the cooperation of your organizations and your members.

Cordially,

A handwritten signature in dark ink, appearing to read 'Martha Coakley', is written over the printed name.

Martha Coakley  
Attorney General