California lawmakers consider Newsom's oil profit penalty plan

Lawmakers in California are reviewing Governor Gavin Newsom's proposal to penalize oil companies for price gouging.

NATALIE HANSON / February 22, 2023

A customer pumps gas at an Exxon gas station. (AP Photo/Marta Lavandier)

SACRAMENTO, Calif. (CN) — Golden State lawmakers are debating how to demand more transparency from, and impose penalties on, Big Oil companies that charge excessively high prices for gasoline.

During the Legislature's first extraordinary session on gas prices, the state Senate's Energy, Utilities and Communications Committee held a hearing Tuesday on Democratic Governor Gavin Newsom's proposal to penalize oil companies that engage in price gouging.

Newsom called for a windfall tax last fall, saying that oil companies raised California gas prices "by a record 84 cents per gallon in just the last 10 days" even as crude oil prices dipped. Some lawmakers including, Assembly Republican leader James Gallagher, from Yuba City, oppose Newsom's proposal. Gallagher counts gas companies like Chevron and California Independent

Petroleum Association among his campaign contributors according to the nonprofit, nonpartisan research organization Vote Smart.

On Feb. 21, Gallagher shared demands from state Republicans for Newsom to "stop the gas tax hike," extend the diesel tax holiday expiring on Sept. 30 and delay the fuel blend transition from summer to winter-blend gasoline.

More than 100 activist groups including the Center for Biological Diversity and the Sierra Club's California chapter have called for lawmakers to adopt Newsom's proposal — now a bill introduced by state Senator Nancy Skinner, a Democrat from Berkeley.

Skinner's bill would set a maximum gross gasoline refining margin per gallon, which can be adjusted each year. It would authorize placing a civil penalty on refiners that exceed the margin limit and require oil refinery operators in California to submit an activity report to the State Energy Resources Conservation and Development Commission within 30 days of the end of each month.

In a letter Tuesday, activists said the proposal is necessary "to hold the oil industry accountable and protect Californians from the industry's greed and profiteering."

"While Californians paid as much as $2.60 more for their gasoline than average US gasoline prices, California oil refiners continued to post record-breaking windfall profits — literally profiting off Californians' pain at the pump," the letter said.

"In the first three quarters of 2022, California's five biggest refiners — Chevron, Marathon, PBF Energy Phillips 66 and Valero —raked in $67.6 billion in profits, nearly quadruple the same period in the prior year," the letter continues. "The oil industry is spending their record profits to undermine our democracy with disinformation, delay action on climate change, and overturn vital protections for communities living next to toxic oil drilling sites."

The committee hearing Wednesday reviewed California Energy Commission findings in November on Big Oil profits — a hearing that Big Oil representatives did not attend.

California Energy Commission vice chair Siva Gunda said that while nearly 24% of vehicles sold in the last quarter were electric vehicles, California is still one of the largest global oil markets, behind the U.S. and China.

Gunda said Newsom's proposal attempts to impose a price gouging penalty that grows progressively larger to prevent "runaway margin spikes" with "no cap at all on normal profits."

Nicolas Maduros of the state Department of Tax and Fee Administration said the proposal is designed to give lawmakers "a clearer window into what's happening" while encouraging companies to continue to make "very healthy profits."

He said other countries have created similar windfall profits taxes, including the U.K. But this is a penalty, rather than a tax, and he said the only other recourse to return money to consumers' pockets is to prove an antitrust violation.

Senator Bill Dodd, a Democrat from Napa, asked what untended consequences a windfall penalty on Big Oil might have on consumers. (Screenshot via Courthouse News)

"What the hell are the unintended consequences that could hurt people to an even greater extent?" state Senator Bill Dodd, a Democrat from Napa asked. "What if refiners decide to ship their product elsewhere, to avoid any of these profits?"

Maduros said that because California is one of the most profitable markets for Big Oil, it is unlikely those businesses will ship gasoline elsewhere.

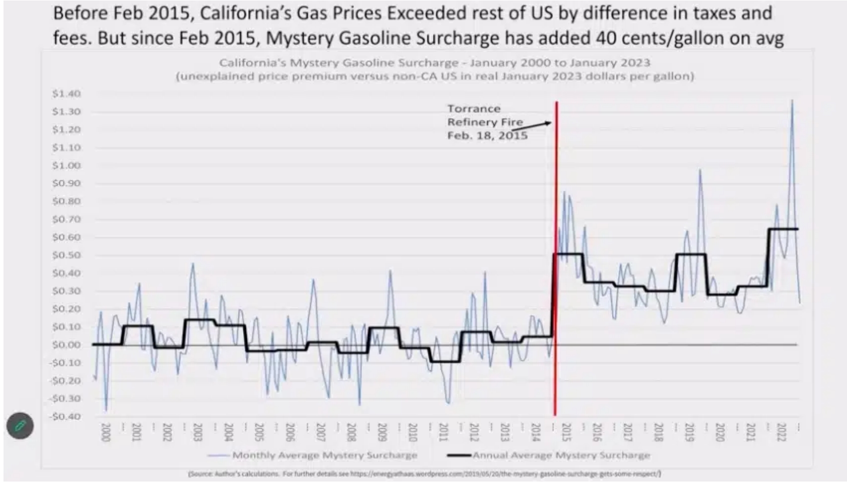
“It may be that California’s aggressive stance does impact that (price), but the lives saved and the health benefits of the blended fuel are beneficial for Californians, particularly the most vulnerable,” Maduros said. “It is all a trade-off. This isn’t a tax — it isn’t meant to change revenue, it’s meant to change behavior.”

David Hackett, chair of transportation consulting company Stillwater Associates LLC, claimed that high prices were caused by supply issues, including during the pandemic and the Russian invasion of Ukraine.

But Robert McCullough of McCullough Research said the spot market price has no direct relationship to production costs and is not transparent, and the state must do something after previous investigation efforts have failed.

Ross Brown of the nonpartisan Legislative Analyst's Office presented a report recommending that lawmakers investigate if price spikes are driven by a demand issue or market power due to limited competition. He said the Legislature must decide what are “excessive profits,” how they can be differentiated from cyclical fluctuations and how they affect gasoline supply and what consumers pay.

“In recent years, even after adjusting for taxes and environmental program costs, California gasoline prices are often about 30 cents to 60 cents higher than the national average,” the report says. “This difference is sometimes referred to as the ‘Mystery Gasoline Surcharge.’ It is currently unclear what drives this unexplained difference.”



A chart showing where California profits on gasoline differed from other oil rates in the nation. (Severin Borenstein via Courthouse News)

Severin Boreinstein, of the Haas School of Business and Energy at UC Berkeley, said that while the wholesale price dropped suddenly after the governor's move to winter blend gasoline, the retail price stayed high for two months and experts in competition policy should investigate.

Michael Mische, of University of Southern California's Marshall School of Business, claimed a windfall penalty "will not work" and the state has not proven any "collusion." When asked, he confirmed state Senator Lena Gonzalez's claims that he has performed consulting for oil companies in Saudi Arabia and accused the Biden administration of "stupidity."

When state Senator Angelique Ashby, a Democrat from Sacramento, asked what else could be done if lawmakers don't approve the penalty, professor Jim Sweeney said they could create more competition from out of state. Borenstein said they must investigate the reasons behind prices at gas stations around the state before designing "regulatory fixes."

State Senator Maria Elena Durazo, a Democrat from Los Angeles, said lawmakers need to remember those who are hit hardest by high gas prices.

"They're low income, they're essential workers, they're highly impacted by emissions," she said.

The state Senate is expected to continue to hold hearings on the issue.

"Today's hearing provided even more evidence that we need to crack down on Big Oil's price gouging at the pump," the governor said in a statement after the hearing, late Wednesday. "Experts detailed how gas price hikes led to record profits and why we need greater transparency. Big Oil's lobbyists again used scare tactics and refused to provide answers or solutions to last year's price spikes. We're taking action to hold them accountable with a price gouging penalty and long-overdue transparency measures."

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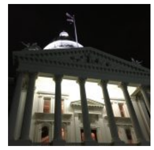

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