

Dems turn to the FTC to crack down on gas-price hikes

Senate Democrats are preparing to introduce legislation to give the Federal Trade Commission more authority to penalize petroleum-market manipulation. Republicans say they've been shut out of the process.



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Democrats are about to launch the first major legislative push in their multipronged quest to tackle runaway gasoline prices.

Senate Commerce, Science, and Transportation Chair Maria Cantwell is likely to introduce a bill this week to direct the Energy Department and the Federal Trade Commission to more closely surveil petroleum markets.

“The FTC is saying they don’t have current information, they don’t have all the data to catch the manipulation. So we want to empower them to have that information to police the market,” Cantwell told *National Journal*, adding that she aims to introduce the legislation “probably early” this week.

Nationwide gas prices [averaged](#) \$4.28 on March 6, marking an increase over past weeks and a full \$1.30 above prices this time last year. Spot prices for crude oil, the primary ingredient in gasoline, [have also risen dramatically](#) over recent months.

So far, Democrats have failed to build momentum around other legislation to pare down prices. Leadership has poured cold water on a gas-tax-holiday bill championed by vulnerable members seeking reelection in November. And proposed rebates aren’t gaining traction.

But Senate Majority Leader Chuck Schumer, speaking at a press conference in late April, [said](#) he planned to bring the Cantwell measure to the floor for a vote.

The century-old FTC investigates unfair business practices and often levels fines on companies or requires divestitures. In March, the agency [cracked down](#) on an oil-industry acquisition in Utah, alleging the move would stifle competition. And earlier this year, FTC Chair Lina Khan [told](#) Cantwell’s Republican counterpart, Sen. Roger Wicker, that the agency “continues to vigilantly monitor energy markets for wrongful acts and practices.”

The FTC is deadlocked with two Democratic and two Republican appointees. The Biden administration’s nominee to tip the scales, Alvaro Bedoya, [faces Republican resistance](#) over past politically controversial remarks.

Some industry experts say the FTC is ill-equipped to properly surveil the full breadth of petroleum markets, from crude transactions to refining and trading to gas-station retail. Robert McCullough, an economist who consults with committee members and helped blow the whistle on Enron electricity-price gaming two decades ago, is backing the Democratic push.

“We do not actually have market surveillance of gasoline or oil in the United States, except to the degree that the [Commodity Futures Trading Commission] might notice something happening in the forward market,” McCullough said in an interview.

“When the regulatory commissions and Congress were working on [market transparency], we really never addressed oil and gasoline, in part because oil and gasoline is such [American] pie. We’re sort of proud about the people who discovered oil and let it bubble out of the ground and did all these wonderful things,” he said.

In contrast to petroleum markets, McCullough and others applaud the Federal Energy Regulatory Commission’s activity to publicize natural-gas- and electricity-transaction information and to penalize bad actors. That [authority](#) was given to FERC in 2005, and the agency publishes annual [enforcement reports](#). [Similar authority](#) was later given to the FTC to surveil petroleum markets.

Some Democrats say they are flummoxed by the FTC’s alleged inactivity on the petroleum front.

“I believe it has that power now,” said Sen. Richard Blumenthal, a Commerce Committee member working on the bill. “They should be taking action. But often their response has been that they need more authority to actually take action.”

Jason Cruise, a partner with Latham & Watkins LLP, says he hasn’t seen evidence of petroleum-market manipulation that would result in unusually high gasoline prices, adding that the FTC already has “significant authority” to investigate the “quite transparent” petroleum market.

“It is a global market that is fragmented and highly competitive, in which prices are determined by supply and demand,” Cruise said. “Crude-oil- and gasoline-price increases over the course of this year have been a result of a global supply crunch, workforce constraints, a rebound in economic activity in the U.S., and geopolitical issues in Eastern Europe.”

Since the resurgence in the global economy in 2021, crude-oil prices have risen steadily. But Russian President Vladimir Putin’s invasion of Ukraine in February shot prices to [historic highs](#).

In Washington D.C. and on the campaign trail, gas prices are emerging as a major wedge issue. Democrats accuse oil companies of raking in [record profits](#) while refusing to produce more oil. That position marks a stunning about-face. Just months earlier, Democrats blasted oil majors for plans to ramp up production in the coming years.

Republicans point the finger at President Biden, arguing that his climate agenda is threatening more investment. The administration is rolling out new regulations to crack down on greenhouse-gas emissions at virtually every agency in the federal government. Economy-wide inflation is a major political liability for Democrats, who are scrambling to address everything from gasoline to prescription drugs and groceries.

Still, Cantwell says she’s aiming for bipartisan support on the legislation.

“Who doesn’t want to do something about anti-manipulation? That’s how we got these authorities before, because that’s bipartisan,” she said, referring to authorities at FERC and the CFTC.

But Republicans say they’ve been shut out of the legislative process so far. “If they want to work with us we’d be happy to talk to them, but we haven’t seen bill text,” said a Republican aide on the Commerce Committee who requested anonymity to speak freely. The aide added that Democrats shared “a one-pager, but no other context.”

Some Republicans on the panel are less inclined to take a seat at the table.

“The point would almost certainly be political,” Sen. Dan Sullivan said. “The timing to me is very suspicious.”

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