

**CONSUMER PROTECTION & GOVERNMENT OPERATIONS COMMITTEE  
of the  
Suffolk County Legislature**

**Minutes**

A regular meeting of the Consumer Protection & Government Operations Committee was held in the Rose Y. Caracappa Auditorium at the William Rogers Building, Veterans Memorial Highway, Smithtown, New York on **May 1, 2001** at 10:00 a.m.

**MEMBERS PRESENT:**

Legislator Cameron Alden, Chairman  
Legislator Fred Towle, Vice Chair  
Legislator Michael D'Andre  
Legislator Andrew Crecca  
Legislator William Lindsay

**ALSO PRESENT:**

Paul Sabatino, Legislative Counsel  
Warren Greene, Aide to Legislator William Lindsay  
Charles Gardner, Director, Department of Consumer Affairs  
Bruce Dragonette, Assistant Director, Department of Consumer Affairs  
Terry Pearsall, Aide to Legislator William Lindsay  
Suzanne Kappel, Aide to Legislator Fred Towle  
Bonnie Godsman, Intergovernmental Relations, County Executive's Office  
Robert J. Kohlmeyer  
Kathy Kenny, New York State Petroleum Council  
Meghan O'Reilly, Liaison to Presiding Officer Paul Tonna

**Minutes taken and transcribed by: Irene Kulesa, Legislative Secretary**

*(The meeting came to order at 9:55 a.m.)*

**CHAIRMAN ALDEN:**

Good morning. We will start the Consumer Affairs and Government Operations Committee Meeting and we will do so with the Pledge of Allegiance as led by Legislator Crecca.

SALUTATION

**CHAIRMAN ALDEN:**

Thank you. Okay, we have two cards. The first one is Bob Kohlmeyer.

**MR. KOHLMAYER:**

Good morning.

**CHAIRMAN ALDEN:**

Good morning.

**MR. KOHLMAYER:**

Bob, just state your name for the record?

**MR. KOHLMAYER:**

Robert Kohlmeyer.

**CHAIRMAN ALDEN:**

We should have your resume, right?

**MR. KOHLMAYER:**

You have everything, yes.

**CHAIRMAN ALDEN:**

Bob is here on -- let me see what resolution number it is, 2310. Okay, tabled resolution 2310. That's to approve the appointment of Robert Kohlmeyer as a member of the Suffolk County Electrical Licensing Board. Okay, I'll just start off and then I'll open it up to the other members. We'll ask you questions. Why do you want to do this?

**MR. KOHLMAYER:**

Well, I think it's important. I've been in the electrical contracting business since 1979. I've had a license in Suffolk County since 1986 and I would like to have the involvement in the licensing. I'm very involved in my industry in training and other parts of the industry and it's an important thing to me.

**CHAIRMAN ALDEN:**

Okay, you said you're in business for yourself?

**MR. KOHLMAYER:**

Yes.

**CHAIRMAN ALDEN:**

Okay. There's going to be a little bit more of a drain on your time? Are you prepared to make that commitment?

**MR. KOHLMAYER:**

Yes.

**CHAIRMAN ALDEN:**

Okay. Legislator D'Andre.

**LEGISLATOR D'ANDRE:**

It's okay with me.

**CHAIRMAN ALDEN:**

Legislator Crecca.

**LEGISLATOR CRECCA:**

Is this just adding a member to the Electrical Board then or is this replacing someone?

**CHAIRMAN ALDEN:**

This adds a member to the Electrical Board. It's not replacing anyone.

**LEGISLATOR CRECCA:**

Okay. I've had an opportunity to look at your resume and it certainly looks like you have the background and experience to hold this position. Your willingness to do it is a testament to your wanting to be involved and I really don't have any questions for him.

**CHAIRMAN ALDEN:**

Okay, then Legislator Lindsay.

**LEGISLATOR LINDSAY:**

I know Robert very well, so I don't have any questions about his background.

**CHAIRMAN ALDEN:**

Okay. I'm just assuming that you're going to vote in the affirmative?

**LEGISLATOR LINDSAY:**

Yes.

**CHAIRMAN ALDEN:**

Okay, so we'll take that as a good endorsement.

**LEGISLATOR CRECCA:**

Are you thinking about this -- this whole electrical thing?

**LEGISLATOR LINDSAY:**

A little bit.

**LEGISLATOR CRECCA:**

Just a little bit.

**CHAIRMAN ALDEN:**

Legislator Towle.

**LEGISLATOR TOWLE:**

Motion to approve.

**CHAIRMAN ALDEN:**

Motion to approve by Legislator Towle, second by myself. All those in favor? Opposed? Unanimous, it's approved.

**I.R. NO. 2310-00 (P) Approving the appointment of Robert J. Kohlmeyer as a member of the Suffolk County Electrical Licensing Board. ASSIGNED TO CONSUMER PROTECTION & GOVERNMENT OPERATIONS (Legislator Vivian Fisher)**

**VOTE: 5-0-0-0 APPROVED PLACED ON CONSENT CALENDAR**

**CHAIRMAN ALDEN:**

Thank you very much for coming down and congratulations.

**MR. KOLMEYER:**

Thank you.

**CHAIRMAN ALDEN:**

I don't think you have to go to the General Meeting. You know, generally that's the way it works. It's up to us, in the committee, to actually look at your resume, have the opportunity to ask any questions. So once it's approved out of here, I'm going to actually make the motion to put this on the consent calendar.

**LEGISLATOR CRECCA:**

Second.

**CHAIRMAN ALDEN:**

And it's seconded by Legislator Crecca. All those in favor? Opposed? So it's going to go on the consent calendar unless some other Legislator doesn't want it on the consent calendar, it should very well be passed in that regard. So thanks a lot for coming down.

**MR. KOHLMAYER:**

Thank you. Have a good morning.

**CHAIRMAN ALDEN:**

You too. Okay, second card we have is from Cathy Kenny. Good morning.

**MS. KENNY:**

I have some material to give out Mr. Chairman. Should I do that now?

**CHAIRMAN ALDEN:**

Actually, Meghan will get it. Thanks.

**MS. KENNY:**

Since I testified on this measure last year fairly extensively, I thought it might be the best use to the committee's time this year just to summarize quickly what I testified to last year and mention something that we have done some research on that's relatively recent.

For the record, I'm Cathy Kenny. I'm the Associate Director of the New York State Petroleum Council. The Petroleum Council is a member of the American Petroleum Institute, which represents the major suppliers of gasoline or actually petroleum products in New York State. Our members include CITGO, Mobil, ExxonMobil; I always have to look because I'm afraid I'll leave someone out, BPAmoco, Texaco/Shell.

As some members of this committee may recall when I testified on this bill, our objection essentially was that the effect of the bill, even though it's not seeded outright. The effect of the bill would set or fix a wholesale price for the franchisees by a supplier and if that occurs, then in all of Suffolk County you will have the same wholesale price charged to all franchisees. And franchisees that are confronted with stiff competition from neighboring independents, for example, will not have the break that they need from time to time to meet the competition and that's really the crux of our argument.

**CHAIRMAN ALDEN:**

Ms. Kenny, I just have to interrupt here and I'm going to have to get you the latest copy of the bill, because what it does is, it took your comments and incorporated that into the bill. So now basically what it does is it prohibits you from using any of those discriminatory and I enumerate it, the discriminatory reasons for zone pricing. It does not eliminate zone pricing and it does not require a gasoline company to use, you know make one zone out of all of Suffolk County. It leaves in place the competitive system that we have here in America. But what it does is it prohibits any gasoline company from creating a zone or using zone pricing to discriminate by race, color, creed, origin or even economic standing in the community.

**MS. KENNY:**

We'll have to -- obviously, we'll have to debate it. The last issue might also still come up against some problems. But I'd certainly, as we were last year, were certainly open to looking at it.

**CHAIRMAN ALDEN:**

You know what I'm going to do? We'll take this -- I'll make a motion to take it out of order and that will be seconded by Legislator Crecca and I'm going to table it, so I can give you an opportunity to look at the bill and see what the new language is. Because I did incorporate almost all of your comments to it and that did include taking out that one zone for all of Suffolk County.

**MS. KENNY:**

That's very appreciated.

**CHAIRMAN ALDEN:**

So I've got a motion to table, seconded by Legislator Crecca. All those in favor? Opposed? I'm sorry. This is to take it out of order. Okay, then all those opposed? Approved? Okay that's approved to take it out of order. I'm going to make a motion to table, seconded by Legislator Crecca. All those in favor? Opposed? This stands tabled right now.

**MS. KENNY:**

Okay.

**CHAIRMAN ALDEN:**

So that's -- 1358 is tabled.

**INTRODUCTORY RESOLUTIONS:**

**I.R. No. 1358-01 (P) Adopting Local Law No. 2001, A Local Law to ban discriminatory zone pricing of gasoline in Suffolk County. ASSIGNED TO CONSUMER PROTECTION & GOVERNMENT OPERATIONS (Legislator Cameron**

**Alden)**

**VOTE: 5-0-0-0 TABLED**

**LEGISLATOR TOWLE:**

Mr. Chairman, I have a question, if I could?

**CHAIRMAN ALDEN:**

Legislator Towle.

**LEGISLATOR TOWLE:**

Yes. I obviously, unfortunately, did not get to hear your presentation last year but I've sat and looked at some of the minutes. What is your thoughts on how this would be helpful? Obviously, you haven't seen the new revision of the bill but the concept itself? How do you feel that that will be helpful to the consumers and saving them any money or protecting them? They would not; I'm not sure what you think?

**MS. KENNY:**

The last is economic factors is still part of the bill that would be a problem. The way -- I almost memorized the bill but the way the bill was written is that you could not base your wholesale prices based on race, creed, color, sexual orientation are some things. So my position has always been in our company is we don't base our prices on that. What we based them on are certain competitive factors and economic conditions. So I guess, late last -- it must have been last summer, the Chairman and I met and I said well, this is kind of livable, so as long as it's not called zone pricing and it's not restricting the companies from varying their prices within the County. So far I will give -- certainly credit to the Chair for meeting us.

**CHAIRMAN ALDEN:**

A point of just information. When I say economic factors, what I mean is socioeconomic. For instance, you know if a portion of our district, like in Brentwood or in Bay Shore, their mean income level is a lot lower than maybe other areas of Suffolk County. So you couldn't take that into consideration when you go and create a zone and say because these people make less money and they are less able to travel outside their area to go and get gasoline at a different price, you can't price that at a higher level. You can't use that as one of the factors when you're looking at creating a zone and creating your pricing. And just that you know to be fair about it too, this County represents the petroleum, I guess, it's the wholesalers, right?

**MS. KENNY:**

The suppliers.

**CHAIRMAN ALDEN:**

Suppliers. We did invite a couple people from the retail association and one of them was sick, so he couldn't make it in today and they, in the past, have been supportive of a prohibition against doing pricing on a discriminatory type of level. So that's another reason why it really should be tabled this week.

**LEGISLATOR TOWLE:**

Mr. Chairman? Which level do you feel has been doing the discrimination in the pricing? Because unfortunately, I didn't hear the debate on this last year, so I apologize {re-asking} questions that maybe weren't even answered but --

**CHAIRMAN ALDEN:**

We had some testimony whereby some retail operators came in and felt that a zone was created right around them and that a higher price --

**LEGISLATOR TOWLE:**

By who? Who created the zone?

**CHAIRMAN ALDEN:**

The gasoline wholesalers. So the wholesalers created a zone right around them, supplied gas at one level and right outside that zone, which could have been up to -- like you know a half a mile or a mile away or less, gasoline was supplied by the same wholesaler at a lesser price.

**LEGISLATOR TOWLE:**

And that was based on economics of the people that lived in that zone?

**CHAIRMAN ALDEN:**

Actually, it never really got to you know like --

**LEGISLATOR TOWLE:**

What it was based on.

**CHAIRMAN ALDEN:**

Right, because wholesalers never identified the reasons that they used to create those two different zones but --

**LEGISLATOR TOWLE:**

You've assumed or --

**CHAIRMAN ALDEN:**

We've taken it as -- by looking at the difference in price across Long Island, there is a possibility that some discrimination could have been used in some of those prices.

**LEGISLATOR TOWLE:**

Okay.

**MS. KENNY:**

I should say that's not a point we seeded. When we talked about what was quote unquote secret, some of that's propriety. It goes back to the old saying Macys doesn't tell Gimbels. But I think we did generically characterize what goes into creating those prices and certainly, race discrimination was not one of them. One of the problems in working and I'm going to work with you as well as I can and I think my company as well is talking about this economic factor and sometimes insurance costs are higher in certain areas, you know. The site could be bad environmental, so it costs a lot to fix that station up or, you know there's loads of things that go into it.

**CHAIRMAN ALDEN:**

That's not a problem. You know why? Because those are market issues. What I'm talking about is, if you look at an area and you say that this socioeconomic area, based strictly on where the people sit in a society, we're going to hit them with a higher price based strictly on the fact that they make less money. They might be less mobile to go and actually look for a competitor or a lower price. If you use that in a secret formula that would be prohibited. That's what we're looking to do. Not that, you know, if you have an economic reason to go and price your gasoline higher and it might be a transportation cost or it might be like you said, you had to clean up a station. Any of those type of factors that's just normal competition as far as I'm concerned. But if you look at the population and said because these people make less money, we're going to hit them with a little higher price. That would be banned by this bill.

**MS. KENNY:**

I don't want to take any of your time but the two problems here is, I guess, terms of evidence and the other thing is how do you enforce that? That gets to be difficult. You don't want to create a whole sea of litigation around it and I don't know how it's nailed down but there may be other statutes I can look at but --

**CHAIRMAN ALDEN:**

That's why I have to get you the new -- the latest copy of the bill. Legislator Crecca.

**LEGISLATOR CRECCA:**

Yes, I'm sorry.

**CHAIRMAN ALDEN:**

I know Legislator Lindsay was --

**LEGISLATOR CRECCA:**

My understanding was that some of zone pricing and I understand your point, I don't disagree with it necessarily. But that zone pricing also was done to help retailers sometimes because of economic market conditions in a particular area and it allows the wholesaler to draw an area, so that we don't have -- look here's my concern. It happened in my district. A new gas station comes in, okay and that owner has a lot of money and owns a lot of other gas stations. What he does is he artificially deflates the price of gasoline at that station, okay and what he does is the guys who are on the corners around him or in his immediate area get literally squeezed out and shut down because of this guy coming. I mean, I spoke to the market -- you know, gasoline retailers who tell me that this is what they do. It's part of the business, in the sense of trying to win the markets here in the area. What the only thing I don't want to do is I don't want to pass a law that's going to stop, not allow Exxon for example, for lack of a better way of putting it, to come in and say you know what? We realize you have a problem here. We realize that this guy is driving his price of gasoline ten cents a gallon down on you because he can afford to take the loss right now with this big market he has there and he'll -- eventually what will happen is he'll do that for six months and then raise his prices up after he shuts down the other guy. Zone pricing does allow that wholesaler to turn around and say, you know what? We're going to sell it to you ten cents a gallon cheaper, so you can compete.

**CHAIRMAN ALDEN:**

That's called and that is a great example of free market system.

**LEGISLATOR CRECCA:**

Right.

**CHAIRMAN ALDEN:**

And that's really what we want to preserve.

**LEGISLATOR CRECCA:**

I agree. This resolution doesn't ban zone pricing completely?

**CHAIRMAN ALDEN:**

No, it does not ban zone pricing. You can't use the factors, discriminatory factors. You cannot use that to actually set a price in one zone, as opposed to another zone. Mr. D'Andre.

**LEGISLATOR D'ANDRE:**

I just can't conceive of any company looking at an area, seeing that it's poor and raise prices. It's just goes against the free market place. Not that some of those guys are not heartless but good business economics dictate certain things and it's very, very competitive and they have to work within that framework. We have to give our entrepreneurial system a lot more credit for acting the way they act and the trick is to stay in business and to do business and find ways of doing it without penalizing a neighborhood or a group of people.

**CHAIRMAN ALDEN:**

Exactly and that's what this bill seeks to do and just --

**LEGISLATOR D'ANDRE:**

Well, I don't think we need legislation to do that.

**CHAIRMAN ALDEN:**

Well Mike, the bill is tabled right now and when we get the new -- actually the latest version

of it out to you, then I'd like to argue the merits with you. Because I'm just going to give you a little bit of history on this.

**LEGISLATOR D'ANDRE:**

Well, let me give you my history.

**CHAIRMAN ALDEN:**

Go ahead.

**LEGISLATOR D'ANDRE:**

I've been in business all my life and the way I was successful is to build a better mousetrap. First of all, I had knowledgeable people working for me. Secondly, I had a nice environment and I had competitive prices. If you can't win with those rules, you've got a problem.

**CHAIRMAN ALDEN:**

Right. All right, the problem is Mike, sometimes in America and that's why there's a constitution and there's a constitution in New York State and there's a whole bunch of laws and a whole bunch of cases that come out of this, some people discriminate against other people in America and that's why there's laws to protect people and this is just an extension of that. And when you look at the gasoline in the oil business, the gasoline oil business is not the free enterprise system. There's a bunch of people and it's called OPEC. They set the price of oil and they hold everybody in the world hostage and we, unfortunately, in the United States, we supply them with protection, so they can sit in this free world market and hold everybody hostage. And the United States makes sure that it is free where other countries cannot go and invade them to take over their oil production.

**LEGISLATOR D'ANDRE:**

Now if you allowed drilling in certain places where the environmentalists are strict against it, we might get a little more competitive.

**CHAIRMAN ALDEN:**

All right, that might be an answer but what I want to do on a local level is make sure that people are not discriminated against so --

**LEGISLATOR D'ANDRE:**

Let me say this, I buy my gas at my station, not because of his price, because they have an excellent mechanic on duty and when I need my car fixed -- now I'm driving new cars but before I was able to afford new cars, I got older cars. And I bought my car there to be repaired and I got instant and reasonable service. I didn't care if he charged a penny or two more for the gas. I patronize that gas station.

**CHAIRMAN ALDEN:**

And that's a good reason.

**MS. KENNY:**

There's a very interesting article, I'm sorry to interrupt you. Yesterday's Wall Street Journal, B section, first page and it tells you what's going on in the gasoline market. You've got Wall Marts and these others having gas stations. What's happening in the industry is -- and I think, I agree with you, you've got to let it change and function. What's happening is Wall Mart is selling gas. It's kind of a loss leader; it brings people into the store. Well gas stations are not adapting. They don't need your help. Let them figure out; there are some gas stations, if you buy a certain number of items in their store, they're going to give you some coupons towards some gas. So each competitor is getting out in that market and fighting it out and that's to the consumer's benefit. I'm not saying you're --

**CHAIRMAN ALDEN:**

This resolution does not go near that, does not touch in that area at all.

**MS. KENNY:**

I hope not.

**CHAIRMAN ALDEN:**

Not at all.

**MS. KENNY:**

But I think I agree with some of the committee members where we're getting at. The market is going to, like any market, it's going to start to swell and shift and move and some of those competitors are going to go out. Pan Am is gone, for heavens sake. I mean, a lot of competitors are going to change and that's the way all of the deregulation that these major industries have come out. But I think if we let the market do what it's supposed to, most of those prices you're paying for gasoline ladies and gentlemen is taxes. Nobody is screaming about those.

**CHAIRMAN ALDEN:**

A lot of people are screaming about those. But unfortunately, there is a portion where we do have to protect those that don't have a voice or cannot gather together and have a loud enough voice to actually go out and make public practices where they have been discriminated against. So that's what this legislation really is aimed at. It's not aimed at interfering with the free market system or any things that you have just mentioned. That's fine. That's American. That's the way I like to see it operate and we're not putting price supports in and we're not putting price controls in. This is going to operate just on a free market system. But you can't set it to discriminate against certain segments of our society that's all and that's what it makes sure of.

**MS. KENNY:**

Does this mean that it's not taken up at the full Legislature's Meeting on the 8th?

**CHAIRMAN ALDEN:**

No, this won't. We're tabling it in committee. Give you a chance to look at the new version of this, the Revised Version and to come back and we're going to have a discussion on it. Legislator D'Andre has expressed an interest in furthering the discussion on it, so I look forward to that in this committee though.

**MS. KENNY:**

In the interest of fairness, what I gave you with my testimony is a compilation, it's dated April 11th, so it's recent that (API) did and it's studies and everything else on zone pricing for the issue and against the issue. And I guess and I know you're not calling this zone pricing anymore but I will tell you this --

**CHAIRMAN ALDEN:**

It does not ban zone pricing.

**MS. KENNY:**

There is no zone --

**CHAIRMAN ALDEN:**

It goes with the secret formula that makes up the zones and your zone pricing.

**MS. KENNY:**

Maybe we have terminology differences and that's about it. Hopefully that's it.

**CHAIRMAN ALDEN:**

Now I apologize to Legislator Lindsay.

**LEGISLATOR LINDSAY:**

No, the only question I had of you is -- well, you haven't read the final bill but if you thought it would do any good, in terms, of prohibiting this practice, if it does exist?

**MS. KENNY:**

I don't see right now that there's an issue. I see market forces at work. I see --

**LEGISLATOR LINDSAY:**

Let me ask you something and it's just the opposite of what the Chairman is talking about. The East End of Long Island, gas is much more expensive there. Is that because of a higher economic climate out there?

**MS. KENNY:**

Charlie Gardner, ask him. You go out to Riverhead; it's much cheaper. I knew I was going to get into the mike.

**LEGISLATOR LINDSAY:**

No, I'm asking you?

**MS. KENNY:**

In part, sure it is. Why are blouses more expensive in Bloomies? I go to Filenes, same blouse, you know -- In part I think it is. There's less competition. They make their money for two months out of the year. They can afford to do so. If you travel from New York out to East Hampton, you have to refuel before you go back home in most cases. So the result is relative factors. But even Riverhead, some dealer group said that --

**LEGISLATOR LINDSAY:**

The retailer or the wholesaler marks it up?

**MS. KENNY:**

What the market will bear, right. It's what the market will bear.

**LEGISLATOR LINDSAY:**

So wouldn't this bill apply to that?

**MS. KENNY:**

I don't know, I haven't seen it.

**LEGISLATOR LINDSAY:**

I know that isn't what the Chairman had in mind but it is an economic factor.

**MS. KENNY:**

I think the problem; I'm going to have to look at it. I think there's an enforcement issue problem and it's going to be -- have this whole economic analysis, I don't know how you could possibly do it. You know, it's easy to talk of -- I mean, raising an interesting issue; it's easy to talk about the underprivileged. What do talk about the -- what do you do for the over privileged? Our view is what the market will bear. If somebody who goes out to East Hampton wants to refuel who -- and in fact, the Wall Street article pointed out, one guy fills five dollars up and uses that five dollars to get to the cheaper gasoline. You could do that in East Hampton too. So our view is the market is working. Don't fix it. It {an't} broke.

**LEGISLATOR D'ANDRE:**

The gas companies got the best psychologists in the world working. They're figuring every angle known to man in merchandizing, pricing, gimmicks and what not. They don't lack the talent. So when we go up against them in our limited way, they've outguessed us and been beyond us and working on new ideas. The only thing that crossed them up is Clinton's not going for an energy policy and leaving us hanging without an energy policy and then talking to the environmentalists not to drill. Well, supply and demand is very important. You don't need to have any brains to know that. And if we can get to drill, either off shore or in Alaska and increase the product, competition is the inventor of all prices and let me tell you something, prices may come down. But then they can't stop building these SUV's like Crecca owns. That gets five miles to the gallon.

**LEGISLATOR CRECCA:**

It's about ten Mike.

**LEGISLATOR D'ANDRE:**

And then they worry about the price. Those people don't worry about price. They don't worry about a second car. They buy without a down payment. So America is great for that and that's the way it is and we're going to live with it.

**MS. KENNY:**

I didn't read the report but they even said that the increased prices, I forgot what it has to reach before people start even adjusting their driving. I know I haven't and it hasn't -- I mean, I get regular.

**LEGISLATOR D'ANDRE:**

It's not all that bad yet. If it tightens up a little bit, you'll see them going back to Volkswagen.

**CHAIRMAN ALDEN:**

I suggest that you come into my district and if you raise it a penny, two pennies, five cents, people adjust their driving. So if your companies want to do a study, the 10th Legislative District is the place to do it. So I welcome you to come on in and I'll help you even go --

**LEGISLATOR D'ANDRE:**

A nice invitation.

**MS. KENNY:**

Nice area. I was there once before. Is the bill available today?

**CHAIRMAN ALDEN:**

Yes it is. We'll get you a copy of that. I don't have it right in front of me but it was just filed last week, the latest version.

**LEGISLATOR CRECCA:**

Okay, I probably have the right one then because it has a hand written date on it of 4/24/01. I just want to make sure I have the right one.

**CHAIRMAN ALDEN:**

Good. So we'll give you that copy in just a couple minutes. I would ask if Legislator Towle wants to come back? We're going to hit the rest of the agenda right now. Okay, so we tabled 1358. Now we'll go to 1296 authorizing the County to enter into intermunicipal agreement with County of Nassau for equipment exchange. Charlie, do you have a little expertise on this that you could share with us?

**MR. GARDNER:**

Mr. Chairman, I think the toughest thing about this bill was getting the a -- which equipment we were talking about straight. It was rewritten several times. Basically, just to sum it up. We have a piece of equipment that is used to test large capacity truck scales, Nassau doesn't. Nassau has a piece of equipment that is used to test large capacity fuel oil meters. Not that we don't but ours is obsolete and this authorization, if both Counties agree to it, would allow us to share the use of the equipment.

**CHAIRMAN ALDEN:**

This was just tabled, so that you could look at the list of equipment that was in the bill and make sure that you are comfortable with that. You are comfortable with that at this point?

**MR. GARDNER:**

Yes. We're talking about our 1966 Ford piece of equipment and our 1975 auto car. The 1975 auto car doesn't -- that's what Nassau would be sharing. Their meter provers is what we would be sharing. I just want to -- we also had to clean up the language. They were talking about trading and exchanging. It's sharing. So they got the language cleaned up and they are referencing the correct pieces of equipment.

**LEGISLATOR CRECCA:**

Motion to approve.

**CHAIRMAN ALDEN:**

Motion to approve by Legislator Crecca.

**LEGISLATOR LINDSAY:**

Second.

**CHAIRMAN ALDEN:**

Second by Legislator Lindsay. Any other discussion? All those in favor? Opposed? It passes unanimously. Thank you.

**I.R. NO. 1296-01 (P) Authorizing County to enter into intermunicipal agreement with the County of Nassau for equipment exchange. ASSIGNED TO CONSUMER PROTECTION & GOVERNMENT OPERATIONS (Legislator Michael Caracciolo)**

**VOTE: 5-0-0-0 APPROVED**

**MR. GARDNER:**

Okay. Mr. Chair, if I might? I just want to call your attention to an extra piece of information that I left with each member of the committee today, besides the most recent gasoline survey. There is also a listing of -- by townships of the average price per gallon of self-serve regular by township. We don't do that all of the time because it requires a bit more work. You have the retail, the home heating fuel oil prices as of last Friday, the gasoline --

**LEGISLATOR D'ANDRE:**

How much was it last time?

**MR. GARDNER:**

Home heating oil was pretty level. Gasoline showed the largest one-month increase that we've had in a long time. It went up twenty-one cents a gallon.

**LEGISLATOR D'ANDRE:**

Wow.

**MR. GARDNER:**

In the last month. A significant increase.

**CHAIRMAN ALDEN:**

How about the supplies?

**MR. GARDNER:**

I mean --

**CHAIRMAN ALDEN:**

As far as wholesale supplies at the tank?

**MR. GARDNER:**

We haven't heard anything unusual.

**CHAIRMAN ALDEN:**

So in other words, there's not a shortage?

**MR. GARDNER:**

No.

**CHAIRMAN ALDEN:**

Right at this point?

**MR. GARDNER:**

No.

**CHAIRMAN ALDEN:**

It would explain the twenty one-cent a gallon increase?

**MR. GARDNER:**

It's just marketplace, supply and demand. The driving season.

**CHAIRMAN ALDEN:**

And we're coming into the driving season. All right.

**MR. GARDNER:**

And as far as, you'll notice East End Towns are highest as Legislator Lindsay asked but that's always been. It's a little bit of transportation. It's a lot more though, understand, it's a lot more. The lack of competition. There aren't as many gasoline stations out there and the high cost of doing business out there. Don't forget, they need, whether they're buying or leasing or renting property, it costs a lot more in East Hampton and Southampton than it does in a lot of other places in the County. There are a lot of factors that go into the prices. But if you notice, the five or six -- the Western Towns? The spread is minimal. Huntington is the highest? Why? It has nothing to do with anything else other than the fact that in the Township of Huntington, you can't get self-serve gasoline. It has nothing to do with the big companies, the little companies. You can't buy self-serve gasoline in the Township of Huntington. So that's a little bit higher. The other townships, you'll notice -- you're talking about a half a cent a gallon. It's minimal when you're talking a dollar seventy a gallon.

**CHAIRMAN ALDEN:**

Are complaints running at approximately the same pace as last year or are they any higher this year?

**MR. GARDNER:**

No, complaints have not increased but we have stepped up our inspections of the quality of gasoline because generally, when you see a spike in the price of gasoline, the people who tend to fool around start fooling around again. As a matter of fact, we're shutting down a station this morning in Wading River because of the sale of low octane gasoline. That station has been put out of business as of this morning. And another thing about prices, remember that the great majority of all the violations at the Office of Consumer Affairs issues and this is on the record, you can check it anytime you want, a great number of those -- the greatest number of those violations are issued against gasoline stations that sell the cheapest gas. Remember that.

**CHAIRMAN ALDEN:**

Just one other thing, Charlie. Last year, you had told us about -- there was a little bit of a problem with bootlegging? Can you give us an update on that?

**MR. GARDNER:**

Well, again, as the price goes up and the taxes remain high, bootlegging is a problem, has been a problem and continues to be a problem. But there is a strike force, a little bit higher level than our office working on that. That's basically what you want to call Jersey gas or whatever. But it's just wholesalers that bring gasoline in, don't pay the required taxes, don't pay the taxes that the legitimate people -- the legitimate dealers have to pay and therefore, can low ball and generally speaking, if you cheat in one place, you're cheating in another.

**CHAIRMAN ALDEN:**

Thank you. Legislator D'Andre.

**LEGISLATOR D'ANDRE:**

Charlie, are you telling me you closed the place down for cheating on the purity of the gasoline?

**MR. GARDNER:**

The octane. In other words --

**LEGISLATOR D'ANDRE:**

The octane level?

**MR. GARDNER:**

Yes that's correct.

**LEGISLATOR D'ANDRE:**

How widespread is this?

**MR. GARDNER:**

Last year, it wasn't too bad. We probably only issued about between twenty, twenty-five violations last year.

**LEGISLATOR D'ANDRE:**

That's privately owned? It's not company owned?

**MR. GARDNER:**

Yes, this station we tested late March, we tested again in the beginning of -- I'm sorry, late February and we tested them again in March. They failed. We gave them a warning, as well as issue penalties. We've told them we were coming back and they failed again last week. So this morning I'm just shutting them down.

**LEGISLATOR D'ANDRE:**

Do you have publicity on that? I didn't see it in the paper.

**MR. GARDNER:**

It just happened this morning, Mike. You're the first to know.

**LEGISLATOR D'ANDRE:**

Happened this morning?

**MR. GARDNER:**

As far as the shutting down. The tests were a week or so ago but yes, the inspectors are out there this morning shutting them down.

**LEGISLATOR D'ANDRE:**

Can you send a bulletin to this committee on that, Charlie?

**MR. GARDNER:**

Yes, as soon as the County Executive gets finished with the press release, we'll send it over.

**LEGISLATOR D'ANDRE:**

Oh, he's making a press release? Well, we'd like to be notified, as you do the County Executive. That's just as important in interest. Cameron is working very hard with this committee, so we want the up --

**MR. GARDNER:**

You're right up to date. You're up to the minute. It's happening, as we speak.

**LEGISLATOR D'ANDRE:**

Thank you, Charlie.

**LEGISLATOR TOWLE:**

Mr. Chairman?

**CHAIRMAN ALDEN:**

Legislator Towle.

**LEGISLATOR TOWLE:**

Commissioner, just a couple other questions.

**CHAIRMAN ALDEN:**

Yes?

**LEGISLATOR TOWLE:**

On the bootlegging, I heard you say that a task force is doing, you know assuming that responsibility? Are we doing anything? Or can we do anything from our end?

**MR. GARDNER:**

It's very difficult because of the tremendous amount of paperwork and investigations that go into this, Legislator Towle. In other words, if you have a station that's doing, not even a high volume of business but a moderate to high business, they're getting on the average, they will get four to five deliveries a week of eight to ten thousand gallons of gasoline. They'll get four to five deliveries a week. Those deliveries come at all hours of the day and all hours of the night. If they're only cheating on one or two of those deliveries or even only one, they can make two thousand dollars of delivery on taxes. That's a lot of money. That's cash. But to catch them in the act and to get that -- the particular trailer that's delivering a load of untaxed gasoline, to catch them in the act is like a needle in a haystack and then to backtrack and try to sit -- you know you can do it but you just have to sit down and wade through a tremendous amount of paperwork. It's a little bit above the capacity of our office and that's why the State and the Feds are really working on that.

**LEGISLATOR TOWLE:**

But it would be in your jurisdiction to do that should you have the resources and staff to do it?

**MR. GARDNER:**

And we have, in the past, when we're -- let's just say gotten lucky in some of --

**LEGISLATOR TOWLE:**

You mentioned something earlier and I found that very interesting. If they break the rules in one place, it's likely that they'll break the rules in the other.

**MR. GARDNER:**

That's my personal opinion.

**LEGISLATOR TOWLE:**

That's a very valid opinion, obviously based on years of experience. So to me that would be one of the first places to start because you know, obviously if they're breaking the rules on the octane, they're breaking the rules elsewhere. I think Legislator D'Andre asked one of my questions but I do want to get back to it. I think it's really important that the consumer is, you know, be made aware of these types of companies who do cheat and who are breaking the rules, because obviously none of us know that pulling into a gas station to get gas, as I'm going to do this afternoon.

**MR. GARDNER:**

Right.

**LEGISLATOR TOWLE:**

There's got to be some way to notify the public in a more expeditious manner and a more

visible manner that they would see besides, you know, press releases from us or from the County Executive. And I'd be curious, not necessarily that you have to have an answer today but I'd be curious on your part about how we can give public notification regarding that. Whether we should be required to, you know, take out a yearly ad and issue the violations that have been, you know, put out by your department, so the general public can look for that and be aware of those businesses or mailings or whatever your thoughts are. Because there's got to be some way to let the public know that and that's one of the quickest ways to make sure that these people don't do that again. If they feel that the public is going to learn about their errors and shop somewhere else, I think, they would be much more reluctant to cheat as, you know, they are doing.

**MR. GARDNER:**

I would agree with you, yes. If we can -- there should be no reason we can't come up with a plan to disseminate that type of information.

**LEGISLATOR D'ANDRE:**

Mr. Chairman? One of the ways you may consider is that they dole x number of gallons from that station to the general public who shop there.

**MR. GARDNER:**

If I may, Legislator D'Andre? I understand the thinking behind that but the State did that with milk a few years ago and I disagree with that option and I'll tell you why. Because when you do that, you then hurt the legitimate dealer. In other words, unless you -- if you start -- if you mandate somebody to start selling a product, such as no good gasoline that is basically the kind of the same from place to place? If you mandate it, let's say somebody was caught with his hand in the cookie jar and now you mandate him to sell gasoline, let's just say twenty cents below market. Well, guess what? Everybody is going to go there and all the legitimate guys are going to say what the hell, you took all my business away. So I understand the thinking behind it to try to make him give it away but you really wind up hurting legitimate dealers by doing that.

**CHAIRMAN ALDEN:**

Okay, thanks a lot Charlie. Anybody else wants to be heard by this committee? Seeing none, I'm going to make a motion to adjourn, second by Legislator Towle. All those in favor? Opposed? Thank you very much. We stand adjourned.

***(The meeting was adjourned at 10:33 a.m.)***

{ } Denotes spelled phonetically