



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

May 19, 2008
(House)

STATEMENT OF ADMINISTRATION POLICY

H.R. 6074 – To amend the Sherman Act to make oil-producing and exporting cartels illegal and for other purposes

(Rep. Kagen (D) Wisconsin and 13 cosponsors)

The Administration strongly opposes House passage of H.R. 6074. Title I of the bill: (1) would subject to the jurisdiction of U.S. courts the actions of foreign countries related to energy production, distribution, or pricing; and (2) purports to eliminate sovereign immunity and the "act of state" doctrine as defenses in such cases. The consequent targeting of foreign direct investment in the United States as a source of damage awards would likely spur retaliatory action against American interests in those countries and lead to a reduction in oil available to U.S. refiners. The net effect would be to harm U.S. interests abroad, discourage investment in the U.S. economy, potentially limit the availability of gasoline, and possibly further increase fuel prices. This title would make the United States a less desirable place for investment; if it becomes law, we can expect that less foreign capital would be put to work in our country, and that the risk of divestment of foreign investments already made in the U.S. economy would increase. Both of these outcomes could lead to the loss of a significant number of American jobs. The Administration believes that the appropriate means for achieving increased availability of energy resources lies in diplomatic efforts by the United States with the countries involved, which this legislation would endanger. The President's senior advisers would recommend that the President veto any legislation containing the provisions of Title I of H.R. 6074.

Title II of this bill would also create within the Justice Department a "Petroleum Industry Antitrust Task Force," having the responsibility for "developing, coordinating, and facilitating the implementation of the investigative and enforcement policies of the Department of Justice related to petroleum industry antitrust issues under Federal law." This provision is duplicative and unnecessary. The Department of Justice is responsible for criminal enforcement of the antitrust laws in all industries, while the Federal Trade Commission (FTC) has jurisdiction over most petroleum industry antitrust issues and civil enforcement, and has extensive expertise in petroleum industry markets. The FTC has a strong record in analyzing competition and enforcing the antitrust laws in petroleum industry markets, and that mission could be undermined by the creation of a Task Force with overlapping authority.

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