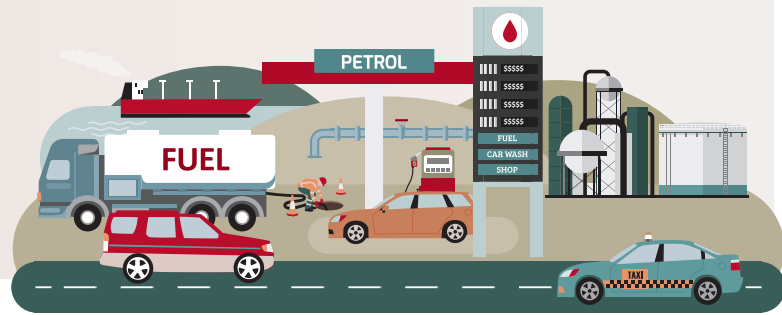


The Fuel Industry Act and the Fair Trading Act

Know your obligations as a fuel retailer



This fact sheet outlines the obligations for fuel retailers to display fuel prices in a manner which satisfies the requirements under the Fuel Industry Act and the Fair Trading Act. It provides guidance on how retailers can ensure they are compliant with the legislation and sets out the penalties for non-compliance.

What are the consumer information requirements?

The consumer information requirements set out the information that must be displayed on a price board at a retail fuel site in order to provide consumers with transparency when it comes to retail fuel prices. This allows consumers to compare prices and helps them to make informed purchasing decisions.

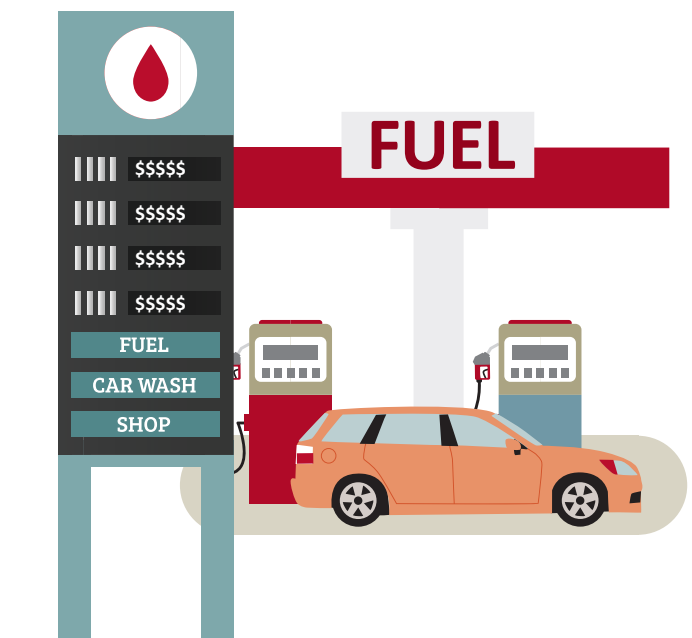
All retail fuel sites (other than truck stops¹ and sites that predominantly refuel marine vehicles) must:²

- display on a price board the standard retail price of each of the following engine fuel types for sale at the retail site:
 - regular grade petrol;
 - diesel; and
 - each grade of premium grade petrol; and
- ensure that the price displayed matches the price charged at the pump;
- ensure that this information is displayed at any time the retail fuel site is open for business; and
- ensure that this information is visible to a person in a motor vehicle at, or passing by, the site, unless any other legislation would make compliance with this requirement unlawful.

The Fuel Industry Act and Regulations do not provide detailed specifications for such things as material, size, or style of the price boards. However, the price boards must meet the requirements described above.

The Fair Trading Act provides that no person shall, in trade:

- make a false or misleading representation with respect to the price of any goods or services;³
- engage in conduct that is liable to mislead the public as to the nature, manufacturing process, characteristics, suitability for a purpose, or quantity of goods.⁴ The retail price is a characteristic of the fuel being sold at a retail fuel site.



1. Fuel Industry Regulations 2021, reg 3. Truck stop means a retail fuel site— (a) that is designed to predominantly refuel heavy motor vehicles; and (b) at which the majority of fuel sold is invoiced to the purchaser for later payment, rather than paid for at the time the fuel is collected.
2. Fuel Industry Regulations 2021, s 22, regs 16 and 17.
3. Fair Trading Act 1986, s 13(g).
4. Fair Trading Act 1986, s 10.

The consumer information requirements apply to fuel retailers, or the person responsible for displaying information at a retail fuel site.

Practical guidance on ensuring price boards comply with the consumer information requirements

Price boards must not switch between displaying fuel prices and other information, such as advertising

The regulations require that retail price information is visible to a person in a motor vehicle at, or passing by, the site, and this information must be displayed at any time a retail fuel site is open for business.⁵ This means that the price for each of the engine fuels sold at a retail fuel site (regular grade petrol, diesel, and each grade of premium petrol) must be listed on a price board which does not switch between displaying these fuel prices and other information, such as advertisements.⁶

The fuel prices displayed on the price board must match the price displayed on the pump, and the point of purchase

The fuel price information displayed on the price board must match the price on the pump and the amount charged at the point of purchase. This is in order to ensure that no false or misleading price representations are made in breach of section 13(g) of the Fair Trading Act.

Fuel sites should have a contingency plan for when the main price board is broken or not operating

Retail fuel sites must consistently display a fuel price board which contains the required pricing information during its operating hours.

Broken signage is a common cause of retailers not complying with the requirements. We recommend that all fuel sites implement a contingency plan for when their main price board is broken or not operating fully to ensure they can remain compliant with the requirements.

Retailers/persons responsible for displaying information at a retail fuel site can meet the requirement to display fuel prices effectively through the use of well-placed, static signage.

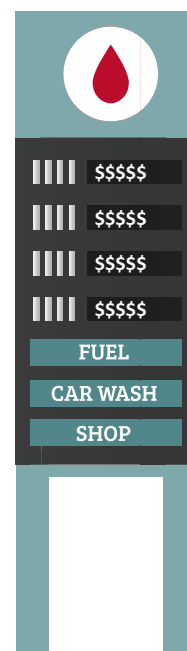
Penalties for breaching consumer information requirements under the Fuel Industry Act

The Commission may issue corrective action notices under the Fuel Industry Act. A corrective action notice outlines what a fuel retailer, or the person responsible for displaying information at a retail fuel site, must do to remedy non-compliance or ensure that non-compliance is not continued or repeated.⁷ Corrective action notices will specify a timeframe (specified period) within which the required steps must be taken.⁸ Where a person fails to comply with a corrective action notice under section 23(1), the Commission can apply for the District Court to impose a penalty of up to \$30,000 for a company or up to \$10,000 for an individual.⁹

Section 30 of the Fuel Industry Act provides that the Commission can apply for the High Court to impose a penalty of up to \$5,000,000 for a company, or up to \$500,000 for an individual for a contravention of the consumer information requirements under section 22.¹⁰

Penalties for breaching the Fair Trading Act

Only the courts can decide if there has been a breach of the Fair Trading Act. The court can impose severe penalties where it finds the law has been broken. A company that breaches certain provisions of the Fair Trading Act can be fined up to \$600,000 and an individual up to \$200,000 per offence.¹¹



5. Fuel Industry Act 2020, s 22; Fuel Industry Regulations 2021, reg 17(2) and (3).
6. Fuel Industry Regulations 2021, reg 17(3).
7. Fuel Industry Act 2020, s 23(1).
8. Fuel Industry Act 2020, s 23(2).
9. Fuel Industry Act 2020, s 30(4)(b). Refer also to s 30(8).
10. Fuel Industry Act 2020, s 30(1)(a)(iii), s 30(3).
11. Fair Trading Act 1986, s 40(1).

This fact sheet provides guidance only. It is not intended to be definitive and should not be used in place of legal advice. You are responsible for staying up to date with legislative changes. You can subscribe for information updates at www.comcom.govt.nz/subscribe.

We encourage you to visit our website at <https://comcom.govt.nz/regulated-industries/fuel> to better understand your obligations, the legislation we enforce and the Commission's role in regulating the fuel industry. You can view the Fuel Industry Act and Regulations and other legislation at <https://www.legislation.govt.nz/>. Please contact the Fuel Team at fuel@comcom.govt.nz if you have any questions in relation to this guidance.

