**TESTIMONY OF**

**SONJA HUBBARD**

**CHIEF EXECUTIVE OFFICER**

**E-Z MART STORES, INC.**

**REPRESENTING**

**THE NATIONAL ASSOCIATION OF CONVENIENCE STORES**

**AND**

**THE SOCIETY OF INDEPENDENT GASOLINE MARKETERS OF AMERICA**

**AT A HEARING OF THE**

**HOUSE COMMITTEE ON ENERGY AND COMMERCE**

**ON**

**"BOUTIQUE FUELS REDUCTION ACT OF 2006" DISCUSSION DRAFT**

**JUNE 7, 2006**

Good morning, Mr. Chairman, Ranking Minority Member Dingell, and members of the Committee. Thank you for holding this important hearing. My name is Sonja Hubbard. I am the Chief Executive Officer of E-Z Mart Stores, Inc. of Texarkana, Texas. My company owns and operates over 300 motor fuel outlets in five states -- Texas, Oklahoma, Louisiana, Arkansas, and Missouri. Our company sells nearly 200 million gallons of gasoline and diesel fuel each year and we employ over 2,200 clerks, managers, and other personnel in these five states. We sell gasoline under our own brand and, at some locations, under the brand of our refiner suppliers.

I appear before the Committee representing the National Association of Convenience Stores (NACS) and the Society of Independent Gasoline Marketers of

America (SIGMA). I currently serve as Vice Chairman for Government Relations on NACS' Board of Directors and my company also is an active member of SIGMA. Together, NACS and SIGMA members sell approximately 80 percent of the gasoline and diesel fuel purchased by motorists in the United States each year.

NACS is an international trade association comprised of more than 2,200 retail member companies operating more than 100,000 stores. The convenience store industry as a whole sold 143.5 billion gallons of motor fuel in 2005 and employs 1.5 million workers across the nation.

SIGMA is an association of more than 240 independent motor fuel marketers operating in all 50 states. Last year, SIGMA members sold more than 58 billion gallons of motor fuel, representing more than 30 percent of all motor fuels sold in the United States in 2005. SIGMA members supply more than 35,000 retail outlets across the nation and employ more than 350,000 workers nationwide.

NACS and SIGMA have for many years warned Congress about the fragmentation of the fuels markets which has resulted from various jurisdictions requiring their own boutique fuel blends. Nevertheless, it is our straightforward message to this Committee today that we are more concerned than reassured by the prospect of new fuels legislation this year. Our industry, and the entire motor fuels manufacturing and distribution industries, are still working very hard to implement the significant changes in the motor fuels markets that have been the result of the legislative mandates contained in the Energy Policy Act of 2006 (EPAct). Over the next six months, we also face significant challenges with the introduction of ultra low sulfur diesel fuel (ULSD).

Simply stated, the gasoline and diesel fuel markets, and all of the participants in those markets, need time to implement EPAct's renewable fuel standard, to complete the phase-out of MTBE as a gasoline additive, and to make the changeover to ULSD. Given time, gasoline and diesel fuel supplies will stabilize or increase, the nation's motor fuels distribution infrastructure will grow accustomed to handling new fuels and fuel blends, and gasoline and diesel fuel wholesale and retail price volatility should decline.

NACS and SIGMA have reviewed the discussion draft of the "Boutique Fuels Reduction Act of 2006." We welcome the Committee's focus on the continued proliferation of boutique fuels and believe that there should be a healthy debate on any additional measures that may need to be undertaken to build on the boutique fuels restrictions in EPAct. We also acknowledge that this draft includes provisions that represent significant improvements over other legislative proposals that seek to accomplish similar objectives and we appreciate the effort the Committee has made to address many of the concerns expressed by marketers.

However, we urge the Committee to be very careful when considering additional legislation on boutique fuels in light of the impact such legislation could have on an already volatile gasoline and diesel fuel market. If this Committee's intent is to moderate retail gasoline and diesel fuel prices through additional boutique fuels legislation, NACS and SIGMA are not convinced that the discussion draft will have the desired effect.

If this Committee feels compelled to consider additional boutique fuels legislation, NACS and SIGMA have three recommendations.

First, we recommend that you not act with respect to a fuel slate, such as the slate in the discussion draft, before EPA and DOE have completed their study and report required under Section 1541(c) of EPAct. Without this study, Congress simply can not know what effect a fuel slate will have on overall motor fuel supplies and thus on wholesale and retail prices. If, in your desire to moderate motor fuel prices, your actions in enacting a fuel slate actually reduce overall gasoline and diesel fuel supplies and contribute to greater price volatility, then you will have achieved the opposite of your stated goal.

Second, if the Committee feels it can not wait for the recommendations of EPA and DOE before it acts, then we recommend that you enact the first portion of the discussion draft to gradually reduce the number of boutique fuels used across the nation through a so-called "ratchet." The enactment of a ratchet would result in a decline in the number of boutique fuels nationwide over time. Such a ratchet would not force states to conform their existing fuels to a narrow slate of fuels. Instead, it represents the logical next step in addressing the issue of boutique fuels and would build on the boutique fuels policies enacted in EPAct: (1) preserve environmental protection; (2) preserve state flexibility while guarding against random proliferation of boutique fuels; (3) restore fungibility to the nation's motor fuels markets; and, (4) reduce the wholesale and retail price volatility caused by boutique fuels.

Under a ratchet, no state would be forced to change its fuel specifications. Rather, the number of boutique fuels would be reduced only when a state removes the fuel from its state implementation plan or the fuel becomes identical to a federal fuel. New, cleaner, more plentiful, and less expensive fuels would be permitted to enter the market under a ratchet either through action by EPA or by replacement of an existing fuel on the EPAct boutique fuels list.

Third, we recommend that you condition any state's implementation of an alternative fuel mandate, such as an ethanol or biodiesel mandate, upon determinations by the Secretaries of Energy and Transportation that sufficient supplies of such fuels exist to satisfy demand and that such a mandate will be supported by adequate transportation logistics. Currently, state alternative fuel mandates are the biggest threat to gasoline and diesel fuel fungibility confronting the motor fuel manufacturing and distribution industries. The first chart attached to my testimony graphically shows the proliferation of these new types of boutique fuels that the states are considering and adopting. These state boutique alternative fuel mandates are not covered by EPAct's boutique fuels restrictions, but they should be.

Do not misunderstand NACS' and SIGMA's position on biofuels. We are not attacking biofuels. Our industry is set up to transport and market liquid motor fuels, and ethanol and biodiesel certainly qualify as liquid motor fuels. Just last year, EPAct mandated that the nation use at least 7.5 billion gallons of ethanol and biodiesel by 2012. Our members will be instrumental in meeting that goal and we already are working hard to expand ethanol and biodiesel use. However, state ethanol and biodiesel mandates undermine our efforts and weaken the flexibility that this Committee and this Congress built into the EPAct renewable fuel standard.

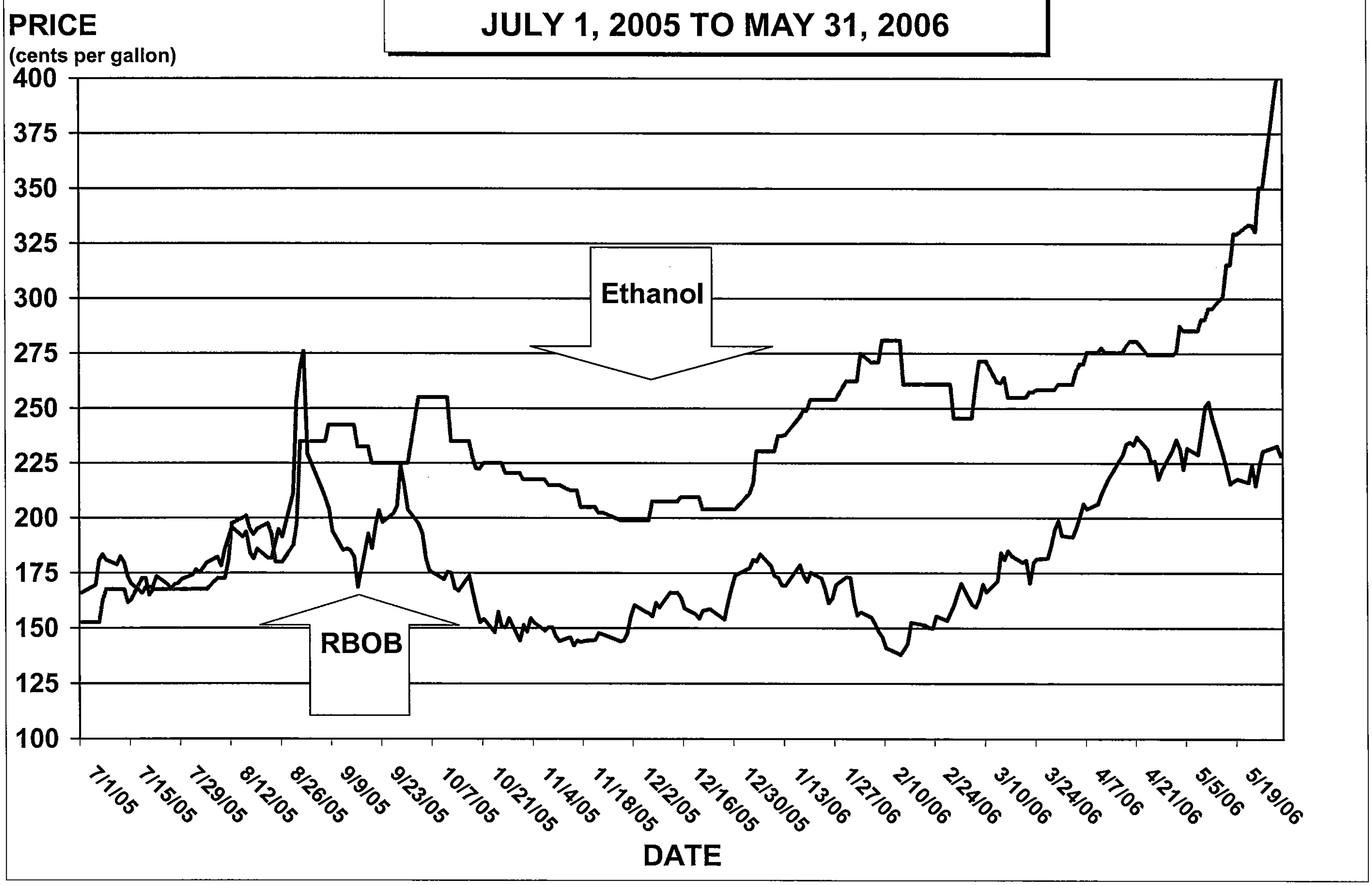
We are also concerned about supplies of biofuels. As the second chart attached to my testimony demonstrates, ethanol currently is trading at over $3.50 per gallon on the spot market -- double its price last year. There can be no clearer indication that there is not enough ethanol to meet current demand. Currently, as the Energy Information Administration has noted on several occasions, supplies of ethanol that have historically been blended into conventional gasoline supplies are being diverted to reformulated gasoline markets to replace MTBE. This is another indication that supplies are currently not sufficient to meet overall national demand.

If state biofuels mandates continue to proliferate, the current situation will only grow worse. Our industry will be required to move ethanol from one market to another, based not on market forces but rather on artificial demand created through state mandates. Even worse, our industry will be prohibited from supplying markets in need, like those reformulated gasoline markets transitioning away from MTBE, because supplies will be held hostage by individual states. Clearly, these state mandates interfere with the efficient flow of interstate commerce of a very important commodity. We urge you to stand by the national renewable fuel standard adopted in EPAct and condition the implementation of any state mandate upon findings by the relevant federal authorities that adequate supplies and logistics exist to support the demands created by these state mandates.

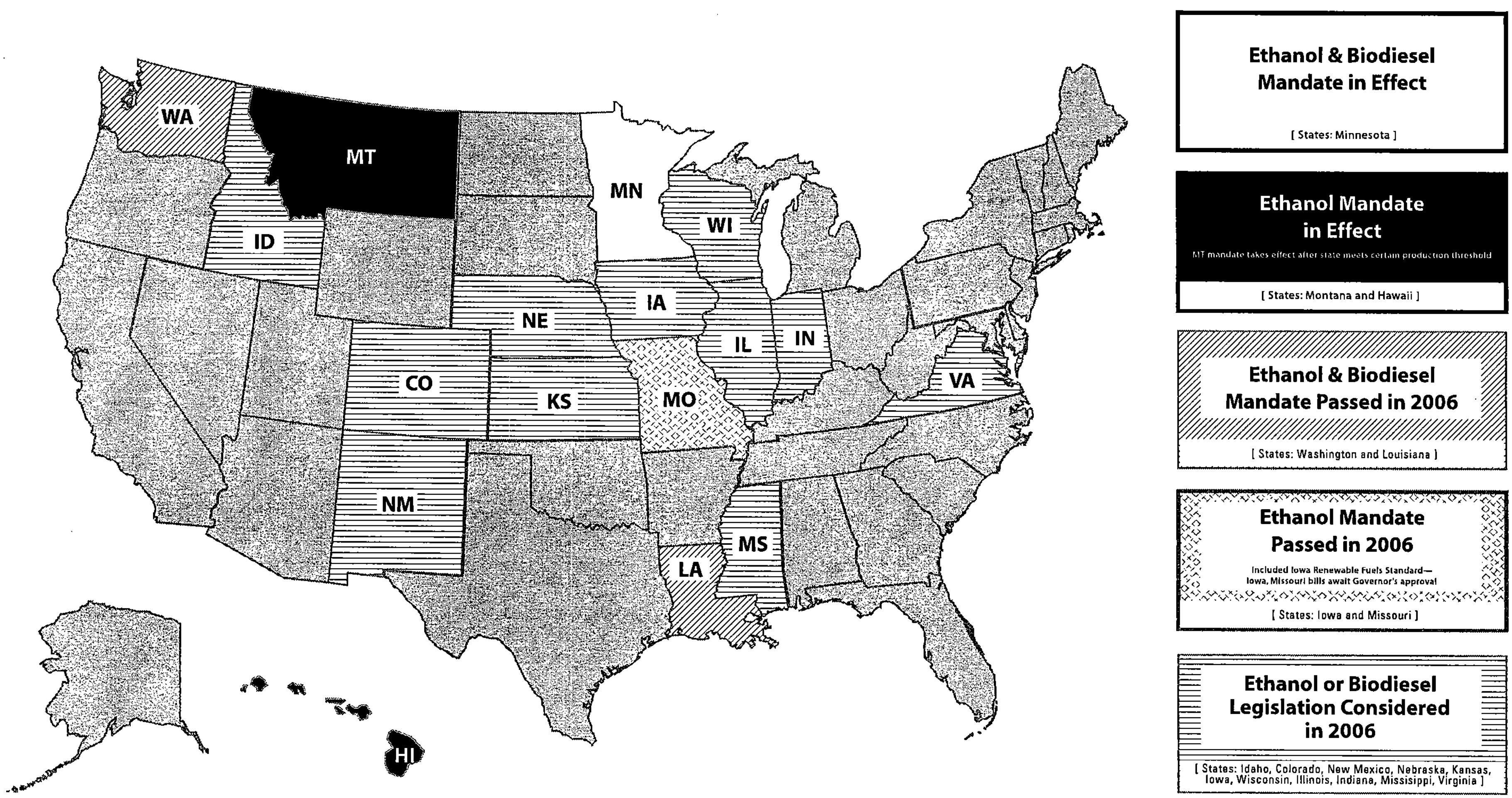
In sum, NACS and SIGMA caution this Committee to move with great care in its consideration of the Boutique Fuels Reduction Act of 2006. If you feel compelled to move boutique fuels legislation, then we urge you to limit your legislation to a boutique fuels ratchet and a restriction on the implementation of state alternative fuel mandates. Once EPA and DOE have completed their EPAct report, their conclusions may lead to new proposals for the enactment of a fuel slate. Until that report is complete, we believe fuel slate proposals are pre-mature.

Thank you for the opportunity to testify. I would be pleased to answer any questions you may have.

# NYH PLATTS ETHANOL VS RBOB PRICES
## JULY 1, 2005 TO MAY 31, 2006



# State Ethanol and Biodiesel Mandates




Sources: National Biodiesel Board and Renewable Fuels Association