

Department of Legislative Services  
Maryland General Assembly  
2013 Session

FISCAL AND POLICY NOTE

House Bill 835 (Delegate Carr, *et al.*)  
Economic Matters

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Environment - Retail Service Stations - Setback Certification

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This bill prohibits a person from constructing, beginning October 1, 2013, a retail gasoline service station that is projected to sell more than 3.6 million gallons of gasoline per year without a “setback certification” from the Maryland Department of the Environment (MDE). The bill requires MDE to issue a setback certification if the gas station will be at least 1,000 feet from a hospital; a residential property; a public or private school; a day care center; a playground; a park; or an outdoor cultural, entertainment, or recreational use area. MDE must adopt regulations to carry out the bill.

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Fiscal Summary

**State Effect:** The bill is not anticipated to materially affect State operations or finances. MDE can implement the bill with existing resources.

**Local Effect:** The bill is not anticipated to materially affect local operations or finances.

**Small Business Effect:** Potential meaningful.

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Analysis

**Bill Summary:** The bill specifies that the General Assembly finds that:

- retail service stations and the motor vehicles using them release chemicals, particulate matter, and other emissions, including benzene, 1,3-butadiene, formaldehyde, acetaldehyde, and particulate matter of various sizes, that have potentially hazardous, toxic, or carcinogenic effects on human health and the environment;

- research shows that exposure to particulate matter increases heart and lung disease, acute asthma attacks, and early death and has a greater impact on children, elderly individuals, and individuals with existing heart or lung disease;
- the U.S. Environmental Protection Agency (EPA) has lowered the allowable limits for particulate matter;
- public health studies suggest that motor vehicle emissions harm mental health, intelligence, and emotional stability;
- the effects of these emissions are directly proportional to the size of the retail service station and the retail service station's proximity to other land use;
- the size of retail service stations has increased dramatically, with retail service stations selling between one and two million gallons of gasoline per year 15 years ago, to between 6 million and 9 million gallons per year today; and
- various studies recommend that large retail service stations be setback at least 300 feet to 1,000 feet from areas of sensitive use.

**Current Law/Background:** Before storing or selling motor fuel in the State, a person or governmental unit must register with the Comptroller. There are also numerous requirements for retail service station dealers and vendors of gasoline. For example, before making the first sale of gasoline imported into the State, the seller must register with the Comptroller each additive introduced into the gasoline after it was received in the State. Additionally, a person may not add lead to the gasoline after it has been received. However, the location of gas stations is generally governed by local planning and zoning authorities and not by the Comptroller.

Emissions from motor vehicles and gasoline stations are regulated under the federal Clean Air Act. These emissions, also known as "mobile air toxics" or "hazardous air pollutants," may cause cancer and have other serious health effects, according to EPA. In 1999, EPA found that mobile sources were responsible for about 44% of outdoor toxic emissions and almost 50% of the cancer risk. Benzene, 1,3-butadiene, formaldehyde, acrolein, naphthalene, and polycyclic organic matter are a few of the mobile air toxics that produce the greatest health risk. EPA regulates mobile air toxics under Clean Air Act requirements through several regulations that impact vehicle emission standards, gasoline fuel standards, and fuel dispensing equipment, among other things.

**Small Business Effect:** The bill may result in a meaningful adverse impact to any small business that plans to construct a retail gasoline service station to the extent that a station can no longer be constructed in the planned location. However, it is unclear how many retail service stations that would sell more than 3.6 million gallons of gasoline would be owned by small businesses. According to the U.S. Census Bureau, 1,562 gasoline stations were located in Maryland in 2010, nearly all of which have 50 or fewer

employees; the Census does not track the percentage of those stations that are independently owned or operated.

Small business retail service stations located near planned service stations regulated by the bill may realize a meaningful benefit to the extent that the bill results in less competition.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 948 (Senator Madaleno) – Senate Rules.

**Information Source(s):** Maryland Department of the Environment, Comptroller's Office, U.S. Environmental Protection Agency, U.S. Census Bureau, Department of Legislative Services

**Fiscal Note History:** First Reader - February 19, 2013  
mlm/lgc

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