

Department of Legislative Services
 Maryland General Assembly
 2012 Session

FISCAL AND POLICY NOTE

House Bill 632 (Delegate Stukes)
 Economic Matters

Business Regulation - Sale of Motor Fuel - Amount Charged

This bill prohibits a retail service station dealer from charging more than five cents per gallon above cost for the price of motor fuel. The Comptroller’s Office must investigate written complaints to determine within three business days of the receipt of the complaint if the allegations are true. The Comptroller’s Office must issue a stop-sale notice and may suspend or revoke the registration of a retail service station dealer for violating the bill’s provisions.

Fiscal Summary

State Effect: General fund expenditures by the Comptroller’s Office increase by \$64,800 in FY 2013 to implement the bill’s requirements. Future year expenditures reflect annualization, inflation and employee turnover, and the termination of one-time costs. Revenues are not affected.

(in dollars)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	64,800	62,000	65,800	68,600	71,600
Net Effect	(\$64,800)	(\$62,000)	(\$65,800)	(\$68,600)	(\$71,600)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: Potential meaningful.

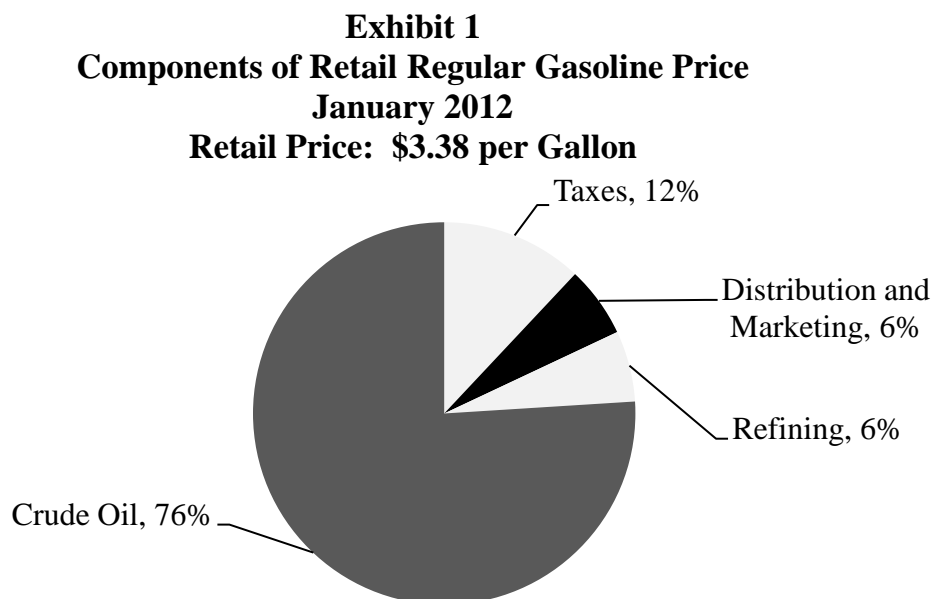
Analysis

Current Law: Retail service stations may not sell motor fuel below cost except under limited circumstances. “Below cost” is defined as a price that is less than the total of the most recently published average reseller rack cost of motor fuel by grade and quality, as calculated by the Oil Price Information Service, for the particular terminal from which the motor fuel was delivered to the retail service station dealer, or the actual invoice cost from the supplier of the product, whichever is lower; and the freight charges and all applicable federal, State, and local taxes not included in the invoice cost.

A retail service station dealer may sell motor fuel below cost if the sale is made (1) in good faith to meet competition; (2) as part of a final liquidation of a retail service station; (3) as part of a bona fide charitable promotion lasting no longer than two days; or (4) under the direction or order of a court or government entity.

The Comptroller’s Office investigates complaints of below-cost sales and determines within three business days of receiving the complaint whether the allegations are true. If the Comptroller’s Office determines there is a violation, it must issue a stop-sale notice and may suspend or revoke the certificate of registration of the offending dealer. There is currently no monetary penalty for violating the motor fuel below-cost sales law.

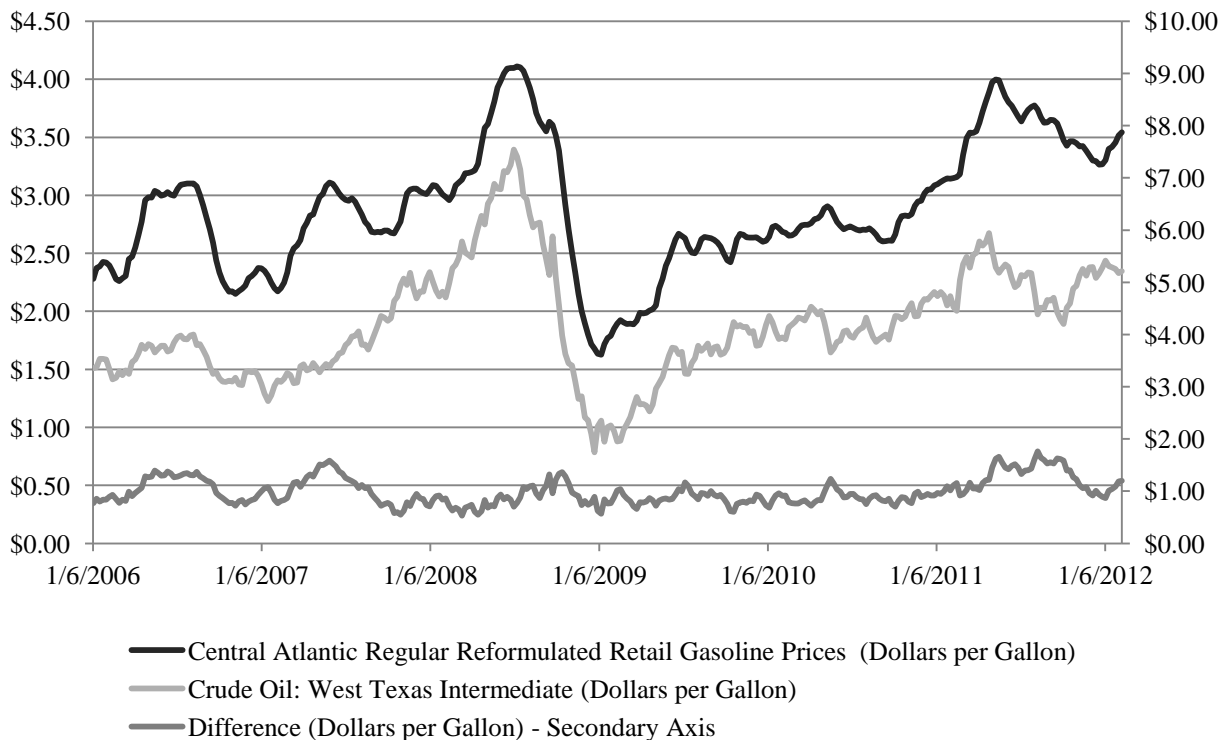
Background: The retail price of gasoline is a function of the price of crude oil, applicable taxes, distribution and marketing costs, and refining costs. **Exhibit 1** shows these cost components and their relative magnitudes. The largest and growing portion of the retail price is the cost of crude oil, at 76%.



Source: Energy Information Administration; U.S. Department of Energy

Further evidence of the link between crude oil prices and retail gasoline prices is shown in **Exhibit 2**, which shows the retail price of gasoline in the Central Atlantic as compared to a major United States crude oil price. The average difference between a gallon of crude oil and a gallon of retail gasoline prices in the State has consistently remained at roughly \$1.00 for the last six years, even through the price spikes in 2008.

Exhibit 2
Retail Gasoline Prices, Crude Oil Prices, Differences
(Dollars per Gallon)



Source: Energy Information Administration; U.S. Department of Energy

State Expenditures: Prohibiting retail service stations from charging more than five cents per gallon above cost for motor fuels likely results in a large increase in workload for the Field Enforcement Division in the Comptroller’s Office. The division receives 250 to 300 complaints annually (generally from competitors) related to a retail service station allegedly selling motor fuel below cost. A complaint typically takes half a day to investigate. Currently six compliance inspectors perform these investigations.

With a price ceiling on motor fuels, complaints will generally come from consumers who believe the price at any given retailer is too high. Given the current trend in motor fuel prices, the number of complaints likely increases substantially. Complaints must be investigated within three days. Each compliance inspector can carry out 400 to

500 investigations annually, although travel time in some parts of the State may mean that only one investigation can be conducted on many days.

General fund expenditures increase by \$64,790 in fiscal 2013, which accounts for the bill's October 1, 2012 effective date. This estimate reflects the cost of hiring one compliance inspector with an automobile to investigate complaints received alleging excessive motor fuel prices under the bill. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1
Salaries and Fringe Benefits	\$39,992
Automobile Purchase and Operations	19,900
Other Operating Expenses	4,898
Total FY 2013 State Expenditures	\$64,790

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Small Business Effect: To the extent that retail service station dealers are small businesses, and to the extent that current retail prices are more than five cents per gallon above cost at those stations, small business revenues decline. The bill may also hurt local retail service stations with lower daily sales, as these stations do not have the purchasing power of larger stations and therefore have a higher cost. Mandating retail stations with lower costs to lower the retail price of motor fuel to no more than five cents above the cost may result in their retail prices undercutting those of local retail service stations.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office, U.S. Energy Information Administration, Department of Legislative Services

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mc/mcr

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