

Department of Legislative Services
 Maryland General Assembly
 2014 Session

FISCAL AND POLICY NOTE

Senate Bill 631 (Senator Madaleno)
 Finance

Environment - Retail Service Stations - Setback Certification

This bill prohibits a person from constructing or expanding, beginning October 1, 2014, 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 300 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 implement the bill, including the establishment, by March 30, 2015, of a scale of larger setbacks for stations projected to sell between 5 million and 20 million gallons of gasoline per year.

Fiscal Summary

State Effect: General and/or special fund expenditures increase by \$100,000 in FY 2015 for contractual assistance for MDE in developing the required regulations. MDE can otherwise investigate proposed service station constructions and expansions and issue setback certifications with existing resources. Revenues are not affected.

(in dollars)	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Revenues	\$0	\$0	\$0	\$0	\$0
GF/SF Exp.	100,000	0	0	0	0
Net Effect	(\$100,000)	\$0	\$0	\$0	\$0

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

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

Small Business Effect: Potential meaningful.

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 and other pollutants;
- 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 amount of fuel sold by the retail service station and the retail service station's proximity to other sensitive land uses;
- the size of retail service stations has increased dramatically, with retail service stations selling between 1 million and 2 million gallons of gasoline per year 15 years ago, to between 3 million and 20 million gallons per year today; and
- various studies recommend that large retail service stations be located at least 300 feet from areas of sensitive use and that the mandated setback must increase in proportion to the volume of fuel sold in excess of 3.6 million gallons of gasoline per year.

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. However, the location of gas stations is generally governed by local planning and zoning authorities.

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.

State Expenditures: General and/or special fund expenditures increase by \$100,000 for MDE for contractual assistance in developing regulations under the bill. The bill requires MDE to adopt regulations, including the establishment, by March 30, 2015, of a scale of larger setbacks for stations projected to sell between 5 million and 20 million gallons of gasoline per year. MDE advises that it can write regulations to implement the bill with existing resources, except for the requirement to establish a future scale of larger setbacks for stations projected to sell between 5 million and 20 million gallons of gasoline per year. MDE advises that it does not possess the required expertise to establish such a scale and that it is, therefore, necessary to contract with a consultant with expertise on the effect of air pollution on public health. MDE estimates that the additional cost of contracting with a consultant to produce the setback certification scale is about \$100,000 in fiscal 2015. The projected fiscal 2015 ending balance for the Maryland Clean Air Fund is more than \$350,000, which is significantly greater than the estimated contractual costs. However, revenue to the Maryland Clean Air Fund is highly variable each year, and it is possible that general funds may be necessary to cover the costs of the study.

Small Business Effect: The bill may result in a meaningful adverse impact to any small business that plans to construct or expand a retail gasoline service station to the extent that a station can no longer be constructed in the planned location or expanded. However, it is unclear how many retail service stations that sell more than 3.6 million gallons of gasoline are owned by small businesses. According to the U.S. Census Bureau, 1,540 gasoline stations were located in Maryland in 2011 (down from 1,562 in 2010), nearly all of which have 50 or fewer employees; the U.S. Census Bureau 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.

Additional Information

Prior Introductions: A similar bill, SB 948 of 2013, was withdrawn prior to the scheduled hearing in the Senate Education, Health, and Environmental Affairs Committee. Its cross file, HB 835, received an unfavorable report from the House Economic Matters Committee.

Cross File: None.

Information Source(s): Department of Natural Resources, Maryland Department of Planning, Maryland Department of the Environment, Department of Health and Mental

Hygiene, Maryland Municipal League, U.S. Census Bureau, U.S. Environmental Protection Agency, Department of Legislative Services

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mm/lgc

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