

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1434 (Delegate McMillan)
Economic Matters

Business Regulation - Marina Fuel Sales - Fuel Sales

This bill authorizes a public or private marina – located on the navigable waters of the State that does not sell fuel for motor vehicles but does sell fuel for vessels – to offer for sale (1) nonoxygenated gasoline, including gasoline that does not contain ethanol or (2) oxygenated gasoline, including gasoline that contains isobutanol. The Comptroller must adopt regulations to administer and enforce the bill.

The bill takes effect June 1, 2017.

Fiscal Summary

State Effect: The Comptroller can adopt the required regulations and enforce the bill with existing budgeted resources.

Local Effect: None.

Small Business Effect: Minimal. The bill conflicts with federal law (and with regulations adopted by the Comptroller) for some marinas and otherwise reflects existing federal law and permissible practices, as discussed below. It is assumed that most affected marinas elect to remain in compliance with federal law, so the bill has limited or no effect on them.

Analysis

Current Law/Background: The federal Clean Air Act separates the State into two areas: those where *only* reformulated (oxygenated) gasoline may be offered/sold and those where either conventional (nonoxygenated) or reformulated (oxygenated) gasoline may be offered/sold. Reformulated gasoline contains an oxygenate (typically ethanol) to reduce

emissions. The areas where only reformulated gasoline may be offered/sold are known as ozone nonattainment zones, or reformulated gasoline control areas. Comptroller regulations incorporate these basic requirements and other particular specifications for gasoline and other fuels.

The local jurisdictions in which only reformulated gasoline may be offered/sold are Baltimore City and Anne Arundel, Baltimore, Calvert, Carroll, Charles, Cecil, Frederick, Harford, Howard, Kent, Montgomery, Prince George's, and Queen Anne's counties. Outside of these areas, gasoline is not *required* to contain an oxygenate; however, in practice, the vast majority of gasoline sold in the United States and Maryland today contains ethanol.

Despite the standard industry practice of using ethanol, other oxygenates are allowed, subject to approval by the U.S. Environmental Protection Agency (EPA). For example, isobutanol recently received approval from EPA for use as an oxygenate.

The Comptroller advises that there are 159 locations in the State that sell fuel for vessels: 138 active marinas and an additional 21 locations registered that sell fuel for both vessels and vehicles. The bill applies solely to the 138 locations that do not sell fuel for vehicles. Gasoline containing ethanol is widely regarded as being harmful to marine engines, which makes ethanol-free gasoline a sought-after commodity for many boat owners.

Retail Service Stations and Regulation of Motor Fuel – Generally

Retail service stations (*i.e.*, retail businesses where motor fuel is sold) must meet various registration, inspection, and signage requirements. Failure to comply with provisions related to the inspection and sale of motor fuel is a misdemeanor and is subject to a maximum penalty of a \$5,000 fine and/or one year imprisonment.

The Motor Fuel Tax Unit in the Comptroller's Office is responsible for monitoring the distribution and use of motor fuels in Maryland. Among other responsibilities, the unit registers service stations and other facilities that sell or store motor fuels in bulk in order to regulate the quality of motor fuel sold in Maryland. There are approximately 2,400 retail service stations in the State.

Small Business Effect: The bill, which authorizes conventional gasoline to be offered/sold at most marinas in the State, conflicts with federal law (and regulations adopted by the Comptroller) for marinas in areas that are required to offer/sell only reformulated gasoline. In areas where conventional gasoline may be sold, the bill has no effect; marinas in those areas are currently allowed to offer/sell conventional gasoline, and some do. As noted above, isobutanol was recently approved as an oxygenate and can be used statewide with or without the bill.

While many marinas are small businesses, it is assumed that they continue to comply with federal law regarding the offer/sale of conventional and reformulated gasoline, in which case there is minimal to no effect. To the extent that marinas elect to offer/sell conventional gasoline in conflict with federal law, they may be penalized by EPA. Civil penalties for violation of the Clean Air Act are up to \$37,500 per day.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office; Department of Natural Resources; Baltimore, Charles, and Montgomery counties; U.S. Environmental Protection Agency; U.S. Energy Information Administration; Department of Legislative Services

Fiscal Note History: First Reader - March 13, 2017
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