



Committee: Joint
Committee Review: Completed
Staff: Christine Wellons, Senior Legislative Attorney
Purpose: Final action – vote expected
Keywords: #ConsumerProtection #GasPriceTransparency

AGENDA ITEM #3B
March 28, 2023
Action

SUBJECT

Bill 7-23, Consumer Protection – Gasoline Station Signage

Lead Sponsor: Councilmember Albornoz

Co-Sponsors: Councilmembers Katz, Stewart, Luedtke, Balcombe, Sayles, and Mink, Council Vice-President Friedson, Council President Glass and Councilmember Jawando

EXPECTED ATTENDEES

N/A

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- The joint PS/ECON Committee recommended the enactment of Bill 7-23 with amendments.

DESCRIPTION/ISSUE

Bill 7-23 would:

- (1) define and prohibit certain deceptive trade practices by gasoline stations;
- (2) require the inclusion of certain supplemental information on state-required signage at gasoline stations; and
- (3) generally amend the law regarding deceptive, unfair, or unconscionable trade practices.

SUMMARY OF KEY DISCUSSION POINTS

- The amendments recommended by the joint PS/ECON Committee would:
 - clarify the definition of credit price;
 - clarify that the bill's signage requirements do not apply if the credit price and the lowest price are the same;
 - delete the terms "clearly and visibly" to avoid ambiguity; and
 - remove the gas station signage violations from the list of "deceptive, unfair, or unconscionable trade practices"
- After the Committee worksession, an industry group submitted an additional potential amendment for the Council's consideration regarding alternative signage. (© 19)

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County Executive Memorandum
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M E M O R A N D U M

March 23, 2023

TO: County Council

FROM: Christine Wellons, Senior Legislative Attorney

SUBJECT: Bill 7-23, Consumer Protection – Gasoline Station Signage

PURPOSE: Action – roll call vote expected

<p><u>Committee Recommendation:</u> The joint PS/ECON Committee recommended (7-0) the enactment of Bill 7-23 with amendments.</p>
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Bill 7-23, Consumer Protection – Gasoline Station Signage, sponsored by Lead Sponsor Councilmember Alborno and Co-Sponsors Councilmembers Katz, Stewart, Luedtke, Balcombe, Sayles, and Mink, Council Vice-President Friedson, Council President Glass, and Councilmember Jawando was introduced on February 7, 2023. A public hearing occurred on February 28, 2023, and a joint Public Safety/Economic Development Committee worksession occurred on March 13, 2023.

Bill 7-23 would:

- (1) define and prohibit certain deceptive trade practices by gasoline stations;
- (2) require the inclusion of certain supplemental information on state-required signage at gasoline stations; and
- (3) generally amend the law regarding deceptive, unfair, or unconscionable trade practices.

BACKGROUND

Under state law, certain gas station signs must be readable by passing motorists, and must contain certain information. *See* Md. Code Ann., Business Regulation § 10-315. Specifically, the signs must include the *lowest* unit price charged for regular gas on the premises.

In practice, the *lowest* price varies depending upon the method of payment. For instance, the per unit price for regular gas when using a credit card is generally higher than the per unit cost when using cash.

To avoid consumer confusion about the lowest price with regard to various payment options, Senator Kagan has introduced state legislation to require the posting of the credit, debit, and cash prices of a unit of regular gasoline sold at the station. (Senate Bill 178, <https://mgaleg.maryland.gov/mgaweb/Legislation/Details/sb0178?ys=2023RS>)

BILL SPECIFICS

Consistent with the intent of Senator Kagan’s bill, Council Bill 7-23 would require – as a consumer protection measure (Chapter 11 of the County Code) – the posting on gas station signs of the highest *credit price* (when applicable). This information would supplement the information already required under the state law.

Under the bill, credit price would be defined as:

Credit price means the total amount, including any fees, payable to a gas station by a customer using a credit card or other non-cash form of payment, for one whole measurement unit of regular gasoline sold on the premises.

The failure to post the highest credit price would constitute an unfair or deceptive trade practice under County law. The Office of Consumer Protection would enforce the requirements of the bill.

SUMMARY OF IMPACT STATEMENTS

Racial Equity and Social Justice. OLO anticipates the bill would have a minimal impact on racial equity and social justice in the County.

Fiscal Impact. OMB anticipates the bill would have no fiscal impact on County revenues or expenditures.

Economic Impact. OLO anticipates Bill 7-23 would have a small positive impact on economic conditions in the County.

Climate Impact. OLO anticipates the bill would have no impact on climate indicators in the County.

PUBLIC HEARING SUMMARY

The County Executive submitted a memorandum in support of the bill, including the following statement:

“I support the goals of Bill 7-23 to ensure consumers are not subjected to misleading or deceptive advertising or signage and that merchants can compete in a fair marketplace. I agree gasoline stations in Montgomery County should ‘clearly and visibly’ post the ‘highest credit price,’ in addition to complying with all the signage required by the State of Maryland....”

Several individuals submitted testimony in support of the bill, noting that it would reduce confusion among consumers. One individual submitted testimony in opposition to the bill, noting that current state law is sufficient to protect consumers.

Several representatives of gasoline retailers submitted testimony in opposition to the bill. Points raised by these representatives included:

- Retailers' signage is already clear regarding the lowest "cash" price;
- Altering gasoline signage is very expensive for the retailers;
- Consumer complaints about the retailers are rare;
- The gasoline retail industry already is highly regulated, and additional requirements are unnecessary; and
- "Businesses are not operating with the intent to deceive customers and should not be accused of such by simply sharing the lowest price that is most often sought by consumers and required by State law."

SUMMARY OF THE JOINT COMMITTEE WORKSESSION

The joint Committee considered the following issues and potential amendments related to Bill 7-23.

1. Pending State Legislation – Senator Kagan's Bill

Maryland General Assembly Senate Bill 178, sponsored by Senator Kagan, would amend state law to require that gas stations throughout the state must post "state the credit and debit price (if the station dealer accepts credit or debit cards) and the cash price for a whole measurement unit of regular gasoline sold on the premises." The bill is pending before the Senate Finance Committee. See [Legislation - SB0178 \(maryland.gov\)](http://legislation.maryland.gov/SB0178)

If Senate Bill 178 becomes law, Council Bill 7-23 would be duplicative of state law. Similar bills have been introduced during prior sessions of the General Assembly.

2. Committee Amendment – Highest credit price

The joint Committee adopted the following amendments to clarify the definition of the term *credit price* under the bill.

Amend lines 19-22 as follows.

- (2) Credit price means the highest total amount, including any fees, payable to a gas station by a customer using a credit card or other non-cash form of payment, for one whole measurement unit of regular gasoline sold on the premises.

Amend lines 31-33 as follows.

- (c) A sign posted by a gas station under Section 10-315(e)(2) of the Business Regulation Article must include, clearly and visibly, the [[highest]] credit price.

3. Potential Clarifying Amendment – For retailers that do not accept credit

The Office of the County Attorney (OCA) pointed out that, although unusual, a particular station might not accept credit. To account for this possibility, the joint Committee considered the following amendment, but decided that it was unnecessary.

Amend lines 23-24 as follows.

- (3) Gasoline station means a merchant [[who]] that: accepts payment by credit card or any other non-cash form of payment; and sells motor fuel at retail under Section 10-315 of the Business Regulation Article.

4. Committee Amendment – If the credit price is also the lowest price

The OCA pointed out that the lowest price at a station might also be the credit price (*i.e.*, the station charges the same price for cash and credit). In response, the joint Committee adopted the following amendment.

After line 33, insert the following.

- (d) If the lowest price under the Business Regulation Article and the credit price are the same, subsection (c) does not apply.

5. Committee Amendment – Deletion of “Clearly and Visibly”

The Office of Consumer Protection (OCP) suggested deleting the bill’s requirement that the credit price must be posted “clearly and visibly” on the sign because the phrase is undefined and, thus, it could be difficult to enforce.

The joint Committee agreed with the enforcement concern and also determined that the phrase “clearly and visibly” is unnecessary because the Business Regulation Article already provides, with respect to the gas station signs: “All numerals on the sign shall: (i) be uniform; (ii) be at least 8 inches high and 3.5 inches wide; and (iii) have a brush stroke of at least 1 inch.” § 10-315.

The Committee voted to *amend lines 31-33 as follows.*

- (c) A sign posted by a gas station under Section 10-315(e)(2) of the Business Regulation Article must include[[, clearly and visibly,]] the [[highest]] credit price.

6. Committee Amendment – Deceptive Trade Practices

As originally drafted, Bill 7-23 would include a violation of the gas station signage requirements within the list of “deceptive, unfair, or unconscionable trade practices” prohibited under Section 11-4 of the County Code.

OCP recommended removing the gas station signage violations from the list of “deceptive, unfair, or unconscionable trade practices.” The OCP Director explained: “The list of ‘Deceptive Trade Practices’ in §11-4 is designed in all County, State, and Federal consumer protection laws to be a generic list that applies to all merchants subject to the law. Consumer protection provisions regarding specific types of merchants are codified in separate sections.”

In response to OCP’s recommendation, the Committee voted to *amend lines 3-13 of the bill as follows.*

A merchant must not engage in a deceptive, unfair, or unconscionable trade practice, whether or not any specific consumer has, in fact, been misled, deceived, or damaged thereby. Deceptive, unfair, or unconscionable trade practices include:

* * *

- (y) taking payment for goods or services without delivering the goods or performing the services; [or] or
- (z) practicing, or in any way engaging in, any trade, occupation, or profession without a license, registration, certificate, or other evidence of training or experience required by law[[; or
- (aa) a violation of Section 11-4C]].

ADDITIONAL ISSUE FOR FULL COUNCIL CONSIDERATION

After the Committee worksession, the WMDA/CAR Service Station and Automotive Repair Association submitted an additional potential amendment for the Council’s consideration.

According to WMDA/CAR, many stations would need to buy new digital signs in order to comply with the bill’s requirement to add the credit price to the state-mandated gas station signage. WMDA/CAR explained:

“Since there is no room for additional pricing within the sign, this would require a new sign. Digital signs that are used costs run \$12,000 and up plus permitting, installation. Supply chain could also be a problem.”

To mitigate the additional costs and time associated with installing new signs, WMDA/CAR has suggested allowing stations to meet the requirements of the bill through separate, A-frame signs that are visible from the road

A potential amendment to accommodate WMDA/CAR’s concern would be to *amend lines 25-33 as follows.*

(b) A gasoline station must:

(1) comply with Section 10-315 of the Business Regulation Article; and

(2) if the gas station posts a sign under Section 10-315(e) of the Business Regulation Article, include within the sign, [[additional pricing information required under subsection (c) of this Section]] or on a separate sign clearly visible to motorists, the credit price.

[[c) A sign posted by a gas station under Section 10-315(e)(2) of the Business Regulation Article must include, clearly and visibly, the highest credit price.]]

Council staff notes that one potential concern with this amendment could be that a separate, A-frame sign with the credit price might not be as visible to motorists as the main, state-mandated sign with the lowest price. If the Council wants to provide additional time for stations to incur the costs and obtain any permitting for new signage, it might wish to consider altering the effective date of the bill, rather than altering the signage requirements under the bill.

Next step: Roll call vote on whether to enact Bill 7-23 with amendments, as recommended by the PS/ECON Committee.

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Bill No. 7-23
Concerning: Consumer Protection –
Gasoline Station Signage
Revised: 03/22/2023 Draft No. 4
Introduced: February 7, 2023
Expires: December 7, 2026
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: _____
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Alborno
Co-Sponsors: Councilmembers Katz, Stewart, Luedtke, Balcombe, Sayles, and Mink, Council Vice-President Friedson, Council President Glass, and Councilmember Jawando

AN ACT to:

- (1) define and prohibit certain deceptive trade practices by gasoline stations;
- (2) require the inclusion of certain supplemental information on state-required signage at gasoline stations; and
- (3) generally amend the law regarding deceptive, unfair, or unconscionable trade practices.

By amending

Montgomery County Code
Chapter 11, Consumer Protection
Section 11-4

By adding

Section 11-4C

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

Sec 1. Section 11-4 is amended, and Section 11-4C is added, as follows:

11-4. Deceptive trade practices.

A merchant must not engage in a deceptive, unfair, or unconscionable trade practice, whether or not any specific consumer has, in fact, been misled, deceived, or damaged thereby. Deceptive, unfair, or unconscionable trade practices include:

* * *

(y) taking payment for goods or services without delivering the goods or performing the services; [or] or

(z) practicing, or in any way engaging in, any trade, occupation, or profession without a license, registration, certificate, or other evidence of training or experience required by law[; or

(aa) a violation of Section 11-4C]].

11-4C. Gasoline Stations – Accurate Signage Required.

(a) For purposes of this section, the following terms have the meanings indicated.

(1) Business Regulation Article means the Business Regulation Article of the Maryland Code, as amended.

(2) Credit price means the highest total amount, including any fees, payable to a gas station by a customer using a credit card or other non-cash form of payment, for one whole measurement unit of regular gasoline sold on the premises.

(3) Gasoline station means a merchant who sells motor fuel at retail under Section 10-315 of the Business Regulation Article.

(b) A gasoline station must:

(1) comply with Section 10-315 of the Business Regulation Article;
and

(2) if the gas station posts a sign under Section 10-315(e) of the
Business Regulation Article, include within the sign additional
pricing information required under subsection (c) of this Section.

(c) A sign posted by a gas station under Section 10-315(e)(2) of the Business
Regulation Article must include[, clearly and visibly,] the [[highest]]
credit price.

(d) If the lowest price under the Business Regulation Article and the credit
price are the same, subsection (c) does not apply.

Climate Assessment

Office of Legislative Oversight

Bill 7-23: Consumer Protection – Gasoline Station Signage

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Bill 7-23 will have no impact on the County's contribution to addressing climate change as the Bill proposes new requirements to the posting of gas prices on gas station signs as a consumer protection measure.

BACKGROUND AND PURPOSE OF BILL 7-23

Under state law, certain gas station signs in the County must post the lowest unit price charged for regular gas. The lowest unit price of gas varies depending upon the method of payment. Generally, the per unit price of regular gas when using a credit card is higher than the per unit price when using cash.¹

If enacted, Bill 7-23 would require the posting of the highest credit price on gas station signs as a consumer protection measure. The Bill defines credit price as follows:

Credit price means the total amount, including any fees, payable to a gas station by a customer using a credit card or other non-cash form of payment, for one whole measurement unit of regular gasoline sold on the premises.

If gas stations fail to comply, it would constitute an unfair or deceptive trade practice under County law.

Bill 7-23 is aligned with Senate Bill 178, introduced in the Maryland General Assembly in January 2023. Like the Senate Bill, Bill 7-23 is intended to avoid consumer confusion about the lowest per unit price of gas.²

Bill 7-23, Consumer Protection – Gasoline Station Signage, was introduced by the Council on February 7, 2023.

ANTICIPATED IMPACTS

As Bill 7-23 proposes requiring gas stations to post the highest non-cash price on gas station signs as a consumer protection measure, OLO anticipates that it will have no impact on the County's contribution to addressing climate change, including the reduction and/or sequestration of greenhouse gas emissions, community resilience, and adaptive capacity.

RECOMMENDED AMENDMENTS

The Climate Assessment Act requires OLO to offer recommendations, such as amendments or other measures to mitigate any anticipated negative climate impacts.³ OLO does not offer recommendations or amendments as Bill 7-23 is likely to have no impact on the County's contribution to addressing climate change, including the reduction and/or sequestration of greenhouse gas emissions, community resilience, and adaptative capacity.

CAVEATS

OLO notes two caveats to this climate assessment. First, predicting the impacts of legislation upon climate change is a challenging analytical endeavor due to data limitations, uncertainty, and the broad, global nature of climate change. Second, the analysis performed here is intended to inform the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

PURPOSE OF CLIMATE ASSESSMENTS

The purpose of the Climate Assessments is to evaluate the anticipated impact of legislation on the County's contribution to addressing climate change. These climate assessments will provide the Council with a more thorough understanding of the potential climate impacts and implications of proposed legislation, at the County level. The scope of the Climate Assessments is limited to the County's contribution to addressing climate change, specifically upon the County's contribution to greenhouse gas emissions and how actions suggested by legislation could help improve the County's adaptative capacity to climate change, and therefore, increase community resilience.

While co-benefits such as health and cost savings may be discussed, the focus is on how proposed County bills may impact GHG emissions and community resilience.

CONTRIBUTIONS

OLO staffer Kaitlyn Simmons drafted this assessment.

¹ [Introduction Staff Report for Bill 7-2, Introduced February 7, 2023.](#)

² Ibid.

³ Bill 3-22, Legislative Branch – Climate Assessments – Required, Montgomery County Council, Effective date October 24, 2022

Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

BILL 7-23: CONSUMER PROTECTION - GASOLINE STATION SIGNAGE

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Bill 7-23 will have a minimal impact on RESJ in the County, as it does not appear to have differing effects on constituents by race and ethnicity nor impact racial and social inequities in the County.

PURPOSE OF RESJ IMPACT STATEMENTS

The purpose of RESJ impact statements (RESJIS) is to evaluate the anticipated impact of legislation on racial equity and social justice in the County. Racial equity and social justice refer to a **process** that focuses on centering the needs, leadership, and power of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.¹ Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.²

PURPOSE OF BILL 7-23

Under State law, certain gas station signs in the County must post the lowest unit price charged for regular gas. The lowest unit price of gas varies depending upon the method of payment. Generally, the per unit price of regular gas when using a credit card is higher than the per unit price when using cash.³

If enacted, Bill 7-23 would require the posting of the highest credit price on gas station signs as a consumer protection measure. The Bill defines credit price as follows:

Credit price means the total amount, including any fees, payable to a gas station by a customer using a credit card or other non-cash form of payment, for one whole measurement unit of regular gasoline sold on the premises.

If gas stations fail to comply, it would constitute an unfair or deceptive trade practice under County law.

Bill 7-23 is aligned with Senate Bill 178, introduced in the Maryland General Assembly in January 2023. Like the Senate Bill, Bill 7-23 is intended to avoid consumer confusion about the lowest per unit price of gas.⁴

Bill 7-23, Consumer Protection – Gasoline Station Signage, was introduced by the Council on February 7, 2023.

ANTICIPATED RESJ IMPACTS

OLO anticipates Bill 7-23 will have a minimal impact on RESJ in the County, as it does not appear to have differing effects on constituents by race and ethnicity nor impact racial and social inequities in the County.

RESJ Impact Statement

Bill 7-23

RECOMMENDED AMENDMENTS

The Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.⁵ OLO anticipates Bill 7-23 will have a minimal impact on RESJ in the County. As such, OLO does not offer recommended amendments.

CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

CONTRIBUTIONS

OLO staffer Janmarie Peña, Performance Management and Data Analyst, drafted this RESJ impact statement.

¹ Definition of racial equity and social justice adopted from “Applying a Racial Equity Lens into Federal Nutrition Programs” by Marlysa Gamblin, et.al. Bread for the World, and from Racial Equity Tools. <https://www.racialequitytools.org/glossary>

² Ibid

³ Introduction Staff Report for Bill 7-23, Montgomery County Council, Introduced February 7, 2023.

https://apps.montgomerycountymd.gov/ccllms/DownloadFilePage?FileName=2782_1_23750_Bill_7-2023_Introduction_20230207.pdf

⁴ Ibid

⁵ Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council

Fiscal Impact Statement

Office of Management and Budget

Bill 7-23

Consumer Protection - Gasoline Station Signage

Bill Summary

Bill 7-23 requires that gas station signs in Montgomery County clearly and visibly state the "highest credit price", the highest price charged by the gas station for a gallon of regular gas to a customer using a credit card or other non-cash form of payment. This information will supplement the information already required under state law. Under state law, gas station signs must include the lowest price charged on the premises for a gallon of regular gas.

Fiscal Impact Summary

The bill is not expected to impact County revenues or expenditures.

Fiscal Year	0	0	0	0	0	0	Total
Personnel Costs	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Operating Expenses	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Expenditures	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Revenues	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Impact	\$0	\$0	\$0	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00	0.00	0.00	

Fiscal Impact Analysis

The bill is not expected to impact County revenues or expenditures. Staff responsibilities to support compliance with the bill will be absorbed by current Office of Consumer Protection (OCP) staff. Revenues could be generated by the issuance of civil citations for violations of the bill; however, the impact is indeterminate at this time but is expected to be minimal.

Staff Impact

Additional staff responsibilities will be derived from activities such as responding to consumer complaints against gas stations for alleged violations and conducting any proactive compliance activities, such as sweeps of retail gas station signs. These duties can be absorbed by the department's current investigative staff.

Actuarial Analysis

The bill is not expected to impact retiree pension or group insurance costs.

Information Technology Impact

The bill is not expected to impact the County Information Technology (IT) or Enterprise Resource Planning (ERP) systems.

Other Information

Later actions that may impact revenue or expenditures if future spending is projected

The bill does not authorize future spending.

Ranges of revenue or expenditures that are uncertain or difficult to project

The main variable cost will be the investigator time needed to enforce the bill. These duties will be absorbed by current OCP staff. If additional staff support is needed, the department would request an additional investigator in a future budget. Revenues generated from the issuance of civil citations are difficult to predict without first knowing the extent to which Montgomery County will be collaborating with the Comptroller of Maryland regarding enforcement activity. If any such revenues are



realized however, they will be minimal.

Contributors

Eva Acevedo, Office of Management and Budget
Eric Friedman, Office of Consumer Protection
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Patricia Vitale, Office of Consumer Protection



Economic Impact Statement

Montgomery County, Maryland

Bill 7-23

Consumer Protection – Gasoline Station Signage

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Bill 7-23 would have a small positive impact on economic conditions in the County in terms of the Council's priority indicators. By requiring gas stations to post the highest credit price on signs as a consumer protection measure, the Bill likely would induce behavioral changes among certain resident motorists which likely would result in small increases in net discretionary income. While these behavioral changes may have mixed economic impacts on certain County-based gas stations, OLO does not expect the Bill to cause resident motorists to use gas stations based outside the County more than they otherwise would in its absence. Thus, the Bill likely would not reduce total demand for County-based gas stations.

BACKGROUND AND PURPOSE OF BILL 7-23

Under State law, certain gas station signs in the County must post the lowest unit price charged for regular gas. The lowest unit price of gas varies depending upon the method of payment. Generally, the per unit price of regular gas when using a credit card is higher than the per unit price when using cash.

If enacted, Bill 7-23 would require the posting of the highest credit price on gas station signs as a consumer protection measure. The Bill defines credit price as follows:

Credit price means the total amount, including any fees, payable to a gas station by a customer using a credit card or other non-cash form of payment, for one whole measurement unit of regular gasoline sold on the premises.

If gas stations fail to comply, it would constitute an unfair or deceptive trade practice under County law.

Bill 7-23 is aligned with Senate Bill 178, introduced in the Maryland General Assembly in January 2023. Like the Senate Bill, Bill 7-23 is intended to avoid consumer confusion about the lowest per unit price of gas.

Bill 7-23, Consumer Protection – Gasoline Station Signage, was introduced by the Council on February 7, 2023.¹

INFORMATION SOURCES, METHODOLOGIES, AND ASSUMPTIONS

Per Section 2-81B of the Montgomery County Code, the purpose of this Economic Impact Statement is to assess, both, the impacts of Bill 7-23 on residents and private organizations in terms of the Council's priority economic indicators and whether the Bill would have a net positive or negative impact on overall economic conditions in the County.²

¹ The bill description is based on the [Introduction Staff Report for Bill 7-23](#).

² Montgomery County Code, [Sec. 2-81B](#).

To assess the Bill's impacts on the Council's priority indicators, OLO performs a qualitative assessment based on the following sources of information:

- Introductory Staff Report for Bill 7-23;
- Fiscal and Policy Note for MD Senate Bill 178; and
- Consumer survey conducted by GasBuddy.

The primary assumption underlying the claims made in the analysis below is the following: the per unit price of regular gas when using a credit card is higher than the per unit price when using cash.

VARIABLES

The primary variables that would affect the economic impacts of Bill 7-23 are the following:

- Average per unit gas price for cash;
- Average per unit gas price for credit cards/debit cards; and
- Total number of resident motorists.

IMPACTS

WORKFORCE ▪ TAXATION POLICY ▪ PROPERTY VALUES ▪ INCOMES ▪ OPERATING COSTS ▪ PRIVATE SECTOR CAPITAL INVESTMENT ▪ ECONOMIC DEVELOPMENT ▪ COMPETITIVENESS

Residents

OLO anticipates Bill 7-23 would have a small positive economic impact on certain residents in the County in terms of the Council's priority indicators.

Requiring gas stations to post the highest credit price on signs as a consumer protection measure primarily would impact resident motorists. According to a 2019 survey of American gas purchasing behavior by GasBuddy, a U.S.-based tech company, 51 percent of respondents said they pay for gas using a debit card and 37% said they use a credit card. This study suggests that many resident motorists likely rely on non-cash form of payments to purchase gas.

The Bill likely would provide more accurate information to certain resident motorists on the highest credit price for gas, which may impact their consumer behavior in several ways. First, assuming the per unit price of regular gas when using a credit card is higher than the per unit price when using cash, certain resident motorists may pay for gas in cash more than they otherwise would without the change of law. Second, more accurate signage may help certain residents identify gas stations with more affordable credit card prices for gas. Holding all else equal, these behavioral changes would result in minor decreases in gas expenses for certain resident motorists, thereby slightly increasing their net discretionary income (i.e., income remaining after paying taxes and living expenses).

Beyond this potential impact, OLO does not expect the Bill to affect residents in terms of the Council's other priority indicators.

Businesses, Non-Profits, Other Private Organizations

OLO anticipates Bill 7-23 would have mixed impacts on certain private organizations in the County in terms of the Council's priority indicators.

As previously stated, requiring gas stations to post the highest credit price on signs as a consumer protection measure may help certain residents identify gas stations with more affordable credit card prices for gas. This change in consumer behavior may have mixed impacts on certain gas stations, with some experiencing minor net increases in business revenue and others minor net decreases in revenue.

Beyond these potential impacts, OLO does not expect the Bill to affect private organizations in terms of the Council's other priority indicators.

Net Impact

OLO anticipates Bill 7-23 would have a small positive net impact on economic conditions in the County in terms of the Council's priority indicators. As previously discussed, the Bill likely would induce behavioral changes among certain resident motorists which would result in small increases in net discretionary income. These behavioral changes may have mixed economic impacts on certain County-based gas stations. Importantly, OLO does not expect the Bill to reduce total demand for County-based gas stations, as it is unlikely the change in law would result in many residents using gas stations outside the County more than they otherwise would in its absence.

DISCUSSION ITEMS

Not applicable

WORKS CITED

Montgomery County Code. [Sec. 2-81B, Economic Impact Statements](#).

Montgomery County Council. Bill7-23, Consumer Protection – Gasoline Station Signage. Introduced February 7, 2023.

CAVEATS

Two caveats to the economic analysis performed here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. Second, the analysis performed here is intended to *inform* the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the Bill under consideration.

AUTHOR

Stephen Roblin (OLO) prepared this report.



OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich
County Executive

MEMORANDUM

February 28, 2023

TO: Evan Glass, President
Montgomery County Council

FROM: Marc Elrich, County Executive *Marc Elrich*

SUBJECT: Bill 7-23, Consumer Protection – Gasoline Station Signage

I support the goals of Bill 7-23 to ensure consumers are not subjected to misleading or deceptive advertising or signage and that merchants can compete in a fair marketplace. I agree gasoline stations in Montgomery County should “clearly and visibly” post the “highest credit price,” in addition to complying with all the signage required by the State of Maryland.

In 1980 Maryland adopted a law that currently provides that gasoline station sellers must post a sign stating the “lowest price” for regular gasoline. This law is enforced by the Comptroller of Maryland and contains specific requirements regarding the size of the signs. There are estimated to be 600 gasoline stations in Montgomery County.

While these sellers are required to post the “lowest price,” numerous sellers post the required price with a variety of additional terms and conditions that are not clearly disclosed to consumers. Most consumers today purchase gasoline with a credit or debit card rather than with cash. These additional terms and conditions may cause the advertisements or signage to have the “capacity, tendency, or effect” of deceiving or misleading consumers who want to receive the lowest price and want to be able to compare prices.

The Office of Consumer Protection staff is available to participate in worksessions to facilitate enhancements to protect consumers and merchants.

Testimony In Favor of Bill 7-23: Consumer Protection - Gasoline Station Signage
From Barbara Garrard, Gaithersburg

I support Bill 7-23 as defined in the Council staff report.

Most customers pay for gasoline with a credit or debit card and we want to know the price per gallon before pulling up to a pump. Any gas station that currently posts the credit card price is at a competitive disadvantage since so many post the cash price. Only a legal requirement to post the highest price in large digits will even the playing field for consumers and gas stations.

Thank you for considering my position on this topic.

I am in favor of passing "Bill 7-23: Consumer Protection - Gasoline Station Signage". Many gas station purposely mislead the public by using "cash prices" or "price with car wash". Forcing the owners to use credit card prices will even out the field and make it fair and less confusing for everyone. Bruce "Big Bruno" Cohen

Gas Stations should make clear on their posted **clear** signs for Gasoline
the true costs per gallon weather with washing, oil changes, cash, credit ETC.

I am opposed to Bill 7-23, 'Consumer Protection – Gasoline Station Signage'. Requiring gas stations to display the credit card price for a gallon of gasoline or the highest price for a gallon of gasoline will remove the incentives for gas stations to offer a discount for cash purchases. I strongly feel that the current state law requiring that, "the signs must include the lowest unit price charged for regular gas on the premises," is in the best interest of consumers.

The current law allows consumers that are concerned with getting the lowest price to compare lowest prices, and decide if paying via a credit card is worth the additional cost.

Michael Baker

[REDACTED]

[REDACTED]



Bill 7-23, Consumer Protection – Gasoline Station Signage
Montgomery County Council
February 28, 2023

Position: Unfavorable

Background: Bill 7-23 would require fuel stations in Montgomery County to clearly highlight the highest credit price for gasoline.

Comments: The Maryland Retailers Association is opposed to Bill 7-23. This proposal is unnecessary and would negatively impact both consumers and existing fuel stations operating in the County.

Consumers are constantly searching for the lowest price that they can pay for a product or service, and this does not exclude prices for gasoline. Many gas stations provide discounts through loyalty programs and other services like car washes, and a variety of apps exist to help drivers identify the lowest prices in their area. It is common for consumers to even travel out of their way or make extra trips to save money and pay less for gas. State law even requires retailers to display the lowest price for gas to assist customers in this endeavor.

Differences between cash and credit prices exist because of card swipe fees. When a customer makes a purchase using a debit or credit card, banks and card networks charge a swipe fee of the business to process the transaction. Swipe fees typically range between 2-4% and are shouldered by the business. These fees are subsidized by item prices for most sectors of retail. Gas stations that advertise a lower price for purchases made with cash are providing transparency around this swipe transaction cost by allowing customers to choose how they would like to pay.

Many retailers are currently operating with signs that cannot display both cash and credit prices at the same time. They may have signs that transition between prices or display the credit price on a separate sign. Upgrading these signs can be very costly and would be required should this proposal pass. Additionally, State law requires that the lowest price be included on signage. Violation of State provisions can result in a penalty of up to \$5,000 and/or one year imprisonment.

Businesses are not operating with the intent to deceive customers and should not be accused of such by simply sharing the lowest price that is most often sought by consumers and required by State law. For this reason, we would urge an unfavorable vote on this proposal. Thank you for your consideration.



WMDA/CAR Service Station
and Automotive Repair Association

March 20, 2023

Christine M. Wellons
Legislative Attorney, Montgomery County Council
100 Maryland Avenue, 6th Floor
Rockville, MD 20850

Ms. Wellons:

Re: 07-23 Additional Comment/Amendment for consideration
Solution, take **within the sign** out of the bill and add a **sign that is clearly visible from the street, which displays highest price**. This way an A-Frame Sign could be used that is affordable and can meet the effective date.

Price sign Bill 07-23 makes it very hard to offer discounts for cash or car wash, both are items that save the dealer the credit card fees that he pays and benefits those individuals that do not have credit cards or choose to save money.

This bill on page 3 line 29 says "within the sign" additional pricing information". Since there is no room for additional pricing within the sign, this would require a new sign. Digital signs that are used costs run \$12,000 and up plus permitting, installation. Supply chain could also be a problem.

Dealers could very well not have a choice but to go back to no discount. This would eliminate a benefit to those that need it the most. In the whole state of Maryland there have been 20 complaints of sign price not matching pump price in FY 2022. That's one complaint for every seven million transactions.

Because of supply chain, permitting, sign and installation costs and bill effective date this would solve the perceived problem, and still offer a lower price.

I can be reached at 301-775-0221 to answer any questions.

Respectfully,

Kirk McCauley



WMDA/CAR Service Station and Automotive Repair Association

To: Montgomery County Council
RE:07-23 Gasoline Station Signage
Position: Not in favor

Retail sellers of motor fuel are required to post their lowest price for regular gasoline. Credit card fees are high, and some dealers offer a less expensive price for gas by providing a cash price or combining it with car wash. Consumers have a choice.

Maryland Weights and Measures regulates price signs and stations are required to put cash or car wash on signs. Cash price benefits those that wish to save or for assorted reasons do not qualify for credit card. Price on sign must match price on pump. Weight and Measures phone number is on every pump. This bill could deprive those that do not have a credit card or choose to save by paying cash the opportunity to do so.

This bill says within the sign, some dealer would have to replace their sign entirely to comply or go back to single price and no discount. New signs are very expensive and can be up to \$25,000, with permits, and installation.

No gasoline retailer is out to deceive the public, gasoline sales are not a onetime purchase. Repeat business and regular customers are what motor fuel retailers depend on.

Consider the gallons pumped at retail and the number of customer complaints.

Maryland Gasoline retailers sold *2,364,526,038. gallons of gasoline in *FY2022. That is two billion, three hundred and sixty four million, five hundred and thirty six thousand gallons. Using a very liberal sixteen (16) gallon per transaction that equals 147,782,877 individual retail transactions. This is 147 million plus transactions at retail pumps with only twenty complaints(20) about the price not matching the street sign. There were nineteen complaints registered at Weights and Measures and one at the Comptroller's office, that street price did not match pump price (FY2022). One (1) complaint for every 7, 389,143 purchases. One complaint for over seven million transactions. The numbers speak for themselves.

*Maryland, Motor Fuel Tax and Motor Carrier Tax (IFTA) Annual Report

WMDA/CAR is a trade association that has represented service stations, convenience stores and independent repair shops since 1937. Any questions can be addressed to Kirk McCauley, 301-775-0221 or kmccauley@wmdda.ne