



NJ Gasoline, C-Store, Automotive Association
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To: Assembly Regulated Professions Committee
From: Eric Blomgren, Executive Director
New Jersey Gasoline, Convenience Store, Automotive Association

Re: Oppose A-5620 “Prohibits increase of staple food prices more than once per day.”

On behalf of the hundreds of convenience stores our association represents across this state, many of them independent small businesses, we oppose this legislation, which we think will have unintended consequences that hurt both businesses and consumers.

While the bill’s language may allude to grocery stores selling certain products to be cooked in the home, the definitions for “retail food store” and “staple food good” would cover convenience stores and could cover most of the food items they sell. For example, it covers. Even if the language were changed to restrict the rule to basic unprepared ingredients, it would still cover something like an apple or banana sold by a c-store for customers on the go, and a term like “baked goods” would include items like muffins or cookies even though they are non-essential treats.

Currently, few store operators are going through the effort of changing their products’ prices more than once a day, but if they are there is generally going to be a good reason for it, such as an unanticipated increase in wholesale prices on a product delivered daily. If the person setting the price knows that they will now be legally bound to this price for a period of not less than 24 hours, then they may overcompensate and set the price slightly higher than they would have otherwise to ensure they have a cushion in the event of something unexpected happening later in the day or overnight.

Another unfortunate impact this bill would have on pricing would be to disrupt certain kinds of limited sales. For example, as the clock approaches lunchtime a store may choose to offer a discount on unsold breakfast sandwiches—a Bacon, Egg, and Cheese sandwich consisting of the staple goods of bakery product, egg, meat, and dairy and meant for off-premises consumption—would no longer be able to offer that discount since they would be unable to reset their price the next morning—they would have to wait 24 hours until the next afternoon. The same would be true of foods offered at a discount at the end of the day before closing.

Without that ability to discount, it makes it more likely that food will go to waste, which is detrimental to the environment and is a total loss for the business, which hurts the overall bottom line, which then has to be compensated for by higher prices overall.

Sometimes these ‘clearance’ type discounts are offered as “buy one get one free” or a similar rate. Compliance with this bill could mean forcing that sale to last at least 24 hours rather than just for the rest of the day, and therefore lead to the discount not being offered at all.

Spiking food prices are most likely to occur during some kind of crisis, or state of emergency, which is a situation in which the state’s gouging prohibition would already be in effect to protect consumers. Even that law allows for price increases if the retailer’s wholesale cost has increased.

In the event of spiking prices, a store owner could conceivably be in a position where they have to choose between either violating this bill, selling below cost, or restricting the sale of certain items until a certain time of day. Ensuring compliance with the bill would also necessitate business operators keep track of when the last time the price of any given product was changed in order to ensure that at least 24 hours had passed.

The fines on retailers are also severe, at \$1,000 per product they could escalate quickly, such as for a retailer making an honest mistake about how much time had passed since a price change, and especially since the bill would take effect immediately upon signing by the Governor. There could also be a genuine disagreement between the retailer and the enforcement officer about whether a particular product qualifies as a covered “staple food good” or not.

If there is a fear of some kind of future of dynamic pricing shifts throughout the day, most independent small businesses will neither pay for that technology nor have the time to implement it.

Given the unintended consequences of this proposal that could eliminate certain kinds of sales, and the negative impact on small businesses, we ask that you not move forward with the bill. Thank you.