

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF LAW

GEORGE A. NILSON, City Solicitor
101 City Hall
Baltimore, Maryland 21202

March 19, 2015

The Honorable President and Members
of the Baltimore City Council
Attn: Natawna B. Austin, Executive Secretary
Room 409, City Hall, 100 N. Holliday Street
Baltimore, Maryland 21202

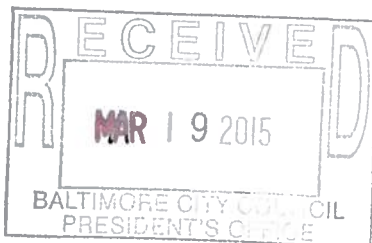
Re: City Council Bill 15-0484 – Motor Fuel Sales – Air Pumps

Dear President and City Council Members:

You have requested the advice of the Law Department regarding City Council Bill 15-0484. This bill repeals the requirement that motor fuel service stations provide patrons with the free use of air pumps for tire inflation.

Under Article II, Section 17 of the Baltimore City Charter, the City has the general power to regulate all businesses within its jurisdiction. This regulation is an exercise of the City's police powers found in Article II, Section 27 of the City Charter. Police powers can be legitimately exercised when the regulations are rationally related to preserving the peace, good government, health and welfare of the public. *See* City Charter, Article II, Section 47. When such justification is present, the City is entitled to "great deference" in determining how it addresses its problems. *New Orleans v. Dukes*, 427 U.S. 297, 303-304 (U.S. 1976). Repealing the portion of the law requiring free use of air pumps is a proper exercise of this power; therefore the Law Department approves this bill for form and legal sufficiency.

The Law Department notes, however, that Article 2, Section 10-3(a) of the Consumer Protections Article states that "The Mayor and City Council of Baltimore finds and declares that the public health, safety, welfare, and convenience require motor fuel service stations offering motor fuel for sale at retail to the public, have and maintain toilet and hand washing facilities, air pumps for tire inflation, and water for motor vehicle purposes." For clarity, "air pumps for tire inflation" should be deleted from the declaration section if the services were combined therein because they are free. However, if the intent is to state that air pumps are a simply needed service, but must not be free, no amendment is necessary.



Sincerely,

Jennifer Landis
Assistant Solicitor

cc: George Nilson, City Solicitor
Angela C. Gibson, Mayor's Legislative Liaison
Elena DiPietro, Chief Solicitor, General Counsel Division
Victor Tervala, Chief Solicitor
Hilary Ruley, Chief Solicitor

Fav w/ Amend.