



New York Association of Convenience Stores  
130 Washington Avenue, Suite 300, Albany NY 12210

---

TELEPHONE: (800) 33-NYACS or (518) 432-1400

FAX: (518) 432-7400

## **MEMORANDUM IN OPPOSITION**

### **S.7308 by Senator Peralta**

AN ACT to amend the general business law, in relation to prohibiting more than one increase in the price of gasoline in any twenty-four hour period

The New York Association of Convenience Stores, representing nearly 5,000 neighborhood mini-marts and convenience stores across the state that sell gasoline, opposes this legislation, which would prohibit motor fuel retailers and suppliers from increasing their price more than once per day.

While we share the sponsor's goal of price consistency for New York motorists, it is difficult to attain given that motor fuel is a publicly traded commodity, its value rising or falling by the minute.

Some stores do adjust prices up or down during the day as an incentive to motorists to fill up during off-peak hours, spreading business more evenly and minimizing the inconvenience of lines at the pump. It's no different than a restaurant offering reduced prices for early birds. There is no justification for denying motor fuel retailers this flexibility. The recourse for consumers who find this annoying is to drive on to a competing station with a pricing strategy more to their liking.

Aside from the above practice, multiple increases in pump prices generally occur only under extreme market conditions. During such periods of price volatility, artificial constraints such as those recommended here could actually harm consumers.

On those rare occasions when fear of a supply shortage triggers irrational panic buying, more than one price increase in a given day may become necessary as a temporary defense mechanism to slow buying and protect supply. Otherwise, the retailer will quickly run out of fuel, feeding the consumer panic and further stretching supplies. The retailer's only other alternative is to temporarily close, making matters worse.

In order to allow the marketplace the freedom to work its way through such a temporary upheaval, and to preserve the ability of retailers to set prices without government interference, we oppose passage of this legislation.

**James S. Calvin**  
**President, NYACS**  
**June 24, 2010**