

WITHDRAWN AS OF 10/7/2014
AMENDED COPY AS OF 5/5/2014

Intro. Res. No. 1314-2014

Laid on Table 3/18/2014

Introduced by Legislators Schneiderman and Lindsay

RESOLUTION NO. -2014, ADOPTING LOCAL LAW
NO. -2014, A LOCAL LAW TO REQUIRE CONSUMER
NOTIFICATION FOR DISPARATE GASOLINE PRICING

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on March 18, 2014, a proposed local law entitled, "**A LOCAL LAW TO REQUIRE CONSUMER NOTIFICATION FOR DISPARATE GASOLINE PRICING**"; now, therefore be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. -2014, SUFFOLK COUNTY, NEW YORK

A LOCAL LAW TO REQUIRE CONSUMER NOTIFICATION FOR
DISPARATE GASOLINE PRICING

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF
SUFFOLK, as follows:

Section 1. Legislative Intent.

This Legislature hereby finds and determines that New York State General Business Law § 518 prohibits retailers from imposing a surcharge on purchases made using a credit card, but does not prohibit a discounted rate for cash purchases.

This Legislature further finds that discrepancies between cash and credit card transactions arise most often with purchases of gasoline. Many retailers charge credit customers slightly higher prices to reflect the costs they incur on credit transactions.

This Legislature finds that most gasoline retailers limit "cash discounts" to ten cents per gallon or less. However, there is a persistent practice among a minority of gasoline retailers to charge credit customers up to \$1 more for each gallon of gasoline purchased.

This Legislature determines that unsuspecting customers can end up paying up to \$15 or \$20 more than anticipated when they fill up their vehicles with gasoline at stations that impose a large surcharge on credit transactions.

This Legislature concludes that consumers utilizing debit or credit cards should, at the very least, receive proper notification from retailers of the price difference between cash and credit purchases before they consent to the transaction.

Therefore, the purpose of this law is to require gasoline retailers to properly notify consumers of any price differential between cash and credit transactions.

Section 2. Definitions.

“Gasoline” shall mean - any fuel sold in Suffolk County for use in motor vehicles and motor vehicle engines and commonly or commercially known or sold as "gasoline."

“Operator” shall mean - the person in charge of a business which markets gasoline, kerosene or diesel motor fuel to the general public for ultimate consumption. This term shall specifically include, but not be limited to, the owner, lessee, manager, assistant manager or any other person in charge of the operations or activities of any such business.

Section 3. Requirement.

All operators charging consumers a different price for gasoline based on the use of cash versus credit and/or debit cards in which the credit/debit price exceeds the cash price by more than 5 percent, shall notify credit/debit card customers of the price differential per gallon of gasoline and obtain the consumers consent to the transaction prior to fueling. Such operators shall provide consumer notification and obtain consent by including on the menu of their automated gasoline pumps, a prompt that shall read as follows:

“THE PRICE PER GALLON FOR THIS CREDIT/DEBIT PURCHASE OF GASOLINE EXCEEDS THE CASH PRICE BY MORE THAN 5%. PRESS YES TO PROCEED WITH THIS TRANSACTION OR NO TO CANCEL.”

Section 4. Enforcement.

This law will be enforced by the Department of Labor, Licensing and Consumer Affairs. The Commissioner of the Department of Labor, Licensing and Consumer Affairs is hereby authorized and empowered to promulgate rules and regulations necessary to implement this law.

Section 5. Penalties for Violations.

Any operator who violates this law shall be subject to a penalty of up to \$1,000 per violation. No penalties shall be imposed by the Department of Labor, Licensing and Consumer Affairs until a hearing is held by the Commissioner or his or her designee and the operator charged with the violation is given an opportunity to be heard.

Section 6. Applicability.

This law shall apply to actions occurring on or after the effective date of this law.

Section 7. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm,

partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 8. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 9. Effective Date.

This law shall take effect 180 days after its filing in the Office of the Secretary of State.

DATED:

APPROVED BY:

County Executive of Suffolk County

Date: