



Orton Oil
P.O. Box 820
Walker, MN 56484

February 28th, 2023

To Whom It May Concern:

RE: Repeal of gasoline selling below cost law

By way of introduction, my name is Frank Orton and I am an owner of Orton's Convenience stores, a 15 store chain in northern Minnesota, with one store in North Dakota. I am writing this letter in opposition to the repeal of the Gasoline below selling cost law.

There is an academic fallacy being presented that removal of this law will somehow lower the cost of gasoline in the State of Minnesota. In reality, all a repeal will do is remove necessary safe guards for the small chains and single store retailers in Minnesota.

The fact of the matter is that most Convenience store operators break even point is much higher than the legal low protections set forth in the current law. The typical retail price is much higher than the 8 cent markup required in the bill as that is what is necessary to charge to stay in business after paying our operating costs. It should be no surprise most, if not all, of our operating costs have risen since the Covid pandemic, largely due to the heavy increases in the labor market for our own companies as well as our vendors and supplier we do business with.

As a small family-owned chain of convenience stores we compete against many national and international publicly traded companies in our various marketplaces. These companies have enough locations and geographic spread to weather any singular market falls pretty to predatory pricing. The likes of which include:

- Sam's Club, Walmart, Costco, Mills Fleet Farm
- Kwik Trip - over 800 stores in multiple states
- Holiday - over 600 locations across multiple states, now wholly owned by Circle K which has over 14,000 locations nationwide and internationally
- Casey's General Store- publicly traded company with over 2,300 locations

The present law under consideration for repeal is needed to protect small retail chains like ourselves and even more so, single store owners, from instances when market players decide to sell gasoline at a level that would lead a small marketer to lose money and go

out of business. In most instances these larger marketers would have similar issues if they did not have such a large and diversified portfolio of stores across multiple States.

The law was needed and enacted in 1999 because the predatory pricing was taking place and was causing financial ruin of various gasoline marketers. The typical predatory pricing laws were not adequate or expedient enough to provide adequate remedy for gasoline retailers under attack via predatory pricing.

The repeal of this bill is positioned as a way to help consumers and lower the cost of retail fuel. This is a very theoretical and academia minded argument, on one that is false. We already operate in a very competitive market place with many competing companies. Markets and consumers benefit from competition, **Fair Competition**. Allowing single store operators and small chains to be driven out of business will not lower the cost for consumers. Monopolies and Oligopolies do not lead to lower prices for the consumer, in fact they lead to the opposite.

There is also an argument that standard predatory pricing laws are in place and adequate to safe guard against the above described practices. The reality is that small single store owners and small chains do not have the financial capital and time when they are being driving out of business to initiate, pay for and see through the conclusion of any lawsuit they could bring under the standard predatory pricing laws. Small marketers would be out of business and money long before they could ever utilize these laws to hold predatory actors to account.

In sum, I respectfully ask that you do not support repeal of this bill as it is a very necessary safeguard for all gasoline marketers in the State of Minnesota (both large and small) and will continue to ensure a competitive landscape which always favors the consumer.

Sincerely,



Frank Orton