

To: Senate Committee On Energy and Environment

April 12, 2023

From: Barry O'Mahony (Bend, OR)

Subject: House Bill 2426

I am writing to urge you to support HB 2426, which would authorize self-service dispensing of Class 1 flammable liquids at retail fuel dispensaries. It was recently approved by the Oregon State House on a bipartisan basis.

The written testimony I submitted to the House Committee on Emergency Management, General Government, and Veterans may be found at <https://olis.oregonlegislature.gov/liz/2023R1/Downloads/PublicTestimonyDocument/53676> and I won't reiterate all the points I made there here. As I'm sure you're aware, self-serve dispensing is currently permitted in half of Oregon's counties. I see no reason why it cannot be permitted in Deschutes County, where I reside, as well. Reading some of the written testimony submitted to the House committee by those opposed to the bill, it appears many of them never even read it. Most of their concerns, such as being forced to dispense gas themselves, or being required to pay a higher price for full service, would be illegal under HB 2426, just as it is today.

I understand there are differences of opinion on this issue. But HB 2426 is a win-win compromise for everyone. Some people can't understand why someone would want to dispense their own gasoline if there is an attendant to do it for them. Conversely, for me, time is life's most precious commodity, and I don't understand why an able-bodied person would waste it by waiting for someone to do something that they can quickly and easily do themselves. HB 2426 accommodates both points of view, and continues to provide assistance for those that desire it.

In the past I had heard that the reason the ban was put in place both here and in New Jersey was for price-protection and anti-competition reasons, but didn't know the details. I looked into this and the Newark Star Ledger did a report on it a few years ago. It began in 1949 when Irving Reingold opened a new gas station in Hackensack, New Jersey with a new business model: self-serve dispensing. He priced it 3 cents lower than the set price agreed upon by the cartel of incumbent station owners. The local fire chief signed off on it and said it was perfectly safe.

But the incumbents were upset. Someone shot at Reingold's station but that wasn't enough to shut him down. So they ran to the Legislature and got them to do the dirty work for them. They passed the Retail Gasoline Dispensing Safety Act to ban self-serve using the pretext of safety, which the proponents admitted was just a ruse. N.J.S.A. 34:3A-4 contains the list of "safety concerns" the Legislature used to justify their inference in the marketplace.

Oregon followed New Jersey's lead in 1951 and also passed legislation to protect incumbents, with largely the same bogus reasons. In fact, ORS 480.315 is largely a copy of the New Jersey statute section, with some provisions that are just as silly. One rationale listed is to save customers from being "exposed" to toxic fumes for a few minutes every week or two when they fill up. The Legislature's solution to this is to expose attendants to these fumes for a full 8-hour shift, day after day. Hypocritically, the Legislature does not require Oregon OSHA to fine gas stations for failing to provide attendants with respirators and other Hazmat gear. Retail dispensing of diesel has always been legal and it's perplexing that the Legislature is OK with exposing retail customers to toxic diesel fumes, if in fact

this was a legitimate concern. Of course, the reality is that it's not, since retail pumps are located outside and especially with the modern vapor-recovery nozzles now in common use.

When Representatives Boshart Davis and Fahey presented the bill, they admitted that it wasn't the most important issue in this session. But I believe that government should strive to minimize the inconveniences it imposes on its citizens when it can. It's been estimated that just a 30 second delay in completing a fill-up causes a yearly waste of 300,000 hours that Oregonians could be using to do something different. By passing HB 2426, the only Oregonians using their time in this manner would be those freely choosing to do so, and the rest of us would no longer be forced to by government edict.

Sincerely,
Barry O'Mahony
Bend, Oregon