

# HOUSE BILL 1144

C5

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By: **Delegate W. Miller**

Introduced and read first time: February 11, 2016

Assigned to: Economic Matters

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Committee Report: Favorable

House action: Adopted

Read second time: March 9, 2016

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Gas and Electric Companies – Retail Choice Customer Education and**  
3 **Protection Fund**

4 FOR the purpose of establishing the Retail Choice Customer Education and Protection  
5 Fund as a special, nonlapsing fund; specifying the purpose of the Fund; requiring the  
6 Public Service Commission to administer the Fund; requiring the State Treasurer to  
7 hold the Fund and the Comptroller to account for the Fund; specifying the contents  
8 of the Fund; specifying the purpose for which the Fund may be used; providing for  
9 the investment of money in and expenditures from the Fund; requiring that certain  
10 civil penalties be paid into the Fund; defining a certain term; and generally relating  
11 to the Retail Choice Customer Education and Protection Fund.

12 BY adding to  
13 Article – Public Utilities  
14 Section 7–310  
15 Annotated Code of Maryland  
16 (2010 Replacement Volume and 2015 Supplement)

17 BY repealing and reenacting, without amendments,  
18 Article – Public Utilities  
19 Section 7–505(b)(7), 7–507, 7–603, 7–604, 7–606, and 13–201(b)  
20 Annotated Code of Maryland  
21 (2010 Replacement Volume and 2015 Supplement)

22 BY repealing and reenacting, with amendments,

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – Public Utilities  
2 Section 13–201(e)  
3 Annotated Code of Maryland  
4 (2010 Replacement Volume and 2015 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
6 That the Laws of Maryland read as follows:

7 **Article – Public Utilities**

8 **7–310.**

9 (A) IN THIS SECTION, “FUND” MEANS THE RETAIL CHOICE CUSTOMER  
10 EDUCATION AND PROTECTION FUND.

11 (B) THERE IS A RETAIL CHOICE CUSTOMER EDUCATION AND PROTECTION  
12 FUND.

13 (C) THE PURPOSE OF THE FUND IS TO PROVIDE RESOURCES TO IMPROVE  
14 THE COMMISSION’S ABILITY TO:

15 (1) EDUCATE CUSTOMERS ON RETAIL ELECTRIC AND GAS CHOICE;  
16 AND

17 (2) PROTECT CUSTOMERS FROM UNFAIR, FALSE, MISLEADING, OR  
18 DECEPTIVE PRACTICES BY ELECTRICITY OR GAS SUPPLIERS.

19 (D) THE COMMISSION SHALL ADMINISTER THE FUND.

20 (E) (1) THE FUND IS A SPECIAL, NONLAPPING FUND THAT IS NOT  
21 SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

22 (2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY,  
23 AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

24 (F) THE FUND CONSISTS OF:

25 (1) REVENUE DISTRIBUTED TO THE FUND UNDER § 13–201(E)(3) OF  
26 THIS ARTICLE;

27 (2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND; AND

28 (3) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR  
29 THE BENEFIT OF THE FUND.

1           **(G) THE FUND MAY BE USED ONLY TO:**

2                   **(1) EDUCATE RETAIL ELECTRIC OR GAS CUSTOMERS ON RETAIL**  
3 **CHOICE; AND**

4                   **(2) IMPROVE CUSTOMER PROTECTIONS FOR RETAIL ELECTRIC OR**  
5 **GAS CUSTOMERS.**

6           **(H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND**  
7 **IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.**

8                   **(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED**  
9 **TO THE GENERAL FUND OF THE STATE.**

10           **(I) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE**  
11 **WITH THE STATE BUDGET.**

12 7-505.

13           (b) (7) An electricity supplier may not engage in marketing, advertising, or  
14 trade practices that are unfair, false, misleading, or deceptive.

15 7-507.

16           (a) A person, other than an electric company providing standard offer service  
17 under § 7-510(c) of this subtitle or a municipal electric utility serving customers solely in  
18 its distribution territory, may not engage in the business of an electricity supplier in the  
19 State unless the person holds a license issued by the Commission.

20           (b) An application for an electricity supplier license shall:

21                   (1) be made to the Commission in writing on a form adopted by the  
22 Commission;

23                   (2) be verified by oath or affirmation; and

24                   (3) contain information that the Commission requires, including:

25                           (i) proof of technical and managerial competence;

26                           (ii) proof of compliance with all applicable requirements of the  
27 Federal Energy Regulatory Commission, and any independent system operator or regional  
28 or system transmission operator to be used by the licensee;

1 (iii) a certification of compliance with applicable federal and State  
2 environmental laws and regulations that relate to the generation of electricity; and

3 (iv) payment of the applicable licensing fee.

4 (c) The Commission shall, by regulation or order:

5 (1) require proof of financial integrity;

6 (2) require a licensee to post a bond or other similar instrument, if, in the  
7 Commission's judgment, the bond or similar instrument is necessary to insure an electricity  
8 supplier's financial integrity;

9 (3) require a licensee to:

10 (i) provide proof that it is qualified to do business in the State with  
11 the Department of Assessments and Taxation; and

12 (ii) agree to be subject to all applicable taxes; and

13 (4) adopt any other requirements it finds to be in the public interest, which  
14 may include different requirements for:

15 (i) electricity suppliers that serve only large customers; and

16 (ii) the different categories of electricity suppliers.

17 (d) A license issued under this section may not be transferred without prior  
18 Commission approval.

19 (e) The Commission shall adopt regulations or issue orders to:

20 (1) protect consumers, electric companies, and electricity suppliers from  
21 anticompetitive and abusive practices;

22 (2) require each electricity supplier to provide, in addition to the  
23 requirements under § 7-505(b)(5) of this subtitle, adequate and accurate customer  
24 information to enable customers to make informed choices regarding the purchase of any  
25 electricity services offered by the electricity supplier;

26 (3) establish reasonable restrictions on telemarketing;

27 (4) establish procedures for contracting with customers;

28 (5) establish requirements and limitations relating to deposits, billing,  
29 collections, and contract cancellations;

1 (6) establish provisions providing for the referral of a delinquent account  
2 by an electricity supplier to the standard offer service under § 7–510(c) of this subtitle; and

3 (7) establish procedures for dispute resolution.

4 (f) In accordance with regulations or orders of the Commission, electricity bills,  
5 for competitive and regulated electric services, provided to consumers may provide, in  
6 addition to the requirements of § 7–505(b)(5) of this subtitle and subsection (e)(2) of this  
7 section, the following information:

8 (1) the identity and phone number of the electricity supplier of the service;

9 (2) sufficient information to evaluate prices and services; and

10 (3) information identifying whether the price is regulated or competitive.

11 (g) (1) An electricity supplier or any person or governmental unit may not,  
12 without first obtaining the customer's permission:

13 (i) make any change in the electricity supplier for a customer; or

14 (ii) add a new charge for a new or existing service or option.

15 (2) The Commission shall adopt regulations or issue orders establishing  
16 procedures to prevent the practices prohibited under paragraph (1) of this subsection.

17 (h) (1) An electricity supplier may not discriminate against any customer  
18 based wholly or partly on race, color, creed, national origin, or sex of an applicant for service  
19 or for any arbitrary, capricious, or unfairly discriminatory reason.

20 (2) An electricity supplier may not refuse to provide service to a customer  
21 except by the application of standards that are reasonably related to the electricity  
22 supplier's economic and business purposes.

23 (i) An electricity supplier shall be subject to all applicable federal and State  
24 environmental laws and regulations.

25 (j) An electricity supplier shall post on the Internet information that is readily  
26 understandable about its services and rates for small commercial and residential electric  
27 customers.

28 (k) (1) The Commission may revoke or suspend the license of an electricity  
29 supplier, impose a civil penalty or other remedy, order a refund or credit to a customer, or  
30 impose a moratorium on adding or soliciting additional customers by the electricity  
31 supplier, for just cause on the Commission's own investigation or on complaint of the Office  
32 of People's Counsel, the Attorney General, or an affected party.

1           (2)    A civil penalty may be imposed in addition to the Commission's decision  
2 to revoke, suspend, or impose a moratorium.

3           (3)    Just cause includes:

4                   (i)    intentionally providing false information to the Commission;

5                   (ii)   switching, or causing to be switched, the electricity supply for a  
6 customer without first obtaining the customer's permission;

7                   (iii)   failing to provide electricity for its customers;

8                   (iv)   committing fraud or engaging in deceptive practices;

9                   (v)    failing to maintain financial integrity;

10                  (vi)   violating a Commission regulation or order;

11                  (vii)   failing to pay, collect, remit, or calculate accurately applicable  
12 State or local taxes;

13                  (viii)   violating a provision of this article or any other applicable  
14 consumer protection law of the State;

15                  (ix)    conviction of a felony by the licensee or principal of the licensee  
16 or any crime involving fraud, theft, or deceit; and

17                  (x)    suspension or revocation of a license by any State or federal  
18 authority.

19           (1)    (1)    An electricity supplier or person selling or offering to sell electricity in  
20 the State in violation of this section, after notice and an opportunity for a hearing, is subject  
21 to:

22                   (i)    a civil penalty of not more than \$10,000 for the violation; or

23                   (ii)   license revocation or suspension.

24           (2)    Each day a violation continues is a separate violation.

25           (3)    The Commission shall determine the amount of any civil penalty after  
26 considering:

27                   (i)    the number of previous violations of any provision of this  
28 division;

29                   (ii)   the gravity of the current violation; and

1 (iii) the good faith of the electricity supplier or person charged in  
2 attempting to achieve compliance after notification of the violation.

3 (m) In connection with a consumer complaint or Commission investigation under  
4 this section, an electricity supplier shall provide to the Commission access to any accounts,  
5 books, papers, and documents which the Commission considers necessary to resolve the  
6 matter at issue.

7 (n) The Commission may order the electricity supplier to cease adding or  
8 soliciting additional customers or to cease serving customers in the State.

9 (o) The Commission shall consult with the Consumer Protection Division of the  
10 Office of the Attorney General before issuing regulations designed to protect consumers.

11 (p) The People's Counsel shall have the same authority in licensing, complaint,  
12 and dispute resolution proceedings as it has in Title 2 of this article.

13 (q) Nothing in this subtitle may be construed to affect the authority of the  
14 Division of Consumer Protection in the Office of the Attorney General to enforce violations  
15 of Titles 13 and 14 of the Commercial Law Article or any other applicable State law or  
16 regulation in connection with the activities of electricity suppliers.

17 7-603.

18 (a) The Commission shall license gas suppliers and shall have the same authority  
19 as the Commission has under § 7-507 of this title for electricity suppliers, including the  
20 authority to:

21 (1) revoke or suspend a license;

22 (2) impose a moratorium, civil penalty, or other remedy; or

23 (3) order a refund for or credit to a customer.

24 (b) The Commission shall adopt licensing requirements and procedures for gas  
25 suppliers that protect consumers, the public interest, and the collection of all State and  
26 local taxes.

27 7-604.

28 (a) On or before July 1, 2001, the Commission shall adopt consumer protection  
29 orders or regulations for gas suppliers that:

30 (1) protect consumers from discriminatory, unfair, deceptive, and  
31 anticompetitive acts and practices in the marketing, selling, or distributing of natural gas;

1 (2) provide for contracting, enrollment, and billing practices and  
2 procedures; and

3 (3) the Commission considers necessary to protect the consumer.

4 (b) In adopting orders and regulations under this section, unless the Commission  
5 determines that the circumstances do not require consistency, the Commission shall:

6 (1) provide customers with protections consistent with applicable  
7 protections provided to retail electric customers; and

8 (2) impose appropriate requirements on gas suppliers that are consistent  
9 with applicable requirements imposed on electricity suppliers.

10 7-606.

11 The Commission may adopt regulations or adopt orders to implement this subtitle  
12 that it considers necessary and in the public interest.

13 13-201.

14 (b) (1) Except as provided in paragraph (2) of this subsection, the Commission  
15 may impose a civil penalty not exceeding \$25,000 against a person who violates a provision  
16 of this division, or an effective and outstanding direction, ruling, order, rule, or regulation  
17 of the Commission.

18 (2) The civil penalty that the Commission may impose on a common carrier  
19 for each violation may not exceed \$2,500.

20 (e) (1) Except as provided in [paragraph (2)] **PARAGRAPHS (2) AND (3)** of  
21 this subsection, a civil penalty collected under this section shall be paid into the General  
22 Fund of the State.

23 (2) A civil penalty assessed for a violation of a service quality and reliability  
24 standard under § 7-213 of this article shall be paid into the Electric Reliability Remediation  
25 Fund under § 7-213(j) of this article.

26 **(3) A CIVIL PENALTY ASSESSED FOR A VIOLATION OF § 7-505(B)(7), §**  
27 **7-507, § 7-603, § 7-604, OR § 7-606 OF THIS ARTICLE, OR A RULE, AN ORDER, OR A**  
28 **REGULATION ADOPTED UNDER ANY OF THOSE SECTIONS, SHALL BE PAID INTO THE**  
29 **RETAIL CHOICE CUSTOMER EDUCATION AND PROTECTION FUND UNDER § 7-310**  
30 **OF THIS ARTICLE.**

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
32 October 1, 2016.