

Chapter 842

(Senate Bill 858)

AN ACT concerning

Commercial Law – Maryland Antitrust Act – Indirect Purchasers

FOR the purpose of altering the circumstances under which a person, whose business or property has been injured or threatened with injury by a violation of certain provisions of law, may maintain an action for damages, an injunction, or both, against any person who has committed the violation, regardless of whether the person maintaining the action dealt directly or indirectly with the person who has committed the violation; altering a certain defense that a defendant may raise in certain actions for damages; making stylistic changes; and generally relating to civil actions to enforce State antitrust laws.

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 11–209(b)
Annotated Code of Maryland
(2013 Replacement Volume and 2016 Supplement)

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

Article – Commercial Law

11–209.

(b) (1) The United States, the State, and any political subdivision organized under the authority of the State is a person having standing to bring an action under this subsection.

(2) (i) A person whose business or property has been injured or threatened with injury by a violation of § 11–204 of this subtitle may maintain an action for damages or for an injunction or both against any person who has committed the violation[.

(ii) The United States, the State, or any political subdivision organized under the authority of this State may maintain an action under subparagraph (i) of this paragraph for damages or for an injunction or both] regardless of whether [it] **THE PERSON MAINTAINING THE ACTION** dealt directly or indirectly with the person who has committed the violation.

(II) In any action under this subsection **FOR DAMAGES BY AN INTERMEDIATE PURCHASER OR SELLER IN THE CHAIN OF MANUFACTURE, PRODUCTION, OR DISTRIBUTION**, any defendant, as a partial or complete defense [against a damage claim], may, in order to avoid duplicative liability, prove that all or any part of an alleged overcharge was [ultimately] passed on to [the United States, the State, or any political subdivision organized under the authority of this State,] **A LATER PURCHASER OR ULTIMATE END-USER ALSO MAINTAINING AN ACTION FOR DAMAGES UNDER THIS SUBSECTION** [by a purchaser or seller in the chain of manufacture, production, or distribution who paid an alleged overcharge].

(3) If an injunction is issued, the complainant shall be awarded costs and reasonable attorney's fees.

(4) In an action for damages, if an injury due to a violation of § 11-204 of this subtitle is found, the person injured shall be awarded three times the amount of actual damages which results from the violation, with costs and reasonable attorney's fees.

(5) The Attorney General may bring an action on behalf of the State or any of its political subdivisions or as *parens patriae* on behalf of persons residing in the State to recover the damages provided for by this subsection or any comparable provision of federal law.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 27, 2017.