

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 891

(The President, *et al.*) (By Request - Office of the
Attorney General)

Finance

Economic Matters

Commercial Law - Maryland Antitrust Act - Civil Penalty

This bill alters the maximum civil penalty for a violation of the Maryland Antitrust Act. While the bill reduces the maximum civil penalty from \$100,000 to \$10,000, the bill also establishes that *each day* that a violation continues is a separate violation.

Fiscal Summary

State Effect: General fund revenues increase, potentially minimally, depending on the duration of violations of the Maryland Antitrust Act. Expenditures are not affected.

Local Effect: None. The bill does not directly affect governmental operations or finances.

Small Business Effect: Minimal.

Analysis

Current Law/Background:

Maryland Antitrust Act

The Maryland Antitrust Act is designed to promote fair and honest competition, free of conspiracies, combinations, or agreements which unreasonably restrain trade or commerce. The State's antitrust laws are complementary to the federal Sherman Antitrust Act, contained in 15 U.S.C. §§ 1, *et seq.* The General Assembly has expressed its intent that, in construing the Maryland Antitrust Act, the courts be guided by the interpretation given

by the federal courts to the federal statutes dealing with the same or similar matters. (See Commercial Law Article § 11-202.)

Under the State's antitrust laws, a person is prohibited from unreasonably restraining trade or commerce by contract, combination, or conspiracy. State law specifically prohibits a contract, combination, or conspiracy that establishes a minimum price below which a retailer, wholesaler, or distributor may not sell a commodity or service. A restraint of trade or commerce is interference with the ordinary, usual, and free competitive pricing or distribution of goods or services in an open market. Furthermore, a restraint of trade is unreasonable if it tends to restrict production, raises prices, or otherwise control the market to the detriment of sellers, purchasers, or consumers of goods or services.

Civil Actions under the Maryland Antitrust Act

In a civil action proceeding, the court must determine whether a violation has been committed and enter any judgment or decree necessary to (1) remove the effects of any violation and (2) prevent continuation or renewal of the violation in the future. In addition to equitable remedies or other authorized relief, the court may assess a civil penalty of up to \$100,000 for each violation.

Additional Information

Prior Introductions: None.

Cross File: HB 1544 (The Speaker, *et al.*) (By Request - Office of the Attorney General) - Economic Matters.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Department of Legislative Services

Fiscal Note History: First Reader - February 12, 2018
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Analysis by: Eric F. Pierce

Direct Inquiries to:
(410) 946-5510
(301) 970-5510