
By: Delegates Kach, Frank, Walkup, Exum, Rosapepe, Love, and Klausmeier

Introduced and read first time: February 14, 1996

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Trade Regulation - Gasohol and Gasoline Products Marketing Act**

3 FOR the purpose of requiring a distributor to disclose fully to a prospective dealer
4 certain information about rent to be charged for the marketing premises; providing
5 that any provision of a marketing agreement is void and unenforceable to the extent
6 that it seeks to collect a rent for the marketing premises that is in excess of a certain
7 amount; providing that a person who is injured by a violation of the Gasohol and
8 Gasoline Products Marketing Act and who prevails in an action brought under the
9 Act shall be awarded reasonable attorney's fees and expert witness fees and is
10 entitled to treble damages under certain circumstances; and generally relating to
11 the Gasohol and Gasoline Products Marketing Act.

12 BY repealing and reenacting, with amendments,
13 Article - Commercial Law
14 Section 11-303 and 11-307
15 Annotated Code of Maryland
16 (1990 Replacement Volume and 1995 Supplement)

17 BY adding to
18 Article - Commercial Law
19 Section 11-304(n)
20 Annotated Code of Maryland
21 (1990 Replacement Volume and 1995 Supplement)

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

24 **Article - Commercial Law**

25 11-303.

26 Before any marketing agreement is concluded, a distributor shall disclose fully to a
27 prospective dealer the following information:

28 (1) Any gallonage history of the location under negotiation for the shorter of:

29 (i) The three-year period immediately past; or

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1 (ii) The entire period during which the location has been supplied by the
2 distributor;

3 (2) The name, last known address, and reason for the termination of the
4 marketing agreement of each person who was a dealer at the location during;

5 (i) The five-year period immediately past; or

6 (ii) The entire period during which the location has been supplied by the
7 distributor;

8 (3) Any commitment for the sale, demolition, or other disposition of the location;

9 (4) Any training program and any specific goods and services which the
10 distributor will provide for and to the dealer;

11 (5) Any obligation which will be required of the dealer;

12 (6) Any restriction on the sale, transfer, and termination of the agreement; [and]

13 (7) The total amount of any cash deposit required, any amount of interest to be
14 paid on the deposit, and the conditions for the return of the deposit; AND

15 (8) THE PRECISE FORMULA, METHOD, AND CALCULATION USED BY THE
16 DISTRIBUTOR FOR ESTABLISHING THE RENT TO BE CHARGED FOR THE MARKETING
17 PREMISES, INCLUDING THE SPECIFIC AMOUNTS INCLUDED IN ALL FORMULAS,
18 METHODS, AND CALCULATIONS RELATED TO THE RENT FOR THE PREMISES.

19 11-304.

20 (N) ANY PROVISION OF A MARKETING AGREEMENT SHALL BE VOID AND
21 UNENFORCEABLE TO THE EXTENT THAT THE PROVISION SEEKS TO COLLECT A
22 RENT FOR THE MARKETING PREMISES THAT IS IN EXCESS OF AN AMOUNT WHICH IS
23 OBJECTIVELY FAIR AND REASONABLE AS DETERMINED BY COMMERCIALY
24 REASONABLE STANDARDS, UNIFORMLY APPLIED TO ALL SIMILARLY SITUATED
25 DEALERS.

26 11-307.

27 (A) Any person who violates any provision of this subtitle is liable for damages
28 caused by the violation and is subject to the other legal or equitable remedies available to
29 the party injured by the violation.

30 (B) ANY PERSON INJURED BY A VIOLATION OF THIS SUBTITLE WHO
31 PREVAILS IN AN ACTION BROUGHT UNDER THIS SUBTITLE:

32 (1) SHALL BE AWARDED REASONABLE ATTORNEY'S FEES AND EXPERT
33 WITNESS FEES; AND

34 (2) IF ACTUAL DAMAGES ARE AWARDED, SHALL BE ENTITLED TO
35 THREE TIMES THE AMOUNT OF THE ACTUAL DAMAGES IF THE COURT DETERMINES
36 THAT THE VIOLATION WAS WILLFUL OR THAT AGGRAVATING FACTORS EXIST
37 WHICH WARRANT THE AWARD OF TREBLE DAMAGES IN ORDER TO DETER FUTURE
38 VIOLATIONS OF THIS SUBTITLE.

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1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 1996.