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

Introduced and read first time: February 14, 1996

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Motor Fuel - Duties of Suppliers to Retail Dealers - Right of Action for Violation**

3 FOR the purpose of requiring that certain suppliers of motor fuel to retail service station
4 dealers charge the same price on certain products to all retail service station dealers
5 supplied; establishing certain rights of action for certain violations; providing that
6 prevailing plaintiffs in certain actions shall be awarded certain attorney fees and
7 expert witness fees and are entitled to treble damages under certain circumstances;
8 and generally relating to duties of suppliers of motor fuel to retail service stations
9 dealers and rights of action for violations of certain motor fuel laws.

10 BY repealing and reenacting, with amendments,

11 Article - Business Regulation

12 Section 10-311 and 10-312

13 Annotated Code of Maryland

14 (1992 Volume and 1995 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article - Business Regulation**

18 10-311.

19 (a) Except as provided in subsection (c) and (d) of this section, each retail service
20 station in the State:

21 (1) shall be operated by a retail service station dealer; and

22 (2) may not be operated by a producer or refiner of motor fuel:

23 (i) with a commissioned agent, company personnel, or a subsidiary
24 company; or

25 (ii) under a contract with a person who manages the station on a fee
26 arrangement with the producer or refiner.

27 (b) This section does not apply to facilities that an agricultural cooperative
28 association owns and operates if:

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1 (1) the agricultural cooperative association is certified by a bank for
2 cooperatives to be eligible to borrow from the bank under subchapter III of the Federal
3 Farm Credit Act of 1971;

4 (2) the certification is submitted to the Comptroller with the application for
5 registration of a retail service station dealer under this subtitle;

6 (3) the agricultural cooperative association owns the property on which the
7 facilities are located; and

8 (4) on the property, the agricultural cooperative association, as part of its
9 business, sells or provides farm supplies or farm business services or distributes motor
10 fuel in bulk to farmers on farms.

11 (c) A retail service station shall be exempt from subsection (a) of this section for
12 a fiscal year that starts July 1, if:

13 (1) on January 1, 1979, the station was operated by a subsidiary of a
14 producer or refiner of motor fuel; and

15 (2) the gross revenues of the subsidiary from the sale of motorfuel in the
16 State for the preceding calendar year is less than 2% of the gross revenues of the
17 subsidiary from all retail operations in the State for the preceding calendar year.

18 (d) If a dealer has previously operated a retail service station, the Comptroller
19 may adopt regulations that define the circumstances in which a producer or refiner
20 temporarily may operate the station.

21 (E) (1) A PERSON INJURED BY A VIOLATION OF THIS SECTION MAY BRING
22 AN ACTION BASED ON THE VIOLATION AND IS ENTITLED TO SEEK AND RECOVER
23 DAMAGES AND OBTAIN EQUITABLE RELIEF.

24 (2) A PLAINTIFF WHO PREVAILS IN AN ACTION BROUGHT UNDER THIS
25 SECTION:

26 (I) SHALL BE AWARDED REASONABLE ATTORNEY FEES AND
27 EXPERT WITNESS FEES; AND

28 (II) IF ACTUAL DAMAGES ARE AWARDED, SHALL BE ENTITLED TO
29 THREE TIMES THE AMOUNT OF THE ACTUAL DAMAGES IF THE COURT DETERMINES
30 THAT THE VIOLATION WAS WILLFUL OR THAT AGGRAVATING FACTORS EXIST THAT
31 WARRANT THE AWARD OF TREBLE DAMAGES IN ORDER TO DETER FUTURE
32 VIOLATIONS OF THIS SUBTITLE.

33 10-312.

34 (A) Each producer, refiner, or wholesaler of motor fuel who supplies motor fuel to
35 retail service station dealers:

36 (1) shall extend all voluntary allowances uniformly to all retail service
37 station dealers supplied;

38 (2) shall apply all equipment rentals uniformly to all retail service station
39 dealers supplied; and

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1 (3) during periods of shortage:

2 (i) shall apportion uniformly and equitably all gasoline and special
3 fuel to all retail service station dealers supplied; and

4 (ii) may not discriminate among retail service station dealers supplied
5 in their allotments.

6 (B) (1) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (2) OF THIS
7 SUBSECTION, EACH PRODUCER, REFINER, OR WHOLESALER OF MOTOR FUEL WHO
8 SUPPLIES MOTOR FUEL TO RETAIL SERVICE STATION DEALERS SHALL CHARGE THE
9 SAME PRICE ON ALL PRODUCTS OF LIKE BRAND AND QUALITY TO ALL RETAIL
10 SERVICE STATION DEALERS SUPPLIED.

11 (2) DEVIATION IN PRICE MAY BE MADE ONLY TO ACCOUNT FOR
12 DIFFERENCES IN ACTUAL TRANSPORTATION COSTS OR SPECIFIC DIFFERENCES IN
13 GOVERNMENTAL REQUIREMENTS.

14 (3) DEALER PROFIT MARGINS MAY NOT BE CONSIDERED IN
15 CONNECTION WITH PRICES CHARGED BY A SUPPLIER TO A DEALER.

16 (C) (1) A PERSON INJURED BY A VIOLATION OF THIS SECTION MAY BRING
17 AN ACTION BASED ON THE VIOLATION AND IS ENTITLED TO SEEK AND RECOVER
18 DAMAGES AND OBTAIN EQUITABLE RELIEF.

19 (2) A PLAINTIFF WHO PREVAILS IN AN ACTION BROUGHT UNDER THIS
20 SECTION:

21 (I) SHALL BE AWARDED REASONABLE ATTORNEY FEES AND
22 EXPERT WITNESS FEES; AND

23 (II) IF ACTUAL DAMAGES ARE AWARDED, SHALL BE ENTITLED TO
24 THREE TIMES THE AMOUNT OF THE ACTUAL DAMAGES IF THE COURT DETERMINES
25 THAT THE VIOLATION WAS WILLFUL OR THAT AGGRAVATING FACTORS EXIST THAT
26 WARRANT THE AWARD OF TREBLE DAMAGES IN ORDER TO DETER FUTURE
27 VIOLATIONS OF THIS SUBTITLE.

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