

SENATE BILL 597

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2000 Regular Session
0lr2612
CF 0lr2689

By: ~~Senator Dorman~~ **Senators Dorman and DeGrange**

Introduced and read first time: February 4, 2000

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 6, 2000

CHAPTER _____

1 AN ACT concerning

2 **Business Regulation - Motor Fuel - Below Cost Sales**

3 FOR the purpose of prohibiting a retail service station dealer from selling motor fuel
4 below cost, subject to certain exceptions; requiring the Comptroller of the State,
5 on receipt of a certain complaint, to conduct a certain investigation within a
6 certain amount of time; establishing certain penalties for a violation of this Act;
7 defining a certain term; and generally relating to prohibiting certain sales of
8 motor fuel at below cost.

9 BY repealing and reenacting, with amendments,
10 Article - Business Regulation
11 Section 10-301 and 10-316
12 Annotated Code of Maryland
13 (1998 Replacement Volume and 1999 Supplement)

14 BY adding to
15 Article - Business Regulation
16 Section 10-304.1
17 Annotated Code of Maryland
18 (1998 Replacement Volume and 1999 Supplement)

19 BY repealing and reenacting, without amendments,
20 Article - Business Regulation
21 Section 10-324
22 Annotated Code of Maryland
23 (1998 Replacement Volume and 1999 Supplement)

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

3 **Article - Business Regulation**

4 10-301.

5 (a) In this subtitle the following words have the meanings indicated.

6 (b) (1) "Dealer" means a person who:

7 (i) imports any gasoline into the State;

8 (ii) blends, in the State, any gasoline on which the motor fuel tax
9 has not been paid;

10 (iii) refines, in the State, any gasoline on which the motor fuel tax
11 has not been paid; or

12 (iv) acquires, in the State, any gasoline on which the motor fuel tax
13 has not been paid, for:

14 1. export; or

15 2. wholesale distribution.

16 (2) "Dealer" includes:

17 (i) the State when it engages in any activities listed in paragraph
18 (1) of this subsection; and

19 (ii) a political subdivision of the State when it engages in any of the
20 activities listed in paragraph (1) of this subsection.

21 (3) "Dealer" does not include a person who brings gasoline into the State
22 in the fuel supply tank of an aircraft, motor vehicle, or vessel.

23 (c) "Manufacturer" means a person who in the State blends gasoline from
24 blend stocks before final sale.

25 (D) ~~"SELL MOTOR FUEL BELOW COST" MEANS TO SELL MOTOR FUEL AT A~~
26 ~~PRICE THAT IS LESS THAN THE TOTAL OF:~~

27 (1) THE MOST RECENTLY PUBLISHED AVERAGE RESELLER RACK COST
28 OF MOTOR FUEL BY GRADE AND QUALITY, AS CALCULATED BY THE OIL PRICE
29 INFORMATION SERVICE (OPIS), FOR THE PARTICULAR TERMINAL FROM WHICH THE
30 MOTOR FUEL WAS DELIVERED TO THE RETAIL SERVICE STATION DEALER; AND

31 (2) THE FREIGHT CHARGES AND ALL APPLICABLE FEDERAL, STATE, AND
32 LOCAL TAXES NOT INCLUDED IN THE INVOICE COST.

1 [(d)] (E) "Special fuel seller" has the meaning stated in § 9-301(s) of the Tax -
2 General Article.

3 10-304.1.

4 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A RETAIL
5 SERVICE STATION DEALER MAY NOT SELL MOTOR FUEL BELOW COST.

6 (B) A RETAIL SERVICE STATION DEALER MAY SELL MOTOR FUEL BELOW COST
7 IF THE SALE IS:

8 (1) MADE IN GOOD FAITH TO MEET COMPETITION;

9 (2) MADE AS PART OF A FINAL LIQUIDATION OR CLOSING OF THE
10 BUSINESS OF THE RETAIL SERVICE STATION DEALER;

11 (3) MADE AS PART OF A BONA FIDE CHARITABLE PROMOTION LASTING
12 NO LONGER THAN 2 DAYS; OR

13 (4) MADE UNDER THE DIRECTION OR ORDER OF A COURT OR
14 GOVERNMENT ENTITY.

15 (C) IF THE COMPTROLLER RECEIVES A COMPLAINT IN WRITING THAT A
16 RETAIL SERVICE STATION DEALER IS SELLING MOTOR FUEL BELOW COST, THE
17 COMPTROLLER SHALL INVESTIGATE AND DETERMINE WITHIN 3 BUSINESS DAYS OF
18 THE RECEIPT OF THE COMPLAINT WHETHER THE ALLEGATIONS CONTAINED IN THE
19 COMPLAINT ARE TRUE.

20 (D) (1) THE COMPTROLLER SHALL ISSUE A STOP SALE NOTICE AND MAY
21 SUSPEND OR REVOKE THE CERTIFICATE OF REGISTRATION OF A RETAIL SERVICE
22 STATION DEALER IF THE COMPTROLLER DETERMINES THAT THE RETAIL SERVICE
23 STATION DEALER IS IN VIOLATION OF THIS SECTION.

24 (2) THE PENALTIES PROVIDED IN THIS SUBSECTION ARE IN ADDITION
25 TO THE PENALTIES PROVIDED IN § 10-324 OF THIS SUBTITLE.

26 10-316.

27 The Comptroller shall issue a stop sale notice if the Comptroller finds that a
28 person:

29 (1) stores or sells motor fuel from a location that does not have a valid
30 certificate of registration;

31 (2) willfully uses a motor fuel advertisement that is misleading; [or]

32 (3) willfully markets motor fuel that has not been approved; OR

33 (4) SELLS MOTOR FUEL BELOW COST IN VIOLATION OF § 10-304.1 OF
34 THIS SUBTITLE.

1 10-324.

2 Except as otherwise provided in this subtitle, a person who violates this subtitle
3 or aids or assists in the violation of this subtitle is guilty of a misdemeanor and, on
4 conviction, is subject to a fine not exceeding \$5,000 or imprisonment not exceeding 1
5 year or both.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2000.