
By: **Senators Green, Colburn, Exum, Forehand, Haines, Hughes, Jimeno,
and Mitchell**

Introduced and read first time: February 2, 2001

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law - Antitrust - Civil Actions**

3 FOR the purpose of altering the circumstances under which a person, whose business
4 or property has been injured or threatened with injury by a violation of certain
5 provisions of law, may maintain an action for damages or an injunction, by
6 authorizing the maintenance of the action regardless of whether the person
7 dealt directly or indirectly with the person who committed the violation; altering
8 a certain defense that a defendant may raise in certain actions for damages;
9 authorizing the Attorney General to bring an action as parens patriae on behalf
10 of certain natural persons residing in the State to recover certain damages;
11 providing that a parens patriae action brought by the Attorney General shall be
12 superior to a certain class action; and generally relating to civil actions to
13 enforce State antitrust laws.

14 BY repealing and reenacting, with amendments,
15 Article - Commercial Law
16 Section 11-209(b)
17 Annotated Code of Maryland
18 (2000 Replacement Volume and 2000 Supplement)

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

21 **Article - Commercial Law**

22 11-209.

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

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

1 (ii) The United States, the State, or any political subdivision
2 organized under the authority of this State may maintain an action under
3 subparagraph (i) of this paragraph for damages or for an injunction or both,
4 regardless of whether [it] THE PERSON MAINTAINING THE ACTION dealt directly or
5 indirectly with the person who has committed the violation. In any action FOR
6 DAMAGES BROUGHT under this subsection BY AN INTERMEDIATE PURCHASER OR
7 SELLER IN THE CHAIN OF MANUFACTURE, PRODUCTION, OR DISTRIBUTION, any
8 defendant, as a partial or complete defense [against a damage claim], may, in order
9 to avoid duplicative liability, prove that all or any part of an alleged overcharge was
10 [ultimately] passed on to [the United States, the State, or any political subdivision
11 organized under the authority of this State,] A LATER PURCHASER OR ULTIMATE
12 END-USER ALSO MAINTAINING AN ACTION FOR DAMAGES UNDER THIS SUBSECTION
13 [by a purchaser or seller in the chain of manufacture, production, or distribution who
14 paid an alleged overcharge].

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

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

20 (5) The Attorney General may bring an action on behalf of the State or
21 any of its political subdivisions, OR AS PARENS PATRIAE ON BEHALF OF NATURAL
22 PERSONS RESIDING IN THE STATE, to recover the damages provided for by this
23 subsection or any comparable provision of federal law. A PARENS PATRIAE ACTION
24 BROUGHT BY THE ATTORNEY GENERAL SHALL BE SUPERIOR TO ANY CLASS ACTION
25 BROUGHT ON BEHALF OF THE SAME NATURAL PERSONS.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2001.