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By: **Chairman, Environmental Matters Committee (Departmental - Public Service Commission)**

Introduced and read first time: February 8, 2002  
Assigned to: Environmental Matters

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 19, 2002

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Public Service Commission - Enforcement - Cease and Desist Orders**

3 FOR the purpose of authorizing the Public Service Commission to issue certain types  
4 of cease and desist orders under certain circumstances; ~~establishing a certain~~  
5 hearing process; providing that a cease and desist order shall be served in a  
6 certain manner, be effective under certain situations, and contain certain  
7 information; providing guidelines for requests and completion of evidentiary  
8 hearings under certain circumstances; authorizing the Commission to issue a  
9 final order under certain circumstances; providing that a certain cease and  
10 desist order is void under certain circumstances; prohibiting the Commission  
11 from imposing certain penalties under certain circumstances; and generally  
12 relating to the authority of the Public Service Commission to issue cease and  
13 desist orders.

14 BY adding to  
15 Article - Public Utility Companies  
16 Section 13-208  
17 Annotated Code of Maryland  
18 (1998 Volume and 2001 Supplement)

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

## Article - Public Utility Companies

13-208.

(A) IN ADDITION TO ANY OTHERWISE AVAILABLE REMEDY, THE COMMISSION MAY SUMMARILY ORDER A PERSON WHO IS SUBJECT TO THE JURISDICTION OF THE COMMISSION TO CEASE AND DESIST FROM AN ACT OR PRACTICE IF THE COMMISSION DETERMINES FROM SPECIFIC FACTS SHOWN BY AFFIDAVIT OR OTHER STATEMENT MADE UNDER OATH THAT:

(1) THE PERSON HAS ENGAGED IN AN ACT OR PRACTICE THAT CONSTITUTES A VIOLATION OF ANY PROVISION OF THIS ARTICLE OR ANY ORDER OR REGULATION ADOPTED UNDER THIS ARTICLE THAT DIRECTLY CONCERNS CONSUMER PROTECTION OR PUBLIC SAFETY;

(2) IMMEDIATE, SUBSTANTIAL, AND IRREPARABLE HARM WILL RESULT BEFORE THE AFFECTED PERSON COULD HAVE AN OPPORTUNITY TO RESPOND TO THE FACTS ALLEGED;

(3) THE NEED FOR THE IMMEDIATE ISSUANCE OF A SUMMARY CEASE AND DESIST ORDER OUTWEIGHS THE AFFECTED PERSON'S RIGHT TO RECEIVE NOTICE AND BE HEARD BEFORE ISSUANCE OF THE ORDER; AND

(4) ISSUANCE OF THE SUMMARY CEASE AND DESIST ORDER IS IN THE PUBLIC INTEREST.

(B) A SUMMARY CEASE AND DESIST ORDER ISSUED BY THE COMMISSION UNDER SUBSECTION (A) OF THIS SECTION SHALL:

(1) BE PERSONALLY AND PROMPTLY SERVED ON THE AFFECTED PERSON OR THE PERSON'S LEGAL REPRESENTATIVE;

(2) BE EFFECTIVE ONLY AFTER IT IS SERVED UNDER ITEM (1) OF THIS SUBSECTION; AND

(3) (I) IDENTIFY THE DATE AND HOUR OF ISSUANCE;

(II) DEFINE THE HARM THAT THE COMMISSION FINDS WILL RESULT IF THE SUMMARY CEASE AND DESIST ORDER IS NOT ISSUED;

(III) STATE THE BASIS FOR THE COMMISSION'S FINDING THAT THE HARM WILL BE IMMEDIATE, SUBSTANTIAL, AND IRREPARABLE;

(IV) STATE THAT ANY PERSON AFFECTED BY THE SUMMARY CEASE AND DESIST ORDER MAY IMMEDIATELY APPLY TO HAVE THE ORDER MODIFIED OR VACATED BY THE COMMISSION;

(V) STATE THAT THE COMMISSION MAY MODIFY OR VACATE THE SUMMARY CEASE AND DESIST ORDER AS REQUESTED OR MAY SET THE MATTER FOR HEARING UNDER SUBSECTION (C) OF THIS SECTION; AND

1 (VI) PROVIDE NOTICE OF THE OPPORTUNITY FOR AN EVIDENTIARY  
2 HEARING TO DETERMINE WHETHER THE SUMMARY CEASE AND DESIST ORDER  
3 SHOULD BE MODIFIED, VACATED, OR ENTERED AS FINAL.

4 (C) (1) WITHIN 15 CALENDAR DAYS AFTER THE DATE AND HOUR OF  
5 SUCCESSFUL SERVICE OF THE SUMMARY CEASE AND DESIST ORDER, THE AFFECTED  
6 PERSON MAY FILE A REQUEST FOR AN EVIDENTIARY HEARING WITH THE  
7 COMMISSION ON THE PROPRIETY OF A FINAL ORDER.

8 (2) IF THE COMMISSION RECEIVES A REQUEST FOR AN EVIDENTIARY  
9 HEARING ON THE PROPRIETY OF A FINAL ORDER FROM THE AFFECTED PERSON  
10 WITHIN THE TIME LIMIT IN PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSION  
11 SHALL COMPLETE THE EVIDENTIARY HEARING WITHIN 15 CALENDAR DAYS AFTER  
12 THE DATE AND HOUR WHEN THE REQUEST IS RECEIVED.

13 (3) WITHIN 48 HOURS AFTER COMPLETING THE EVIDENTIARY HEARING  
14 REQUESTED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSION SHALL  
15 ISSUE A FINAL ORDER IN WHICH IT SHALL DETERMINE WHETHER THE AFFECTED  
16 PERSON HAS ENGAGED IN AN ACT OR PRACTICE THAT IS IN VIOLATION OF ANY  
17 PROVISION OF THIS ARTICLE OR ANY ORDER OR REGULATION ADOPTED UNDER THIS  
18 ARTICLE THAT DIRECTLY CONCERNS CONSUMER PROTECTION OR PUBLIC SAFETY.

19 (4) IF THE COMMISSION DOES NOT RECEIVE A REQUEST FOR AN  
20 EVIDENTIARY HEARING ON THE PROPRIETY OF A FINAL ORDER FROM THE  
21 AFFECTED PERSON WITHIN THE TIME LIMIT IN PARAGRAPH (1) OF THIS SUBSECTION,  
22 THE SUMMARY CEASE AND DESIST ORDER SHALL BECOME FINAL.

23 (D) IF THE COMMISSION FAILS TO COMPLY WITH SUBSECTION (C)(2) OR (3) OF  
24 THIS SECTION, THE SUMMARY CEASE AND DESIST ORDER IS VOID FROM THE TIME  
25 OF ISSUANCE.

26 (E) THE COMMISSION MAY NOT IMPOSE A PENALTY FOR A VIOLATION OF A  
27 SUMMARY CEASE AND DESIST ORDER THAT IS VOID UNDER SUBSECTION (D) OF THIS  
28 SECTION.

29 ~~(A) IN ADDITION TO ANY REMEDY OTHERWISE AVAILABLE, IF THE~~  
30 ~~COMMISSION DETERMINES THAT A PERSON HAS ENGAGED IN OR IS ABOUT TO~~  
31 ~~ENGAGE IN AN ACT OR PRACTICE THAT CONSTITUTES A VIOLATION OF ANY~~  
32 ~~PROVISION OF THIS ARTICLE OR ANY REGULATION, RULE, OR ORDER ADOPTED~~  
33 ~~UNDER THIS ARTICLE, AND THAT IMMEDIATE ACTION AGAINST THE PERSON IS IN~~  
34 ~~THE PUBLIC INTEREST, THE COMMISSION MAY ORDER THE PERSON TO CEASE AND~~  
35 ~~DESIST FROM THE ACT OR PRACTICE.~~

36 ~~(B) AFTER THE COMMISSION ISSUES A CEASE AND DESIST ORDER, THE~~  
37 ~~ALLEGED VIOLATOR MAY SUBMIT A WRITTEN REQUEST FOR A HEARING TO THE~~  
38 ~~COMMISSION.~~

39 ~~(C) A SUMMARY CEASE AND DESIST ORDER BECOMES FINAL IF THE ALLEGED~~  
40 ~~VIOLATOR DOES NOT REQUEST A HEARING WITHIN 15 DAYS AFTER RECEIVING THE~~  
41 ~~SUMMARY CEASE AND DESIST ORDER.~~

1     ~~(D)     THE HEARING SHALL BEGIN:~~

2             ~~(1)     WITHIN 15 BUSINESS DAYS AFTER THE COMMISSION RECEIVES THE~~  
3 ~~REQUEST FOR A HEARING; OR~~

4             ~~(2)     WITH THE CONSENT OF THE ALLEGED VIOLATOR, AT A LATER DATE.~~

5     ~~(E)     IF THE COMMISSION DOES NOT BEGIN A TIMELY HEARING WITHIN THE~~  
6 ~~APPLICABLE TIME LIMIT PROVIDED IN SUBSECTION (D) OF THIS SECTION, THE~~  
7 ~~CEASE AND DESIST ORDER IS DEEMED RESCINDED.~~

8     SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
9 October 1, 2002.