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By: **Chairman, Finance Committee (By Request - Departmental - Public Service Commission)**

Introduced and read first time: January 20, 2005

Rules suspended

Assigned to: Finance

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Committee Report: Favorable

Senate action: Adopted

Read second time: February 8, 2005

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Public Service Commission - Civil Penalties - Common Carriers**

3 FOR the purpose of altering the civil penalty that the Public Service Commission may  
4 impose on certain common carriers under certain circumstances; repealing the  
5 authority of the Commission to bring a certain action for forfeiture under certain  
6 circumstances; repealing the authority of the Commission to impose a fine on a  
7 public service company under certain circumstances; and generally relating to  
8 penalties and the Public Service Commission.

9 BY repealing

10 Article - Public Utility Companies

11 Section 2-117(b) and 13-201

12 Annotated Code of Maryland

13 (1998 Volume and 2004 Supplement)

14 BY repealing and reenacting, with amendments,

15 Article - Public Utility Companies

16 Section 2-117(c) and 13-201.1

17 Annotated Code of Maryland

18 (1998 Volume and 2004 Supplement)

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

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

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**Article - Public Utility Companies**

2 2-117.

3 [(b) (1) The Commission shall bring an action to recover a forfeiture under  
4 this article in the name of the State in a civil court of competent jurisdiction in any  
5 county where the defendant does business.

6 (2) In an action under this subsection, all forfeitures incurred before  
7 final judgment is rendered may be recovered.

8 (3) An action to recover a particular forfeiture is not a waiver of other  
9 forfeitures that have accrued or will accrue.]

10 [(c) (B) (1) The Commission shall notify an offender to appear and answer  
11 charges on complaint filed by a carrier or on discovery of a violation or infringement  
12 by the Commission's own investigation that:

13 (i) the offender is or has been infringing on or violating a permit  
14 granted to the carrier by the Commission;

15 (ii) the offender, without a permit, is exercising or using a right  
16 granted in a permit;

17 (iii) a right granted in a permit is being subjected to unrestricted or  
18 unregulated competition; or

19 (iv) the offender, without a permit, is serving, wholly or partly,  
20 directly or indirectly, a route set forth in a granted permit.

21 (2) The notice shall be sent to or served on the offender as provided by §  
22 3-103 of this article.

23 (3) If the Commission finds that the offender is violating or infringing, or  
24 has violated or infringed on the rights of a carrier, the Commission shall order the  
25 offender to stop the operations that led to the violation or infringement.

26 (4) If the offender does not obey the order of the Commission, the  
27 Commission shall notify the offender to show cause within 10 days after the notice is  
28 mailed or served why the registration certificate for each vehicle involved in the  
29 operations should not be suspended or revoked.

30 (5) If cause is not shown or if, after hearing, the Commission finds that  
31 cause is not shown, the Commission shall certify to the Motor Vehicle Administration:

32 (i) that the registration certificate of each vehicle involved in the  
33 operations shall be suspended or revoked;

34 (ii) the condition of the suspension or revocation; and

1 (iii) if possible, the license number of each vehicle for which the  
2 certificate of registration is to be suspended or revoked.

3 (6) On receipt of the certification, the Motor Vehicle Administration  
4 automatically shall suspend or revoke each certificate of registration in accordance  
5 with the conditions contained in the certification.

6 (7) The action of the Motor Vehicle Administration may not be appealed  
7 but judicial review of an order or certification of the Commission may be sought as  
8 provided in Title 3, Subtitle 2 of this article.

9 [13-201.

10 (a) This section does not apply to a violation of the following provisions of this  
11 article:

12 (1) Title 5, Subtitle 4;

13 (2) Title 7, Subtitle 1;

14 (3) Title 8, Subtitles 1 and 3;

15 (4) Title 9, Subtitle 3; and

16 (5) § 13-205 of this subtitle.

17 (b) A public service company that violates any provision of this article, or any  
18 effective and outstanding direction, ruling, order, rule, or regulation of the  
19 Commission, is subject to a fine not exceeding \$2,500 for each offense.

20 (c) (1) Each violation is a separate offense.

21 (2) Each day or part of a day the violation continues is a separate  
22 offense.

23 (d) For determining whether there is a violation under this section, an act of a  
24 director, officer, or other individual acting within the scope of official duties is an act  
25 of the public service company.]

26 [13-201.1.] 13-201.

27 (a) This section does not apply to[:

28 (1) a common carrier; or

29 (2)] a violation of the following provisions of this article:

30 [(i)] (1) Title 5, Subtitle 4;

31 [(ii)] (2) Title 7, Subtitle 1;

1 [(iii)] (3) Title 8, Subtitles 1 and 3;

2 [(iv)] (4) Title 9, Subtitle 3; and

3 [(v)] (5) Title 8, Subtitle 4.

4 (b) (1) [The] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
5 SUBSECTION, THE Commission may impose a civil penalty not exceeding \$10,000  
6 against a person who violates a provision of this article, or an effective and  
7 outstanding direction, ruling, order, rule, or regulation of the Commission.

8 (2) THE CIVIL PENALTY THAT THE COMMISSION MAY IMPOSE ON A  
9 COMMON CARRIER FOR EACH VIOLATION MAY NOT EXCEED \$2,500.

10 (c) (1) A civil penalty may be imposed in addition to any other penalty  
11 authorized by this article.

12 (2) Each violation is a separate offense.

13 (3) Each day or part of a day the violation continues is a separate  
14 offense.

15 (d) The Commission shall determine the amount of any civil penalty after  
16 considering:

17 (1) the number of previous violations of any provision of this article;

18 (2) the gravity of the current violation;

19 (3) the good faith efforts of the violator in attempting to achieve  
20 compliance after notification of the violation; and

21 (4) any other matter that the Commission considers appropriate and  
22 relevant.

23 (e) A civil penalty collected under this section shall be paid into the General  
24 Fund of the State.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 October 1, 2005.