

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 1096 (Delegate Barve)
Economic Matters

**Commercial Law - Maryland Gasohol and Gasoline Products Marketing Act -
Remedies - Recovery of Fees**

This bill provides that when a dealer prevails in an action to enforce a provision of the Maryland Gasohol and Gasoline Products Marketing Act, the dealer (the retail seller of these products) is entitled to recover reasonable attorney's fees and expert witness fees. A marketing agreement between a distributor and a dealer may provide for the recovery, in an action brought by the dealer against the distributor, of reasonable attorney's fees or expert witness fees by the distributor only if the court finds that the action was brought in bad faith or without substantial justification.

Fiscal Summary

State Effect: The bill would not directly affect governmental finances or operations.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: A person who violates a provision of the Maryland Gasohol and Gasoline Products Marketing Act is liable for damages caused by the violation and is subject to any other legal or equitable remedies available to the party injured by the violation.

Background: Generally, attorney's fees and expert witness fees are not recoverable as damages in a civil action absent a requirement in statute, in a contractual agreement, or under the Maryland Rules.

Under the Maryland Rules, if a court finds that the conduct of a party in maintaining or defending a proceeding was in bad faith or without substantial justification, the court may require the offending party, the attorney advising the conduct, or both, to pay the adverse party's costs, including reasonable attorney's fees.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Comptroller's Office, Office of the Attorney General (Consumer Protection Division), Department of Legislative Services

Fiscal Note History: First Reader - March 3, 2005
ncs/jr

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