

(PRE-FILED)

By: **Delegate Hubbard**

Requested: September 6, 2005

Introduced and read first time: January 11, 2006

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law - Maryland Energy Consumer Protection Act**

3 FOR the purpose of prohibiting the sale of crude oil, gasoline, or petroleum distillates
4 at an unconscionably excessive price; requiring certain circumstances to be
5 taken into account in determining whether certain products have been sold at
6 an unconscionably excessive price; requiring certain circumstances to be
7 considered as mitigating factors in determining whether certain products have
8 been sold at an unconscionably excessive price; providing that a violation of
9 certain provisions of this Act is an unfair or deceptive trade practice under the
10 Maryland Energy Consumer Protection Act and is subject to certain
11 enforcement and penalty provisions; authorizing the Governor to control the
12 sale of crude oil, gasoline, and petroleum distillates under certain
13 circumstances; and generally relating to the sale of crude oil, gasoline, and
14 petroleum distillates and the Maryland Energy Consumer Protection Act.

15 BY adding to

16 Article - Commercial Law
17 Section 14-3501 through 14-3503, inclusive, to be under the new subtitle
18 "Subtitle 35. Maryland Energy Consumer Protection Act"
19 Annotated Code of Maryland
20 (2005 Replacement Volume)

21 BY repealing and reenacting, with amendments,

22 Article - Public Safety
23 Section 14-303(b)
24 Annotated Code of Maryland
25 (2003 Volume and 2005 Supplement)

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

1 **Article - Commercial Law**

2 SUBTITLE 35. MARYLAND ENERGY CONSUMER PROTECTION ACT.

3 14-3501.

4 A PERSON MAY NOT SELL CRUDE OIL, GASOLINE, OR PETROLEUM DISTILLATES
5 AT A PRICE THAT IS UNCONSCIONABLY EXCESSIVE.

6 14-3502.

7 (A) IN DETERMINING WHETHER A PERSON HAS VIOLATED § 14-3501 OF THIS
8 SUBTITLE, THE FOLLOWING CIRCUMSTANCES SHALL BE TAKEN INTO ACCOUNT:9 (1) WHETHER THE AMOUNT CHARGED REPRESENTS A GROSS DISPARITY
10 BETWEEN THE PRICE OF THE CRUDE OIL, GASOLINE, OR PETROLEUM DISTILLATE
11 SOLD AND THE PRICE AT WHICH IT WAS OFFERED FOR SALE IN THE MONTHS PRIOR
12 TO THE SALE IN QUESTION; AND13 (2) WHETHER THE AMOUNT CHARGED GROSSLY EXCEEDS THE PRICE AT
14 WHICH THE SAME OR SIMILAR CRUDE OIL, GASOLINE, OR PETROLEUM DISTILLATE
15 WAS READILY OBTAINABLE FROM OTHER SELLERS AT THE TIME OF THE SALE IN
16 QUESTION.17 (B) IN DETERMINING WHETHER A PERSON HAS VIOLATED § 14-3501 OF THIS
18 SUBTITLE, THE FOLLOWING CIRCUMSTANCES SHALL BE CONSIDERED AS
19 MITIGATING FACTORS:20 (1) THE PRICE THAT WOULD REASONABLY EQUATE SUPPLY AND
21 DEMAND FOR CRUDE OIL, GASOLINE, OR PETROLEUM DISTILLATE IN A COMPETITIVE
22 AND FREELY FUNCTIONING MARKET; AND23 (2) WHETHER THE PRICE AT WHICH THE CRUDE OIL, GASOLINE, OR
24 PETROLEUM DISTILLATE WAS SOLD REASONABLY REFLECTS ADDITIONAL COSTS,
25 NOT WITHIN CONTROL OF THE SELLER, THAT WERE INCURRED BY THE SELLER.

26 14-3503.

27 (A) A VIOLATION OF THIS SUBTITLE:

28 (1) IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE
29 MEANING OF TITLE 13 OF THIS ARTICLE; AND30 (2) IS SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS
31 CONTAINED IN TITLE 13 OF THIS ARTICLE.32 (B) IN ADDITION TO BEING SUBJECT TO THE ENFORCEMENT AND PENALTY
33 PROVISIONS CONTAINED IN TITLE 13 OF THIS ARTICLE, A PERSON THAT VIOLATES
34 THIS SUBTITLE IS SUBJECT TO ANY OTHER CIVIL OR CRIMINAL ACTION PROVIDED BY
35 LAW.

1

Article - Public Safety

2 14-303.

3 (b) After proclaiming a state of emergency, the Governor may promulgate
4 reasonable orders, rules, or regulations that the Governor considers necessary to
5 protect life and property or calculated effectively to control and terminate the public
6 emergency in the emergency area, including orders, rules, or regulations to:

7 (1) control traffic, including public and private transportation, in the
8 emergency area;

9 (2) designate specific zones in the emergency area in which the
10 occupancy and use of buildings and vehicles may be controlled;

11 (3) control the movement of individuals or vehicles into, in, or from the
12 designated zones;

13 (4) control places of amusement and places of assembly;

14 (5) control individuals on public streets;

15 (6) establish curfews;

16 (7) control the sale, transportation, and use of alcoholic beverages;

17 (8) control the possession, sale, carrying, and use of firearms, other
18 dangerous weapons, and ammunition; [and]

19 (9) control the storage, use, and transportation of explosives or
20 flammable materials or liquids considered to be dangerous to public safety, including
21 "Molotov cocktails"; AND

22 (10) CONTROL THE SALE OF GASOLINE, CRUDE OIL, AND PETROLEUM
23 DISTILLATES IN THE STATE, INCLUDING SETTING A MAXIMUM PRICE AT WHICH
24 GASOLINE, CRUDE OIL, AND PETROLEUM DISTILLATES MAY BE SOLD.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 July 1, 2006.