

HOUSE BILL 738

I3
HB 53/06 – ECM

71r3016

By: **Delegate Hubbard**

Introduced and read first time: February 8, 2007

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 to be under the new subtitle “Subtitle 35.
18 Maryland Energy Consumer Protection Act”

19 Annotated Code of Maryland

20 (2005 Replacement Volume and 2006 Supplement)

21 BY repealing and reenacting, with amendments,

22 Article – Public Safety

23 Section 14–303(b)

24 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2003 Volume and 2006 Supplement)

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

4 **Article – Commercial Law**

5 **SUBTITLE 35. MARYLAND ENERGY CONSUMER PROTECTION ACT.**

6 **14-3501.**

7 **A PERSON MAY NOT SELL CRUDE OIL, GASOLINE, OR PETROLEUM**
8 **DISTILLATES AT A PRICE THAT IS UNCONSCIONABLY EXCESSIVE.**

9 **14-3502.**

10 **(A) IN DETERMINING WHETHER A PERSON HAS VIOLATED § 14-3501 OF**
11 **THIS SUBTITLE, THE FOLLOWING CIRCUMSTANCES SHALL BE TAKEN INTO**
12 **ACCOUNT:**

13 **(1) WHETHER THE AMOUNT CHARGED REPRESENTS A GROSS**
14 **DISPARITY BETWEEN THE PRICE OF THE CRUDE OIL, GASOLINE, OR PETROLEUM**
15 **DISTILLATE SOLD AND THE PRICE AT WHICH IT WAS OFFERED FOR SALE IN THE**
16 **MONTHS PRIOR TO THE SALE IN QUESTION; AND**

17 **(2) WHETHER THE AMOUNT CHARGED GROSSLY EXCEEDS THE**
18 **PRICE AT WHICH THE SAME OR SIMILAR CRUDE OIL, GASOLINE, OR PETROLEUM**
19 **DISTILLATE WAS READILY OBTAINABLE FROM OTHER SELLERS AT THE TIME OF**
20 **THE SALE IN QUESTION.**

21 **(B) IN DETERMINING WHETHER A PERSON HAS VIOLATED § 14-3501 OF**
22 **THIS SUBTITLE, THE FOLLOWING CIRCUMSTANCES SHALL BE CONSIDERED AS**
23 **MITIGATING FACTORS:**

24 **(1) THE PRICE THAT WOULD REASONABLY EQUATE SUPPLY AND**
25 **DEMAND FOR CRUDE OIL, GASOLINE, OR PETROLEUM DISTILLATE IN A**
26 **COMPETITIVE AND FREELY FUNCTIONING MARKET; AND**

27 **(2) WHETHER THE PRICE AT WHICH THE CRUDE OIL, GASOLINE,**
28 **OR PETROLEUM DISTILLATE WAS SOLD REASONABLY REFLECTS ADDITIONAL**

1 COSTS, NOT WITHIN CONTROL OF THE SELLER, THAT WERE INCURRED BY THE
2 SELLER.

3 **14-3503.**

4 (A) A VIOLATION OF THIS SUBTITLE:

5 (1) IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE
6 MEANING OF TITLE 13 OF THIS ARTICLE; AND

7 (2) IS SUBJECT TO THE ENFORCEMENT AND PENALTY
8 PROVISIONS CONTAINED IN TITLE 13 OF THIS ARTICLE.

9 (B) IN ADDITION TO BEING SUBJECT TO THE ENFORCEMENT AND
10 PENALTY PROVISIONS CONTAINED IN TITLE 13 OF THIS ARTICLE, A PERSON
11 THAT VIOLATES THIS SUBTITLE IS SUBJECT TO ANY OTHER CIVIL OR CRIMINAL
12 ACTION PROVIDED BY LAW.

13 **Article - Public Safety**

14 **14-303.**

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

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

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

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

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

26 (5) control individuals on public streets;

27 (6) establish curfews;

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

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

4 (9) control the storage, use, and transportation of explosives or
5 flammable materials or liquids considered to be dangerous to public safety, including
6 “Molotov cocktails”; **AND**

7 **(10) CONTROL THE SALE OF GASOLINE, CRUDE OIL, AND**
8 **PETROLEUM DISTILLATES IN THE STATE, INCLUDING SETTING A MAXIMUM**
9 **PRICE AT WHICH GASOLINE, CRUDE OIL, AND PETROLEUM DISTILLATES MAY BE**
10 **SOLD.**

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 July 1, 2007.