

SENATE BILL 604

I4, C2

8lr2212
CF 8lr1969

By: **Senator Pugh**

Introduced and read first time: February 1, 2008

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law - Maryland Gasohol and Gasoline Products Marketing Act -**
3 **Marketing Premises**

4 FOR the purpose of prohibiting a producer or refiner under the Maryland Gasohol and
5 Gasoline Products Marketing Act from selling, transferring, or assigning to
6 another person the producer's or refiner's fee simple or leasehold interest in
7 certain premises leased to a dealer unless the producer or refiner makes certain
8 offers of the producer's or refiner's interest to the dealer; defining certain terms;
9 providing for the application of this Act; and generally relating to the Maryland
10 Gasohol and Gasoline Products Marketing Act.

11 BY renumbering

12 Article - Commercial Law
13 Section 11-301(k)
14 to be Section 11-301(m)
15 Annotated Code of Maryland
16 (2005 Replacement Volume and 2007 Supplement)

17 BY repealing and reenacting, without amendments,

18 Article - Commercial Law
19 Section 11-301(a) and 11-304(a)
20 Annotated Code of Maryland
21 (2005 Replacement Volume and 2007 Supplement)

22 BY adding to

23 Article - Commercial Law
24 Section 11-301(k) and (l) and 11-304(n)
25 Annotated Code of Maryland
26 (2005 Replacement Volume and 2007 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That Section(s) 11-301(k) of Article – Commercial Law of the Annotated
3 Code of Maryland be renumbered to be Section(s) 11-301(m).

4 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
5 read as follows:

6 **Article – Commercial Law**

7 11-301.

8 (a) In this subtitle the following words have the meanings indicated.

9 (K) **“PRODUCER” MEANS A PERSON WHO PURCHASES COMPONENT**
10 **ELEMENTS AND COMBINES THEM TO PRODUCE GASOLINE PRODUCTS.**

11 (L) **“REFINER” MEANS A PERSON WHO OWNS, OPERATES, OR CONTROLS**
12 **THE OPERATIONS OF A REFINERY.**

13 11-304.

14 (a) Every marketing agreement is subject to the provisions of this section,
15 whether or not expressly set forth in the agreement.

16 (N) (1) (I) **IN THIS SUBSECTION THE FOLLOWING WORDS HAVE**
17 **THE MEANINGS INDICATED.**

18 (II) **“BOOK VALUE” MEANS ACTUAL COST LESS ACTUAL**
19 **DEPRECIATION TAKEN.**

20 (III) **“MARKETING PREMISES” MEANS THE PREMISES THAT**
21 **ARE USED BY A DEALER IN CONNECTION WITH THE SALE, CONSIGNMENT, OR**
22 **DISTRIBUTION OF MOTOR FUEL.**

23 (2) **THIS SUBSECTION DOES NOT APPLY TO TRANSACTIONS**
24 **OTHERWISE COVERED UNDER THE FEDERAL PETROLEUM MARKETING**
25 **PRACTICES ACT.**

26 (3) **IF A PRODUCER OR A REFINER OWNS A FEE SIMPLE INTEREST**
27 **IN MARKETING PREMISES LEASED TO A DEALER, THE PRODUCER OR REFINER**
28 **MAY NOT SELL, TRANSFER, OR ASSIGN TO ANOTHER PERSON THE PRODUCER’S**
29 **OR REFINER’S INTEREST IN THE MARKETING PREMISES UNLESS THE PRODUCER**
30 **OR REFINER:**

1 (I) **MAKES A BONA FIDE OFFER TO SELL, TRANSFER, OR**
2 **ASSIGN TO THE DEALER THE PRODUCER'S OR REFINER'S INTEREST IN THE**
3 **MARKETING PREMISES, EXCEPT FOR SIGNS DISPLAYING THE INSIGNIA OR ANY**
4 **OTHER TRADEMARK, SERVICE MARK, COPYRIGHT, OR PATENTED EQUIPMENT**
5 **OF THE PRODUCER OR REFINER; OR**

6 (II) **IF APPLICABLE, OFFERS A RIGHT OF FIRST REFUSAL TO**
7 **THE DEALER OF ANY BONA FIDE OFFER ACCEPTABLE TO THE PRODUCER OR**
8 **REFINER MADE BY ANOTHER PERSON TO PURCHASE THE PRODUCER'S OR**
9 **REFINER'S INTEREST IN THE MARKETING PREMISES.**

10 (4) **IF A PRODUCER OR REFINER LEASES MARKETING PREMISES**
11 **FROM A THIRD PARTY AND SUBLEASES THE MARKETING PREMISES TO A**
12 **DEALER, THE PRODUCER OR REFINER MAY NOT SELL, TRANSFER, OR ASSIGN TO**
13 **ANOTHER PERSON THE PRODUCER'S OR REFINER'S INTEREST IN THE THIRD**
14 **PARTY LEASE UNLESS THE PRODUCER OR REFINER:**

15 (I) **1. MAKES A BONA FIDE OFFER TO SELL, TRANSFER,**
16 **OR ASSIGN TO THE DEALER THE PRODUCER'S OR REFINER'S INTEREST IN THE**
17 **THIRD PARTY LEASE; AND**

18 **2. MAKES A BONA FIDE OFFER TO SELL, TRANSFER,**
19 **OR ASSIGN TO THE DEALER THE PRODUCER'S OR REFINER'S INTEREST IN ANY**
20 **IMPROVEMENTS OR EQUIPMENT OWNED BY THE PRODUCER OR REFINER AND**
21 **LOCATED ON THE MARKETING PREMISES, EXCEPT FOR SIGNS DISPLAYING THE**
22 **INSIGNIA OR ANY OTHER TRADEMARK, SERVICE MARK, COPYRIGHT, OR**
23 **PATENTED EQUIPMENT OF THE PRODUCER OR REFINER, AT A PRICE NOT**
24 **EXCEEDING THE GREATER OF THE FAIR MARKET VALUE OR THE BOOK VALUE**
25 **OF THE IMPROVEMENTS AND EQUIPMENT; OR**

26 (II) **IF APPLICABLE, OFFERS A RIGHT OF FIRST REFUSAL TO**
27 **THE DEALER OF ANY BONA FIDE OFFER ACCEPTABLE TO THE PRODUCER OR**
28 **REFINER MADE BY ANOTHER PERSON TO ACQUIRE THE PRODUCER'S OR**
29 **REFINER'S INTEREST IN THE THIRD PARTY LEASE AND THE IMPROVEMENTS**
30 **AND EQUIPMENT LOCATED AT THE MARKETING PREMISES.**

31 SECTION 3. AND BE IT FURTHER ENACTED, That this Act applies to all
32 offers of bulk transfers of service stations on or after January 1, 2008.

33 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 July 1, 2008.