

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

Senate Bill 604
Finance

(Senator Pugh)

Commercial Law - Maryland Gasohol and Gasoline Products Marketing Act -
Marketing Premises

This bill restricts the ability of producers or refiners of gasoline products to sell, transfer, or assign a fee simple or leasehold interest in a “marketing premises” that is leased to a dealer unless specified conditions are met.

The bill takes effect July 1, 2008.

Fiscal Summary

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

Local Effect: The bill would not directly affect local finances or operations.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill prohibits producers or refiners of gasoline products from selling, transferring, or assigning a fee simple interest in a marketing premises that is leased to a dealer (the retail seller of these products) unless the producer or refiner

- makes a bona fide offer to sell, transfer, or assign the interest to the dealer; or
- if applicable, offers a right of first refusal to the dealer of another person’s purchase offer.

A producer or refiner who leases a marketing premises from a third party and subleases it to a dealer is prohibited from selling, transferring, or assigning an interest in the lease unless the producer or refiner

- makes a bona fide offer to sell, transfer, or assign that interest to the dealer, along with any interest in improvements or equipment, at a price

not exceeding the greater of the fair market value or the book value of improvements and equipment; or • if applicable, offers a right of first refusal to the dealer of another person's purchase offer.

The bill defines a "producer" as a person who purchases component elements and combines them to produce gasoline products. A "refiner" is defined as a person who owns, operates, or controls the operations of a refinery. The bill does not apply to transactions otherwise covered under the Federal Petroleum Marketing Practices Act.

Current Law/Background: A producer's or refiner's obligation toward a dealer when disposing of its interests in a marketing premises (such as a retail filling station) is not specifically governed by State statutory law. The Maryland Gasohol & Gasoline Products Marketing Act, created in response to the oil crises of the 1970s, defines the relationships and responsibilities of the parties to certain agreements pertaining to petroleum product marketing arrangements. A person who violates a provision of the 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.

Small Business Effect: Both small independent jobbers and small independent dealers could be affected by the bill's provisions in their respective abilities to purchase the rights to new premises or retain existing premises.

Additional Information

Prior Introductions: A similar bill, HB 1093 of 2005, received a hearing in the House Economic Matters Committee but no further action was taken.

Cross File: HB 777 (Delegate Hecht, *et al.*) – Economic Matters.

Information Source(s): Department of Legislative Services

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ncs/ljm

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