

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 144
Economic Matters

(Delegate Vogel)

Commercial Law – Fair Pricing and Market Competition Fund – Establishment

This bill establishes the Fair Pricing and Market Competition Fund as a special fund to be administered by the Attorney General. The fund's purpose is to provide additional funding to support the Antitrust Division in the Office of the Attorney General (OAG) in the enforcement of the Maryland Antitrust Act (MAA). The bill also requires that certain revenue from civil penalties assessed under § 11-209 of the Commercial Law Article be paid to the special fund (instead of the general fund). For fiscal 2028 through 2033, the Governor must include in the annual budget bill an appropriation to the fund in an amount sufficient to employ one full-time investigator position in the division. **The bill takes effect July 1, 2026.**

Fiscal Summary

State Effect: General fund revenues decrease and special fund revenues correspondingly increase beginning in FY 2027 from revenues associated with MAA enforcement; general fund revenues increase minimally from interest earnings. Special fund expenditures increase for OAG by at least \$107,600 in FY 2028 and by similar amounts annually thereafter, reflecting the spending of the special fund revenues to meet the mandated appropriation, under the assumptions discussed below. **This bill establishes a mandated appropriation for FY 2028 through 2033.**

Local Effect: The bill does not affect local government operations and finances.

Small Business Effect: None.

Analysis

Bill Summary: The Fair Pricing and Market Competition Fund is a special, nonlapsing fund, administered by the Attorney General. The fund consists of:

- revenue distributed to the fund for civil penalties of up to \$10,000 for each violation assessed by the court against any person who violates the prohibitions specified in § 11-204 of the Commercial Law Article;
- money appropriated in the State budget to the fund;
- any other civil penalties, damages, attorney's fees, or costs awarded to the State in an action filed under MAA; and
- any other money from any other source accepted for the benefit of the fund.

Money in the fund may be used only to support the operations of the division. Money expended from the fund for the operations of the division is supplemental to and not intended to take the place of funding that otherwise would be appropriated for the division's operations.

The bill also requires, beginning in fiscal 2028, the creation of a full-time investigator position within the Antitrust Division of OAG.

Current Law:

Maryland Antitrust Act – Generally

The Maryland Antitrust Act is designed to promote fair and honest competition, free of conspiracies, combinations, or agreements which unreasonably restrain trade or commerce. The State's antitrust laws are complementary to the federal Sherman Antitrust Act, contained in 15 U.S.C. §§ 1, *et seq.* Enforcement under MAA may be civil and/or criminal, as further specified in statute.

Under the State's antitrust laws, a person is prohibited from unreasonably restraining trade or commerce by contract, combination, or conspiracy. State law specifically prohibits a contract, combination, or conspiracy that establishes a minimum price below which a retailer, wholesaler, or distributor may not sell a commodity or service. A restraint of trade or commerce is interference with the ordinary, usual, and free competitive pricing or distribution of goods or services in an open market. Furthermore, a restraint of trade is unreasonable if it tends to restrict production, raises prices, or otherwise control the market to the detriment of sellers, purchasers, or consumers of goods or services.

The Antitrust Division within OAG is responsible for enforcing the State's antitrust laws and investigating possible violations, as specified.

Civil Actions under the Maryland Antitrust Act

The Attorney General must institute civil proceedings in equity to prevent or restrain violations of § 11-204 of the MAA. In a civil action proceeding, the court must determine whether a violation has been committed and enter any judgment or decree necessary to (1) remove the effects of any violation and (2) prevent continuation or renewal of the violation in the future. In addition to equitable remedies or other authorized relief, the court may assess a civil penalty of up to \$10,000 for each violation, to be paid to the general fund.

In addition, the Attorney General may sue on behalf of the State, any of its political subdivisions, or on behalf of persons residing in the State to recover damages provided under the MAA or federal antitrust provisions. An action brought on behalf of a person residing in the State is presumed superior to any class action brought on behalf of the same persons. If the court in a State antitrust suit issues an injunction, the plaintiff is entitled to costs and reasonable attorney's fees. If damages are awarded, the plaintiff is entitled to triple damages, with costs and attorney's fees.

State Revenues: The bill does not directly affect the *total* amount of funds available to the State from civil penalties imposed for MAA violations, and damages, attorney's fees, and costs recovered from civil actions under the MAA. For context, OAG reports that the Antitrust Division recovered funds in the amount of \$68,969 in fiscal 2025, and estimates recovery of funds for the State of \$174,000 in fiscal 2026 and \$180,000 in fiscal 2027, respectively.

Under the bill, all civil penalty revenues from any MAA violations, and revenues from damages, fees, or costs recovered in a civil action under MAA, are diverted from the general fund to the special fund; in the absence of the bill, these revenues would accrue to the general fund. Accordingly, there is an anticipated decrease in general fund revenues, with a corresponding increase in special fund revenues beginning in fiscal 2027. While general fund revenues also increase minimally from interest earnings on the new special fund, these earnings do not offset the overall assumed loss of general fund revenues from the diversion of funds.

State Expenditures: The bill requires, beginning in fiscal 2028, the establishment of one full-time investigator position within OAG's Antitrust Division; between fiscal 2028 and 2033, an appropriation must be included in the annual budget bill sufficient to employ one full-time investigator. Accordingly, State expenditures increase by \$107,588 in fiscal 2028 for costs associated with hiring the investigator. The estimate includes salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1.0
Salary and Fringe Benefits	\$97,725
Operating Expenses	<u>9,863</u>
Total FY 2028 State Expenditures	\$107,588

Future year expenditures associated with the investigator position reflect annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Based on the information above regarding potential estimated recoveries, it is assumed that annual revenues that are deposited into the special fund under the bill beginning in fiscal 2027 are sufficient to cover personnel costs associated with the investigator (and the associated mandated appropriation). To the extent, however, that special fund revenues are insufficient in any given year, general funds may be required to fulfill the mandated appropriation through fiscal 2033. Although this fiscal and policy note specifically reflects only the corresponding expenditures necessary to meet the mandated appropriation, it is assumed that special fund expenditures generally correspond to any special fund revenues as the funding is spent each year to bolster enforcement efforts under MAA.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Office of the Attorney General; Department of Budget and Management; Department of Legislative Services

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