

# **Maryland Code**

## **COMMERCIAL LAW**

### **TITLE 11 - TRADE REGULATION**

#### **Subtitle 1 - Foreign Discriminatory Boycotts Act**

##### **§ 11-101. Declaration of policy; administration of subtitle; construction.**

It is the policy of the State of Maryland to oppose restraints of trade and unfair trade practices in the form of foreign discriminatory boycotts not specifically authorized by the law of the United States which are fostered or imposed by foreign persons, foreign governments or international organizations against any domestic individual on the basis of race, color, creed, religion, sex or national origin. It is also the policy of the State of Maryland to oppose those actions, including the formation of agreements, understandings or contractual arrangements, expressed or implied, which have the effect of furthering or supporting these discriminatory boycotts, in order that the peace, health, safety, prosperity and general welfare of all the inhabitants of the State may be protected and ensured. It is the further policy of the State of Maryland not to impede domestic or foreign commerce, the free flow of goods in commerce, or actions reasonably necessary to protect goods moving in commerce. The State of Maryland recognizes the right of Maryland firms to decide whether to enter into commercial agreements with foreign firms, provided the agreement does not contravene U.S. foreign policy or any federal or Maryland laws and the agreement does not discriminate against domestic individuals entitled to the benefit of the laws of Maryland on the basis of race, color, creed, religion, sex or national origin, and the right of Maryland firms to decide whether to enter into a commercial agreement with a foreign firm that would advance the political and economic interests of a foreign country provided that agreement does not contravene U.S. foreign policy or federal or Maryland laws and does not discriminate against domestic individuals entitled to the benefits of the laws of Maryland on the basis of race, color, creed, religion, sex, or national origin. This subtitle shall be deemed an exercise of the police power of the State of Maryland for the protection of the people of this State, and shall be administered and principally enforced by the Attorney General of the State of Maryland. The provisions of this subtitle shall be construed liberally so as to effectuate this declaration of policy and the laws and Constitution of the United States, but nothing in this subtitle shall be construed to infringe upon the right of the United States government to regulate interstate and foreign commerce.

[1976, ch. 613; 1977, ch. 9, § 2.]

{Code of Maryland Regulations (Last Updated: January 29, 2019)  
Title 02. Office of the Attorney General  
Subtitle 04. ANTITRUST DIVISION  
Chapter 02.04.01. Maryland Foreign Discriminatory Boycotts Act Regulations  
Sec. 02.04.01.00. Administrative History

Annotation: "The Maryland Foreign Discriminatory Boycotts Act has been preempted by the federal Export Administration Act of 1979, as amended, 50 U.S.C. App. §2407, and is, therefore, not currently enforceable. By Executive Order 12730 (September 30, 1990) the President of the United States continued the application of the Export Administration Act of 1979 until terminated. Consequently, the regulations promulgated under Maryland law will not be printed in the Code of Maryland Regulations at this time. The Maryland law and regulations will become effective only if Executive Order 12730 is terminated."

Effective date: January 19, 1977 (4:2 Md. R. 81)

Notation

Authority: Commercial Law Article, §§11-101-11-115, Annotated Code of Maryland}

## **§ 11-102. Definitions.**

- (a) In general.- In this subtitle the following words have the meanings indicated.
- (b) Attorney General.- "Attorney General" means the Attorney General of the State of Maryland.
- (c) Business relationship.- "Business relationship" means any aspect of business:
  - (1) Dealing with the sale, purchase, licensing or provision of goods, services or information; or
  - (2) Affecting the ownership, management, employees, hiring practices, customers, clients, suppliers, contractors, subcontractors or other business associates of any person engaged in commerce.
- (d) Control.- "Control" means the power to exercise a controlling influence over the management policies of an entity, to influence that management or policies or play a significant role in the implementation of them.
- (e) Discriminatory boycott.- "Discriminatory boycott" means the entering into or carrying out of any provision, express or implied, of any agreement, understanding or contractual arrangement for economic benefit between any person and any foreign government, foreign person, or international organization, which is not specifically authorized by the law of the United States and which is required or imposed, either directly or indirectly, overtly or covertly, by the foreign

government, foreign person, or international organization in order to restrict, condition, prohibit, or interfere with any business relationship on the basis of a domestic individual's race, color, creed, religion, sex or national origin. Except, that entering into an agreement, understanding or contractual arrangement with respect to the handling or shipping of goods while in international and not intrastate transit or executing and delivering any other document with respect to the handling or shipping of goods while in international and not intrastate transit or carrying out or complying with any provision with respect to the choice of carrier in international and not intrastate transit or the international routing of goods while in international and not intrastate transit contained in any such agreement, understanding, contractual arrangement or other document may not constitute a discriminatory boycott within the meaning of this subtitle.

(f) Domestic individual.- "Domestic individual" means any individual whose residence, domicile, or principal place of business is in the United States and who is subject to the protection of the laws of the State of Maryland.

(g) Foreign government.- "Foreign government" includes all governments and political subdivisions and the instrumentalities thereof, excepting the governments, political subdivisions, and instrumentalities of the United States and the states, commonwealths, territories and possessions of the United States, and the District of Columbia.

(h) Foreign persons.- "Foreign persons" means any person whose principal place of residence, business or domicile is outside the United States, or any person controlled directly or indirectly by any other person whose principal place of residence, business or domicile is outside the United States.

(i) International organization.- "International organization" means any association or organization, of which a substantial portion of the membership includes foreign persons or foreign governments, but does not include an international labor organization.

(j) Person.- "Person" includes one or more of the following and their agents, employees, servants, representatives, directors, officers, partners, members, managers and superintendents: individuals, the State of Maryland, corporations, partnerships, joint ventures, associations, labor organizations, but not including international labor organizations, educational institutions, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, fiduciaries and all other entities recognized at law or in equity by this State.

(k) State of Maryland.- "State of Maryland" means the State and its political subdivisions and each of the instrumentalities of the State and the political subdivision.

[1976, ch. 613; 1977, ch. 9, § 2; 2005, ch. 25, § 13.]

**§ 11-103. Participation in discriminatory boycott unlawful.**

It is unlawful for a person to:

(a) Knowingly participate in a discriminatory boycott; or

(b) Knowingly aid or assist any other person in participating in a discriminatory boycott. However, nothing in this subtitle shall make it unlawful for any person who does not otherwise participate or agree to participate in a "discriminatory boycott" merely to handle or ship the goods of a person who may be in violation of this subtitle.

[1976, ch. 613; 1977, ch. 9, § 2; ch. 534.]

**§ 11-104. Responsibility to report violations.**

If any violation or possible violation of this subtitle comes to the attention of any officer or any department, board, commission, bureau, division, office or other agency of the Executive Branch of the State government or of any political subdivision of the State, that officer or the chief administrative officer of the department, board, commission, bureau, division, office or other agency, as the case may be, shall submit promptly a written report of the violation or possible violation to the Attorney General. The report shall contain a full statement of the facts and circumstances regarding the violation or possible violation, including the names and addresses of all persons who have or may have knowledge or information with respect to it, and shall be accompanied by copies of any documents pertinent to the violation or possible violation that are in the possession or control of the person making the report.

[1976, ch. 613; 1977, ch. 9, § 2.]

**§ 11-105. Production of documents for inspection by Attorney General.**

Except for purposes of a criminal prosecution, if the Attorney General believes that a person is in possession, custody or control of any documents relevant to the subject matter of an investigation of a possible violation of this subtitle, he may demand and obtain the production of these documents in the manner provided for by § 11-205 of this article.

[1976, ch. 613; 1977, ch. 9, § 2.]

**§ 11-106. Assurance of discontinuance of prohibited act.**

- (a) Attorney General may accept assurance of discontinuance.- In enforcing this subtitle, the Attorney General may accept an assurance of discontinuance of an act or practice considered in violation of this subtitle from any person engaged in the act or practice.
- (b) Form of assurance of discontinuance and court's approval.- The assurance of discontinuance shall be in writing and filed with and subject to the approval of the court of the county where the alleged violator resides or has his principal place of business.
- (c) Assurance not considered admission.- The assurance of discontinuance may not be considered for any purpose as an admission of a violation. However, proof of failure to comply with the assurance of discontinuance is prima facie evidence of a violation of this subtitle.

[1976, ch. 613; 1977, ch. 9, § 2.]

**§ 11-107. Criminal proceedings.**

- (a) Investigation by Attorney General; assistance of State's Attorney.- The Attorney General shall investigate suspected criminal violations of this subtitle and may require assistance from any State's Attorney for that purpose.
- (b) Prosecution by Attorney General and State's Attorney.- The Attorney General shall commence and try all prosecutions under this subtitle with the State's Attorney for the county where the prosecution is brought.
- (c) Powers and duties of Attorney General when prosecution commenced.- With respect to the commencement and trial of the prosecution, the Attorney General has all the powers and duties vested by law in State's Attorneys with respect to criminal prosecutions.
- (d) Limitation period for criminal action.- A prosecution for any offense in violation of this subtitle shall be commenced within four years after the offense is committed.

[1976, ch. 613; 1977, ch. 9, § 2.]

**§ 11-108. Cooperation with federal government and other states.**

The Attorney General may cooperate with the federal government and other states in enforcement of this subtitle.

[1976, ch. 613; 1977, ch. 9, § 2.]

**§ 11-109. Civil actions.**

- (a) Proceedings by Attorney General.-

(1) The Attorney General shall institute proceedings in equity to prevent or restrain violations of § 11-103 of this subtitle and may require assistance from any State's Attorney for that purpose.

(2) In a proceeding under this section, the court shall determine whether a violation has been committed and enter any judgment or decree necessary to:

- (i) Remove the effects of any violation it finds; and
- (ii) Prevent continuation or renewal of the violation in the future.

(b) Action for damages and injunction.-

(1) The United States, the State, and any political subdivision organized under the authority of the State is a person having standing to bring an action under this subsection.

(2) A person injured by a violation of § 11-103 of this subtitle may maintain an action for damages or for an injunction or both against any person who has committed the violation.

(3) If an injunction is issued, the complainant shall be awarded costs and reasonable attorney's fees.

(4) In an action for damages, if an injury due to a violation of § 11-103 of this subtitle is found, the person injured shall be awarded three times the amount of actual damages which results from the violation, with costs and reasonable attorney's fees.

(5) The Attorney General may bring an action on behalf of the State or any of its political subdivisions to recover the damages provided for by this subsection or any comparable provision of federal law.

(c) Limitation period for civil action.-

(1) An action brought to enforce this subtitle shall be commenced within four years after the cause of action accrues.

(2) For the purposes of this subsection, a cause of action for a continuing violation accrues at the time of the latest violation.

[1976, ch. 613; 1977, ch. 9, §§ 1, 2; ch. 534; 2005, ch. 25, § 13.]

**§ 11-110. Cumulative remedies.**

The remedies provided in this subtitle are cumulative.

[1976, ch. 613; 1977, ch. 9, § 2.]

**§ 11-111. Penalties.**

Any person who willfully violates any of the provisions of § 11-103 of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$50,000 or imprisonment not exceeding six months or both.

[1976, ch. 613; 1977, ch. 9, §§ 1, 2; 2005, ch. 25, § 13.]

**§ 11-112. Contract provision declared void.**

Any provision of any contract or other document or other agreement which violates, or which, if observed by the person intended to be bound by the provision, would cause a violation of § 11-103 of this subtitle shall be null and void as being against the public policy of the State of Maryland.

[1976, ch. 613; 1977, ch. 9, §§ 1, 2.]

**§ 11-113. Promulgation of rules and regulations.**

The Attorney General may promulgate rules and regulations for the purpose of implementing and enforcing the provisions of this subtitle with respect to the persons subject to their respective jurisdictions and have the duty, and all powers necessary, to enforce any rules and regulations so promulgated.

[1976, ch. 613; 1977, ch. 9, § 2.]

**§ 11-114. Applicability of antitrust laws.**

This subtitle may not be deemed to supersede, restrict or otherwise limit the continuing applicability of the antitrust laws of the State of Maryland.

[1976, ch. 613; 1977, ch. 9, § 2.]

**§ 11-115. Short title.**

This subtitle may be cited as the Maryland Foreign Discriminatory Boycotts Act.

[1976, ch. 613; 1977, ch. 9, § 2.]