

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

House Bill 739
Economic Matters

(Delegate Ali, *et al.*)

Consumer Protection - Protection and Disclosure of Information About
Consumers Collected by Merchants

This bill requires a merchant with 50 or more employees that collects and maintains “personal information” about a Maryland consumer to implement and maintain reasonable security procedures and practices to protect the information from unauthorized access, use, modification, or disclosure.

Fiscal Summary

State Effect: Assuming that the Consumer Protection Division receives fewer than 50 complaints per year stemming from this bill, any additional workload could be handled with existing resources.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: On request, a merchant must clearly and accurately disclose to a consumer all the personal information collected and maintained about the consumer at the time of the request.

A customer may request the personal information that a merchant has collected and maintains by written request sent by certified mail, telephone, or electronic mail under specified circumstances. A merchant must require proper identification of the requester

and has to provide the consumer with the information requested within 30 days after receiving the request. A merchant may charge a reasonable fee, up to \$20, for providing the requested information.

Generally, a merchant may not share or sell a consumer's personal information. However, a merchant that offers a club card to consumers may share a consumer's name and address with a third party for the sole purpose of mailing the consumer information about the club card. The third party may not share the information for any other purpose. A merchant may share or sell marketing information about a consumer under limited circumstances.

Violation of the bill is an unfair or deceptive trade practice under the Maryland Consumer Protection Act, subject to enforcement and penalties under the Act.

Current Law: How a merchant treats the information it collects about its customers is not specifically regulated by the State.

The Consumer Protection Division within the Office of the Attorney General is responsible for pursuing unfair and deceptive trade practice claims under the Maryland Consumer Protection Act. Upon receiving a complaint, the division must determine whether there are "reasonable grounds" to believe that a violation of the Act has occurred. Generally, if the division does find reasonable grounds that a violation has occurred, the division must seek to conciliate the complaint. The division may also issue cease and desist orders, or seek action in court, including an injunction or civil damages, to enforce the Act. Violators of the Act are subject to • civil penalties of \$1,000 for the first violation and \$5,000 for subsequent violations; and • criminal sanction as a misdemeanor, with a fine of up to \$1,000 and/or up to one year's imprisonment.

Additional Information

Prior Introductions: None.

Cross File: SB 467 (Senator Gladden, *et al.*) – Finance.

Information Source(s): Office of the Attorney General (Consumer Protection Division), Department of Legislative Services

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mll/jr

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