

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 935 (Delegate Stein)
Economic Matters

Consumer Protection - Ceramic Fire Pots - Warning Label

The bill prohibits a person from selling or distributing a ceramic fire pot unless a conspicuous warning, in the form prescribed by the State Fire Marshal, is printed legibly on the ceramic fire pot's packaging or on a label securely attached to the ceramic fire pot. The State Fire Marshal must establish regulations for the form of the warning, which must include a statement regarding the fire and safety hazards associated with the use of ceramic fire pots.

Violation of the bill is an unfair or deceptive trade practice under the Maryland Consumer Protection Act (MCPA), subject to MCPA's civil and criminal penalty provisions. Knowing and willful violation is also a misdemeanor, subject to a fine of up to \$5,000.

Fiscal Summary

State Effect: The bill's imposition of existing and penalty provisions does not have a material impact on State finances or operations. If the Consumer Protection Division of the Office of the Attorney General receives fewer than 50 complaints per year stemming from the bill, the additional workload can be handled with existing resources. Likewise, the State Fire Marshal can adopt regulations and handle enforcement with existing resources.

Local Effect: The bill's imposition of existing and new penalty provisions does not have a material impact on local government finances or operations.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill defines “ceramic fire pot” as a portable ceramic container that is designed to hold a flammable liquid fuel or flammable gelatinous fuel and is marketed for use by consumers. “Ceramic fire pot” does not include a device used for cooking.

The Attorney General and Fire Marshal have enforcement authority over any violations and the Baltimore City Fire Department must report any violation to the Consumer Protection Division of the Office of the Attorney General.

Current Law: There are no State laws relating to the placement of warnings on ceramic fire pots. State law specifies that each county and municipal corporation may adopt by ordinance or resolution a fire prevention code to provide for the protection against fires and the removal of fire hazards. The county or municipal corporation may appoint inspectors and establish penalties to enforce the code.

An unfair or deceptive trade practice under MCPA includes any false, falsely disparaging, or misleading oral or written statement, visual description, or other representation of any kind which has the capacity, tendency, or effect of deceiving or misleading consumers. The prohibition against engaging in any unfair or deceptive trade practice encompasses the offer for or actual sale, lease, rental, loan, or bailment of any consumer goods, consumer realty, or consumer service; the extension of consumer credit; and the collection of consumer debt.

The Consumer Protection Division is responsible for enforcing MCPA and investigating the complaints of aggrieved consumers. The division may attempt to conciliate the matter, hold a public hearing, seek an injunction, or bring an action for damages. A merchant who violates MCPA is subject to a fine of up to \$1,000 for the first violation and up to \$5,000 for each subsequent violation. In addition to any civil penalties that may be imposed, any person who violates MCPA is guilty of a misdemeanor and, on conviction, is subject to a fine of up to \$1,000 and/or imprisonment for up to one year.

Background: A fire pot is a handcrafted ceramic pot coated with a reactive glaze which can be used outdoors or indoors. According to the State Fire Marshal, there were 71 Maryland fire-related fatalities in 2010. Less than 5% of these fatalities were known to be caused by candles or similar objects.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City, Office of the Attorney General (Consumer Protection Division), Judiciary (Administrative Office of the Courts), State Fire Marshal, Department of State Police, handmade.firepots.com, Department of Legislative Services

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