HB 98

Department of Legislative Services

Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 98 (Delegate Arora)
Economic Matters Finance

Commercial Law - Interference With Internet Ticket Sales - Prohibition

This bill prohibits a person from intentionally selling or using software to circumvent a security measure, an access control, or any other control or measure on a ticket seller's website that is used to ensure an equitable ticket buying process. The bill applies to the purchase of a ticket for admission to an entertainment event. An "entertainment event" means a performance, a recreation, an amusement, a diversion, a spectacle, a show, or any similar event. "Entertainment event" includes a theatrical or musical performance, a concert, a film, a game, a ride, and a sporting event. A 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.

Fiscal Summary

State Effect: General fund expenditures increase by $29,100 in FY 2015 for the Consumer Protection Division of the Office of the Attorney General (OAG) to investigate potential violations. Future year expenditures reflect annualization and inflation. The bill's imposition of penalty provisions does not have a material impact on State finances or operations.

(in dollars)	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Revenues	$0	$0	$0	$0	$0
GF Expenditure	29,100	33,700	35,300	37,000	38,700
Net Effect	($29,100)	($33,700)	($35,300)	($37,000)	($38,700)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

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

Small Business Effect: None.

Analysis

Current Law: 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 services; 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: The purpose of the bill is to prohibit the use of "bots" on ticket sellers' websites. Bots are robotic software programs designed to allow users to buy tickets online automatically on a repetitive basis. This process allows users to jump in front of individual consumers online and purchase tickets in bulk. Bots are particularly an issue during concerts and other performance events that are in high demand. They can cause the event to sell out quickly and force individuals to purchase tickets at higher prices on the resale market.

One security measure used by online ticket sellers to combat bots is a "Completely Automated Public Turing test to tell Computers and Humans Apart" (CAPTCHA) at the point of sale on the website. A CAPTCHA is a program that incorporates a test requiring the purchaser to identify distorted letters, phrases, or pictures and is designed to screen out computer programs. However, there are inexpensive ways users can circumvent the security measure, such as purchasing and downloading keys or decoders that allow users to bypass CAPTCHAs that supplement, or add on to, the user's bot.

Online ticket sellers have been pursuing alternatives to CAPTCHAs. For example, Ticketmaster recently implemented a user verification system that requires a user to type real words or a phrase from an advertisement. The company also monitors incoming web traffic to track automated visitor activity and can slow down visitors making ticket requests at excessive speeds.

Other states that have passed or considered legislation prohibiting bots include California, Connecticut, Michigan, Minnesota, New Jersey, New York, Oregon, and Tennessee.

State Expenditures: OAG advises that it expects most complaints to come from the ticket seller and investigations to include determining where purchases originated. To conduct these investigations, OAG advises that it will require one-half of an investigator to investigate possible violations of the bill.

General fund expenditures increase by $29,123 in fiscal 2015, which accounts for the bill's October 1, 2014 effective date. This estimate reflects the cost of hiring 0.5 investigator to perform additional investigations of ticket purchasing complaints as required by the bill. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	0.5
Salary and Fringe Benefits	$24,422
Operating Expenses	4,701
Total FY 2015 State Expenditures	**$29,123**

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Additional Information

Prior Introductions: None.

Cross File: SB 154 (Senator Feldman) - Finance.

Information Source(s): California Office of Senate Floor Analyses, Carnegie Mellon University, Death by Captcha, *The New York Times*, Ticketmaster, *The Wall Street Journal*, Office of the Attorney General (Consumer Protection Division), Maryland Insurance Administration, Judiciary (Administrative Office of the Courts), Department of Legislative Services

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Analysis by: Joshua A. Lowery

Direct Inquiries to:
(410) 946-5510
(301) 970-5510