HB 1419

Department of Fiscal Services

Maryland General Assembly

FISCAL NOTE

House Bill 1419 (Delegates Fulton and DeCarlo)
Economic Matters

Business Regulation - Franchises - Fair Practices

This bill prohibits a franchisor from requiring a franchisee to purchase goods and services from the franchisor or its designated sources unless the goods and services are required to meet system-wide standards and are integrally related to a franchisor trademark or name.

This bill also prohibits a franchisor from terminating or cancelling a franchise prior to its expiration without good cause. If a franchise is terminated, the franchisor must compensate the franchisee or agree to allow the franchisee to continue business under another name. The bill also prohibits franchisors from interfering in franchisees' business activities after the franchise expires or is terminated, unless the franchisor offers to buy the franchise. After a franchise expires or is terminated, however, a franchisor may prohibit the franchisee from using the franchise name or require that the business appearance and operation be altered to avoid confusion about the affiliation with the former franchisor.

This bill prohibits franchisors from restricting franchisees' participation in trade associations and from discriminating against franchisees for such activities. The bill also prohibits franchisors from locating new franchises in proximity to existing franchises if there would be an adverse sales impact on the existing franchise. The bill requires franchisors to compensate existing franchises for adverse sales impact falling under this provision.

This bill provides for franchisors to be civilly liable to franchisees for any franchisor violation of duty to act in good faith in the performance and enforcement of the franchise agreement.

Fiscal Summary

State Effect: General fund expenditures could be affected as discussed below. Revenues would not be affected.

Local Effect: None.

Small Business Effect: Potential meaningful effect on franchisees as discussed below.

Fiscal Analysis

State Expenditures: The Office of the Attorney General advises that State expenditures could increase by an estimated $77,550 in fiscal 1998 due to the costs associated with hiring one Assistant Attorney General and one Investigator to monitor and enforce the provisions of this bill. This estimate reflects the October 1, 1997 effective date and includes salaries, fringe benefits, one-time start-up costs, and operating expenses.

Salaries & Fringe Benefits	$65,040
Operating Expenses	12,510
Total FY 1998 State Expenditures	**$77,550**

Future year expenditures reflect (1) full salaries with 3.5% annual increases and 3% employee turnover; and (2) 2% annual increases in ongoing operating expenses.

Fiscal 1999	$91,570
Fiscal 2000	$94,830
Fiscal 2001	$98,200
Fiscal 2002	$101,700

The Department of Fiscal Services advises that the Office of the Attorney General did not provide the assumptions used to estimate the costs associated with this bill. Therefore, Fiscal Services was unable to verify the validity of these estimates and advises that the actual expenditure levels may vary from the Attorney General's estimates.

Small Business Effect: It is assumed that the majority of franchises are small businesses. The bill's prohibition on a franchisor requiring a franchisee to purchase supplies and services from sources designated by the franchisor, terminating a franchise prior to expiration without good cause as defined, enforcing prohibitions against the franchisee after the termination of the franchise, and interfering with the free association of a franchisee could reduce

expenditures of franchisees. The bill could also benefit franchisees by prohibiting a franchisor from establishing new outlets within an unreasonable proximity to an existing franchise which could reduce competition and potentially increase revenues.

Information Source(s): Office of the Attorney General, Department of Fiscal Services

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