

Department of Legislative Services
Maryland General Assembly
1999 Session

FISCAL NOTE

House Bill 573 (Delegate Barve)
Economic Matters

Business Regulation - Unsolicited Electronic Mail Advertisements

This bill generally prohibits a person from delivering unsolicited mail advertisements that causes the recipient to incur damages.

Fiscal Summary

State Effect: Indeterminate increase in general fund expenditures resulting from increased administrative hearings to determine whether a license should be revoked when a defendant fails to satisfy a judgment within three months. Hearing costs range from \$100 to \$2,000 per hearing.

Local Effect: None.

Small Business Effect: Potential meaningful. The bill could have a meaningful effect on small businesses to the extent that they conduct their marketing efforts by electronic mail.

Fiscal Analysis

Bill Summary: This bill prohibits a person from initiating a telecommunication for the delivery of an advertisement, if the delivery causes the recipient of the advertisement or a service provider who stores or transfers the advertisement, to incur a fee, expense, or other damages.

A plaintiff may bring an action against the person who initiated the telecommunication for an injunction, damages, restitution of property, court costs, reasonable attorney's fees, and any other relief the court considers proper. The bill provides an affirmative defense if the plaintiff requested or consented to the initiation of the telecommunication in writing or electronic format.

In general, a plaintiff prevailing in an action for damages is entitled to the greater of \$500 for each violation or the person's actual damages. However, if the defendant knowingly committed the violation, the plaintiff is entitled to the greater of \$1,500 for each violation or treble damages. If the defendant committed the violation intentionally, the plaintiff is entitled to the greater of \$3,000 for each violation or six times the person's actual damages. If the court finds that the plaintiff brought the action in bad faith, the defendant is entitled to recover court costs and reasonable attorney's fees.

Failure of a defendant to satisfy a final judgment within three months is grounds for revocation of the defendant's license or other authority to do business in Maryland or for appointment of a receiver to take over the defendant's affairs.

This bill extends to non-Maryland resident violators who know, or with reasonable diligence should know, that the recipient of the advertisement is a Maryland resident.

State Effect: A defendant's failure to satisfy a final judgment within three months is grounds for revocation of the defendant's license or other authority to do business in Maryland. The bill generally requires that the revocation be made by an agency authorized to make such a revocation. Although the number of cases that would be filed is not known, the Department of Labor, Licensing, and Regulation advises that the boards within the Division of Occupational and Professional Licensing will incur costs ranging from \$100 to \$2,000 per hearing.

Assuming the Consumer Protection Division receives fewer than 50 complaints as a result of this bill, any additional workload for the division could be handled with existing resources.

Information Sources: Office of the Attorney General; Department of Labor, Licensing, and Regulation

Fiscal Note History: First Reader - March 1, 1999

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Analysis by: Jo Ellan Jordan

Direct Inquiries to:

John Rixey, Coordinating Analyst

(410) 946-5510

(301) 970-5510