

Department of Legislative Services
 Maryland General Assembly
 2003 Session

FISCAL AND POLICY NOTE
 Revised

Senate Bill 394 (Senator Pinsky, *et al.*)
 Education, Health, and Environmental Affairs and Finance Environmental Matters

Maryland Energy Efficiency Standards Act

This bill establishes minimum energy efficiency standards for specified new products to be sold in Maryland after March 1, 2005 or installed in Maryland after January 1, 2006. The bill provides for the certification, testing, and inspection of those products and establishes a civil penalty for repeat violations by manufacturers, distributors, and retailers. The Maryland Energy Administration (MEA) or an agency assigned by the Governor would be responsible for the administration of the program. MEA must provide a report to the General Assembly and the Governor by December 1, 2003.

The bill takes effect July 1, 2003.

Fiscal Summary

State Effect: Potential minimal increase in State expenditures beginning in FY 2005 to purchase affected products. General fund expenditure increase of \$5,000 beginning in FY 2006 for contractual services related to product testing by MEA. Energy costs would decrease. Potential increase in general fund revenues beginning in FY 2005 from the bill's fee and penalty provisions.

(in dollars)	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
GF Revenue	\$0	-	-	-	-
GF Expenditure	0	-	5,000	5,500	6,000
Net Effect	\$0	\$0	(\$5,000)	(\$5,500)	(\$6,000)

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

Local Effect: Local expenditures for the purchase of products affected by the bill could increase beginning in FY 2005. In the long run, energy savings are anticipated.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: MEA must adopt regulations by January 1, 2004 establishing minimum energy efficiency standards for nine household and commercial products: (1) torchiere lighting fixtures; (2) unit heaters; (3) certain types of low-voltage dry-type distribution transformers; (4) ceiling fans and ceiling fan light kits; (5) traffic signal modules; (6) illuminated exit signs; (7) commercial refrigeration cabinets (excluding walk-in refrigerators or freezers); (8) large packaged air-conditioning equipment; and (9) commercial clothes washers.

The bill specifies minimum efficiency standards for those products and states that no new product may be sold or offered for sale in the State on or after March 1, 2005 unless the energy efficiency of the new product meets or exceeds those standards. On or after January 1, 2006, no new product may be installed in the State unless the product meets those standards.

Efficiency standards for commercial clothes washers and ceiling fan kits do not become effective until March 1, 2007; washers and kits that do not meet the standards may be installed in Maryland until January 1, 2008.

The bill does not apply to:

- new products manufactured in the State and sold outside the State;
- new products manufactured outside the State and sold at wholesale inside the State for final retail sale and installation outside the State;
- products installed in mobile manufactured homes at the time of construction; or
- products designed expressly for installation and use in recreational vehicles.

The bill requires MEA to adopt procedures for testing the energy efficiency of new products covered by the bill if testing procedures are not provided for in the Maryland Building Performance Standards (MBPS). The bill directs MEA to use U.S. Department of Energy approved test methods or other nationally recognized test methods. Manufacturers of new products listed in the bill must cause samples of their products to be tested in accordance with test procedures adopted by MEA (or those specified in the MBPS) and must certify to MEA that the products meet the bill's requirements. MEA must adopt regulations governing the certification of new products and may coordinate with the certification programs of other states with similar standards.

MEA may delay the effective date of any standard by up to one year upon request of a Maryland business or consumer and after public notice and comment if it determines that the products conforming to the standard will not be widely available by the applicable date.

MEA may test products using an accredited testing facility. If products tested are found not to be in compliance, MEA must charge the manufacturer for the cost of product purchase and testing and provide information to the public on products found not to be in compliance. The bill authorizes MEA to periodically inspect distributors and retailers of new products affected by the bill with prior notice and at reasonable and convenient hours. The bill directs MEA to work with the Department of Housing and Community Development (DHCD) to coordinate inspections of newly constructed buildings (prior to occupancy) for new products that are also covered by MBPS.

Manufacturers of new products affected by the bill must identify each product as being in compliance with the new standards by a mark, label, or tag on the product and packaging. MEA must adopt regulations governing the required labeling that must be coordinated with the requirements of other states or the federal government to the greatest extent possible.

The bill also authorizes MEA to investigate complaints received concerning violations of the bill and to report the results of any investigation to the Attorney General. The Attorney General may institute proceedings to enforce the provisions of the bill. For first violations, any manufacturer, distributor, or retailer would be subject to a warning. For any repeat violations, the violator would be subject to a civil penalty not exceeding \$250. Each violation constitutes a separate offense and each day a violation continues constitutes a separate offense.

The bill requires MEA to monitor a federal study of standby energy consumption in set-top boxes and to coordinate that study with its own assessment of technological and policy options for reduction of standby energy consumption in Maryland. A set-top box means a digital cable television box, wireless, television receiver, or digital television converter box.

If MEA is unable to administer the requirements of the bill due to action of the General Assembly, the bill directs the Governor to reassign the requirements to the Department of the Environment (MDE) or another appropriate State agency.

Current Law: MEA's current programs reflect a wide arena of energy issues, including energy efficiency. Among other things, MEA manages the Commercial Green Buildings

Program for the State, including defining standards for the income tax credit for green buildings that was established during the 2001 session (Chapters 620 and 621).

The Maryland Clean Energy Incentive Act of 2000 (Chapter 296) encouraged the purchase of energy-efficient appliances by exempting from the sales and use tax: (1) clothes washers, room air conditioners, and refrigerators that meet or exceed specified guidelines; and (2) specified energy-efficient heating and cooling equipment and fuel cell electric generating equipment. There are no State standards governing the energy efficiency of products sold and installed in the State.

The U.S. Energy Department has adopted efficiency standards for certain types of lamps, electric motors, some commercial heating and cooling equipment, and several residential appliances, including refrigerators, room and central air conditioners, water heaters, and washing machines.

Background: This bill is based on model legislation developed by the American Council for an Energy-Efficient Economy (ACEEE). ACEEE advises that the products included in the model legislation were chosen based on a variety of factors, including that:

- the products are significant users of energy;
- State action is not preempted by existing federal standards;
- standards for incorporation by reference exist; and
- the products are available in the national market.

According to ACEEE, the per-unit incremental product costs of the model legislation on a national basis and the per-unit energy and dollar savings in Maryland (measured in kilowatt-hours (kWh) for most of the products covered by the proposed standards are estimated as follows:

<u>Product</u>	<u>Per Unit Incremental Cost (nationwide)</u>	<u>Annual Per Unit Energy Savings in MD (kWh)</u>	<u>Annual Per Unit Economic Savings in MD</u>
Ceiling fans	\$29	159	\$12
Commercial refrigerators	29	532	32
Exit signs	30	223	14
Traffic signals	125	431	26
Torchiere lamps	40	288	22
Packaged large HVAC	1,813	11,211	684
Commercial clothes washers	<u>137</u>	<u>197</u>	<u>12</u>

<u>Product</u>	<u>Per Unit Incremental Cost (nationwide)</u>	<u>Annual Per Unit Energy Savings in MD (kWh)</u>	<u>Annual Per Unit Economic Savings in MD</u>
(electric)			
Total		13,041	\$814

Source: American Council for an Energy-Efficient Economy (November 2002)

ACEEE advises that the estimated per-unit incremental costs are based on the price differential between existing equipment that meets the proposed standards and the baseline price of all existing products on a national basis. Estimated per-unit incremental costs for products specific to Maryland are not available.

According to ACEEE, the model legislation is anticipated to reduce peak summer electric use in Maryland by 260 megawatts in 2010, or enough energy to meet the usage of over 95,000 typical Maryland households.

State Revenues: General fund revenues could increase beginning in fiscal 2005 from the payment of fees to MEA from a manufacturer of a product tested by MEA that does not meet the standards established by the bill. Any such increase cannot be reliably estimated at this time. General fund revenues would also increase as a result of any civil penalties assessed. Any such increase cannot be reliably estimated at this time, but is not anticipated to be significant.

State Expenditures: General fund expenditures could increase by an estimated \$5,000 annually beginning in fiscal 2006 for contractual services related to product testing. Expenditures would increase in \$500 increments. This estimate assumes that until fiscal 2006, MEA will rely on products for which there are existing standards and testing. DHCD advises that it does not now inspect new products that are covered by MBPS; it is assumed that any coordination with MEA related to product testing could be handled with existing budgeted resources.

MEA could develop regulations and begin implementing the bill's requirements using existing resources. The costs for MEA to administer the program could increase depending on the extent of the program developed by MEA through regulations. Should MEA require additional resources to implement the bill's requirements, MEA may request such resources through the annual budget process.

MDE advises that if it is required to administer the proposed program, it would need to hire two full-time employees because the department does not have any in-house energy

expertise. The fiscal 2004 cost would be approximately \$115,500, which includes operating expenses and start-up costs.

In addition to costs related to regulating the new program, general fund expenditures could increase beginning in fiscal 2005 for the State to purchase products affected by the bill. However, pursuant to a March 2001 executive order entitled *Sustaining Maryland's Future with Clean Power, Green Buildings, and Energy Efficiency*, the State will be increasing its use of energy-efficient products. Accordingly, while the bill could result in an increase in costs for the purchase of some of the products affected by the bill, any such increase is not anticipated to be significant.

To the extent that the bill reduces energy used by the State, energy costs would decrease.

Local Fiscal Effect: The extent to which local governments are already purchasing energy-efficient products that meet the standards established by the bill is unknown. However, local governments could incur increased costs for products affected by the bill beginning in fiscal 2005. In addition, because many of the products would be installed during the construction of buildings, the price of government buildings could be affected. According to ACEEE, for products that local governments might purchase, the per-unit incremental product costs on a national basis are estimated as follows:

<u>Product</u>	<u>Per Unit Incremental Cost (nationwide)</u>
Commercial refrigerators	\$29
Exit signs	30
Traffic signals	125
Packaged large HVAC	1,813
Unit and duct heaters	277

Because these estimates are based on national product availability, Legislative Services advises that costs in Maryland could vary. In the long run, the bill could result in a decrease in energy costs to the extent the bill reduces energy used by local jurisdictions. According to ACEEE, the long-term net energy savings are estimated to be greater than the net cost of the products, on a national basis. Consumers are also expected to recoup the extra costs that may be associated with an energy efficient product in two to three years or less. For example, the additional cost of a commercial refrigerator would be recovered in nine months.

Small Business Effect: Manufacturers, distributors, and retailers of new products affected by the bill could incur increases in costs related to the bill's prohibitions. Any

costs incurred would likely be passed onto customers in the form of higher product prices. The total increase in costs for small businesses in Maryland cannot be estimated at this time. While all businesses purchasing these products would be affected, small businesses will have a proportionately larger increase in costs because they would most likely not benefit from any large-volume discounts.

Also, of the businesses using products affected by the bill, many tend to be small businesses. Based on a 1998 survey of U.S. businesses by the U.S. Department of Census, over 80% of accommodations firms, over 80% of eating/drinking firms, over 90% of general merchandise stores, over 90% of all retail stores, and over 94% of laundry and cleaning service firms employ fewer than 20 people. In addition, because some of the products affected by the bill would be installed during the construction of buildings, the price of commercial real estate and commercial rental rates could be affected. Any such impact is speculative, however, and cannot be reliably estimated at this time.

In addition, because the bill affects products manufactured outside the State, it is possible that manufacturers in other states would choose not to change their manufacturing processes to meet Maryland-specific requirements. However, ACEEE advises that products meeting the standards established by the bill are available on the national market. To the extent this is the case, the impact on manufacturers in other states would be less.

Any business, large or small, using products affected by the bill could benefit in the long run from a decrease in energy costs. According to ACEEE, in the long run, the net energy savings are estimated to be greater than the net cost of the products, on a national basis.

Additional Comments: Household consumers routinely purchase some of the products affected by the bill, such as ceiling fans and torchiere lamps. In addition, because some of the products affected by the bill are used in apartment buildings, apartment rental rates could increase. Accordingly, residential customers could also be affected by the bill. In the long run, however, customers would save on energy costs.

Additional Information

Prior Introductions: A similar bill was introduced as SB 540 in the 2002 session and received an unfavorable report from the Education, Health, and Environmental Affairs Committee. Among other differences, SB 540 would have: (1) authorized MEA to establish new efficiency standards; (2) applied the standards to beverage vending

machines, game consoles, and commercial ice-makers but not to ceiling fans or commercial refrigerators; and (3) did not require manufacturers to label products that complied with the new standards.

Cross File: HB 747 (Delegate Bronrott, *et al.*) – Environmental Matters.

Information Source(s): Maryland Energy Administration, Department of Housing and Community Development, Worcester County, Office of the Attorney General, American Council for an Energy-Efficient Economy, Natural Resources Defense Council, Department of Legislative Services

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