SB 560

Department of Legislative Services

Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 560 (Senator Pinsky, *et al.*)
Judicial Proceedings Environmental Matters

Vehicle Laws - Regulation of Charitable Organizations Accepting Donations of Vehicles

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This bill requires federally tax-exempt religious, charitable, or volunteer organizations that accept vehicle donations to comply with certain requirements.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) expenditures will increase by $49,000 in FY 2005 for additional personnel. Potential minimal loss of TTF revenues due to the dealer licensing fee exemption. Out-year costs reflect annualization and inflation. TTF revenues and expenditures may increase in the out-years as an increasing number of charities become licensed. Any cost recovery by the Attorney General resulting from actions brought under the unfair and deceptive trade practices provision cannot be quantified beforehand. Potential significant increase in general fund revenues to the extent that lower deductions are taken for vehicle donations.

(in dollars)	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
GF Revenue	-	-	-	-	-
SF Revenue	-	-	-	-	-
SF Expenditure	49,000	43,800	22,900	24,300	25,800
Net Effect	($49,000)	($43,800)	($22,900)	($24,300)	($25,800)

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

Local Effect: Potential increase in general fund revenues to the extent that lower deductions for vehicle donations are taken.

Small Business Effect: Minimal. Small nonprofit organizations will be affected to the extent they will need to comply with the bill's reporting requirements if they accept vehicle donations.

Analysis

Bill Summary: Organizations specified by the bill must do the following: (1) comply with State laws governing vehicle titling and transfers; (2) obtain a dealer's license if the organization accepts more than three vehicle donations in a 12-month period with the intent to sell the vehicles (clarification of current law); and (3) submit a report to the Motor Vehicle Administration (MVA) within one week of accepting a vehicle donation with information required by the MVA. Organizations that accept less than 25 vehicles for resale in a 12-month period or accept vehicle donations not for resale are exempt from the dealer's fee. Failure to comply with these requirements will be considered an unfair or deceptive trade practice; charitable organizations will be subject to the penalties assessed for violations related to such practices.

Current Law: Donations of vehicles to organizations that are exempt from federal tax under Section 501(c)(3) of the Internal Revenue Code are tax deductible (up to the fair market value) on itemized federal and State income tax returns. The charitable organization is responsible for providing the owner with a receipt for tax purposes for the donation of the vehicle. The charity, the owner, or both may determine the price or value of the vehicle. A vehicle owner who transfers interest in a vehicle must execute an assignment and warranty of title at the time the vehicle is delivered, with a statement of each security interest, lien, or other encumbrance on the vehicle. The transferee must promptly complete an application for a new title and send it to the MVA.

Charities that accept over three vehicle donations annually must be licensed by the MVA as a wholesale dealer and pay a $500 biennial license fee. A wholesale dealer may not sell a vehicle to a retail buyer or buy, sell, or exchange new vehicles. Wholesale dealers must keep records, including the date of vehicle transactions, the purchase price, and the make, year, and identification number of a vehicle that is bought, sold, or exchanged. The MVA requires a surety bond from wholesale dealers that is based on the number of vehicles they sell.

Under the Maryland Consumer Protection Act, a person may not engage in any unfair or deceptive trade practice in: (1) the sale, lease, rental, loan, or bailment of any consumer goods, consumer realty, or consumer service; or (2) the offer for sale, lease, rental, loan, or bailment of any consumer goods, consumer realty, or consumer service. The Consumer Protection Division within the Office of the Attorney General is responsible for pursuing unfair and deceptive trade practice claims under the Maryland Consumer Protection Act. The division may attempt conciliation, issue cease and desist orders, or seek action in court, including an injunction, to enforce the Consumer Protection Act.

Violators of the Act are also subject to: (1) civil penalties of $1,000 for the first violation and $5,000 for subsequent violations; and (2) criminal sanction as a misdemeanor, with maximum penalties of imprisonment for one year and/or a fine of $500.

Background: Approximately 30 charities in Maryland are licensed as wholesale dealers by the MVA to accept vehicle donations, including the American Cancer Society, the Humane Society of Baltimore County, and the Maryland School for the Blind. Approximately 4,300 charities operate vehicle donation programs nationwide, and tax deductions for vehicles were claimed on about 733,000 returns in the U.S. in 2001.

Requests for vehicle donations have increased in recent years. The Better Business Bureau Alliance for Wise Giving attributes this growth to competition for donations among a growing number of organizations, as well as the emergence of third-party brokers, which are for-profit firms that may sign up a number of different charity clients located in different parts of the country. The U.S. General Accounting Office (GAO) reported that vehicle donation programs benefited charities but recommended better oversight to improve compliance and increase audits to detect potential overstatement by taxpayers.

GAO indicated that donations in several states had been solicited by fraudulent or ineligible organizations. It also identified factors contributing to overstatements and charities' low returns. Donated vehicles are often sold at auctions for wholesale prices rather than the price that a donor may expect, and vehicle processing and fundraising costs can lower the amount received by the charity.

Some vehicle donors have reported problems, such as receipt of unpaid parking tickets, due to incomplete transfers that can be attributed, in some cases, to the owner's failure to remove the registration plates.

State Revenues: The bill's impact on TTF revenues may be mixed. TTF revenues will decrease to the extent that charities accepting less than 25 vehicles annually will no longer have to pay the $500 biennial dealer's fee. The number of organizations exempted is unknown. If half of the 30 organizations now licensed by the MVA are exempt under the bill, revenues will decrease by approximately $6,760 over the next two fiscal years, accounting for the October 1 effective date.

However, the bill's sanctions and reporting requirements are expected to increase, by an unknown amount, the number of organizations that apply for a dealer's license from the MVA, which would increase TTF revenues. There are 5,716 charitable organizations registered with the Secretary of State, (excluding religious and educational entities or those that solicit less than $25,000 annually) and less than .5% of them are now licensed to accept vehicles.

General fund revenues could increase to the extent that the notification requirement deters some donors from overstating the value of their vehicle donation on their State income tax return. Maryland's share of the overstated deductions, according to a national study, is $16 million. If the notification requirement were to defer all the overstatement, at the tax rate of 4.75%, general fund revenues would increase by $760,000 annually. The actual amount of revenue gain cannot be estimated at this time.

State Expenditures: TTF expenditures will increase by $48,972 in fiscal 2005 to hire a part-time investigator and a contractual employee to handle a potential increase in licensing investigations and additional administrative duties. The estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- the bill will generate sufficient public inquiries about licensing and other procedures to require a contractual employee in fiscal 2005 and 2006;
- a part-time investigator is needed to handle additional license applications; license approval requires on-site inspection and other investigative work; and
- public educational materials regarding the new requirements will be needed.

Salaries and Fringe Benefits	$37,548
Operating Expenses	11,424
Total FY 2005 State Expenditures	**$48,972**

Future year expenditures reflect: (1) full salaries with 4.6% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

The MVA expects as many as 200 organizations that have not complied with the licensing requirement will now do so and advises it will need an additional employee to handle dealer applications. The Department of Legislative Services (DLS) agrees that more organizations will likely become aware of the requirement and apply for a license, but no accurate projection of the number of new applicants is available. However, the MVA may need additional customer agents or investigators in the future if the workload increases substantially. The agency now processes about 430 applications annually.

The Office of Legislative Audits has reported that the MVA has failed to meet dealer auditing requirements; accordingly, an additional part-time investigator is warranted to handle the inspection and investigation required for new license applications. The MVA has 38 investigators to handle all statewide work.

The MVA advises that it will incur computer costs of $180,000 to create an electronic recordkeeping system for charity notifications of vehicle donations. To what extent these costs can be handled with existing resources is unclear. DLS advises that if other legislation is passed requiring computer or web site changes, economies of scale could be realized. This would reduce the costs associated with this bill and other legislation affecting the MVA system.

Local Revenues: Local government revenues would increase to the extent that State income tax revenues increase as a result of the bill's impact on deterrence. If all overstatement as cited in the national study ($16 million) was deterred, revenues would increase by $460,000 annually.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office, Maryland Department of Transportation, Office of the Attorney General (Consumer Protection Division), Department of Legislative Services

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