

Department of Legislative Services
 Maryland General Assembly
 2007 Session

FISCAL AND POLICY NOTE

Senate Bill 548 (Senator Raskin, *et al.*)
 Finance

Commercial Law - Consumer Protection - Restricted Mailing Registry

This bill requires the Consumer Protection Division in the Office of the Attorney General to establish and provide for the operation of a restricted mailing registry of Maryland consumers who choose not to receive “solicitations.”

The bill takes effect July 1, 2007.

Fiscal Summary

State Effect: General fund expenditures could increase by approximately \$395,300 in FY 2008 to process complaints and pursue litigation. Out-years reflect annualization and inflation. General fund revenues would increase depending on the number of times the registry and its updates are purchased and the amount of any fine received.

(in dollars)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
GF Revenue	-	-	-	-	-
GF Expenditure	395,300	397,700	417,500	438,400	460,500
Net Effect	(\$395,300)	(\$397,700)	(\$417,500)	(\$438,400)	(\$460,500)

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

Local Effect: None, assuming the term “person” does not include units of local government.

Small Business Effect: Meaningful.

Analysis

Bill Summary: The division must adopt regulations that contain specified requirements, including the method of listing a consumer's address in the registry, the time-period during which the address will remain in the registry, and the fee for obtaining a copy of the registry and any updates to the registry.

A person that sends mailed solicitations to Maryland consumers must purchase the registry from the division. The person must also purchase updates to the registry at least every three months. A person may not send a solicitation the mailing address of a consumer more than 45 days after the consumer's name and address first appear in the registry or any update.

The division may file a civil action against violators. A violator is subject to a fine of up to \$5,000 for each violation.

A consumer who receives more than one violating solicitation in any 12-month period sent by or on behalf of the same person may bring a civil action to recover: (1) damages of up to \$5,000 for each violation; (2) injunctive relief; and (3) any other relief the court considers appropriate.

A consumer may not bring a civil action under the bill more than two years after the alleged violation or after the termination of an action brought by the State arising out of the same violation.

The division must adopt regulations to carry out the bill by January 1, 2008. The division is required to take actions necessary to ensure the registry is available by July 1, 2008.

Current Law: Mailed solicitations are not currently regulated by the State.

State Fiscal Effect: It is assumed that a large number of individuals would seek to be listed in the registry and that a large number of complaints would be filed with the Consumer Protection Division. General fund expenditures could thus increase by an estimated \$395,285 in fiscal 2008, which accounts for a 90-day start-up delay. This estimate reflects the cost of hiring one assistant Attorney General, one administrator, two investigators, and one legal secretary to process and investigate complaints, deal with an outside contractor to operate the registry, and handle additional litigation by the division to enforce the bill. It includes salaries, fringe benefits, contracting costs to create and operate the registry, other one-time start-up costs, automotive travel, and ongoing operating expenses.

Salaries and Fringe Benefits	\$280,922
Creation and Operation of the Registry	87,500
Other Operating Expenses	<u>26,863</u>
Total FY 2008 State Expenditures	\$395,285
Positions	5

Future year expenditures reflect: • full salaries with 4.5% annual increases and 3% employee turnover; and • 1% annual increases in ongoing operating expenses.

General fund revenues would increase depending on the amount of the fee for purchasing the registry and the number of times it must be purchased. The number of persons that would be required to purchase the registry and its regular updates cannot be accurately estimated but is assumed to be substantial. Likewise, the amount of the fees for purchasing the registry and its updates cannot be ascertained at this time.

Small Business Effect: Many small businesses rely on solicitations sent through the mail as their primary form of advertising. Revenues for small business that rely on direct-mail solicitations for advertising would decrease to the extent that this method of advertising is no longer available.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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ncs/jr

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