

Department of Legislative Services
 Maryland General Assembly
 2007 Session

FISCAL AND POLICY NOTE

House Bill 829 (Delegate Benson, *et al.*)
 Economic Matters

Commercial Law - Consumer Protection - Wireless Telephone Consumer Protection Act

This bill establishes standards for contracts between wireless telephone service providers and consumers.

Violation of the bill is an unfair or deceptive trade practice under the Maryland Consumer Protection Act and is subject to the Act’s enforcement and penalty provisions.

Fiscal Summary

State Effect: General fund expenditures could increase by approximately \$100,400 in FY 2008 to process complaints under the bill. Out-years reflect annualization and inflation. Any fines or penalties resulting from actions brought under the Consumer Protection Act cannot be quantified beforehand.

(in dollars)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
GF Revenue	-	-	-	-	-
GF Expenditure	100,400	124,200	130,500	137,100	114,100
Net Effect	(\$100,400)	(\$124,200)	(\$130,500)	(\$137,100)	(\$114,100)

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

Local Effect: The penalty provisions of this bill are not expected to significantly affect local finances or operations.

Small Business Effect: None.

Analysis

Bill Summary: A wireless telephone service provider must provide a written disclosure to each customer or potential customer containing specified information about any plan or proposed plan offered to the customer for residential wireless telephone service. In addition to the disclosures, the first bill sent by a service provider to a customer must include notice of the terms on which, and the period of time during which, the service may be terminated by the customer without penalty.

A wireless telephone service provider is required to provide, at any point of sale or point of contact with a potential or existing residential customer, a map meeting specified requirements that displays the provider's coverage in Maryland and each county in which service is provided.

A wireless telephone service provider must make an informational filing with the Consumer Protection Division in the Office of the Attorney General. Filings are required to include rates, charges, and rate plans offered to residential customers. The filing may not be used to regulate rates charged by the provider.

The bill specifies criteria for wireless telephone service bills and requires a provider to notify a residential customer at least 30 days in advance of any changes to rates, charges, terms, or conditions of service that apply to the customer. A wireless telephone service provider must provide prior notice to a residential customer if it intends to terminate the customer's contract. At a minimum, the notice must advise the customer of the amount that must be paid to maintain service and the procedures available to make payment to avoid a service cutoff.

The terms on which wireless telephone services are provided must include a trial period that continues at least 15 days after the date the customer's first bill is received for monthly service. During the trial period, the customer may terminate the service without incurring termination fees, charges, or penalty of any kind after paying for services used. Also, the provider must refund a pro rata amount of the charge paid by the customer for a handset when the handset is returned.

Charges associated with the use of wireless telephone equipment or service is not the customer's liability if (1) the customer's equipment is lost or stolen; (2) the use is not authorized by the customer; and (3) the loss or theft is reported promptly to the provider.

The Consumer Protection Division may adopt regulations to implement the bill's provisions. Any regulation must ensure that consumer protections are at a minimum comparable to those applicable to wireline telephone service providers.

Current Law: Contracts between wireless telephone service providers and their customers are not specifically regulated by the State.

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. Upon receiving a complaint, the division must determine whether there are “reasonable grounds” to believe that a violation of the Act has occurred. Generally, if the division does find reasonable grounds that a violation has occurred, the division must seek to conciliate the complaint. The division may also issue cease and desist orders, or seek action in court, including an injunction or civil damages, to enforce the Act. Violators of the Act are subject to • civil penalties of \$1,000 for the first violation and \$5,000 for subsequent violations; and • criminal sanction as a misdemeanor, with a fine of up to \$1,000 and/or up to one year’s imprisonment.

State Expenditures: The Consumer Protection Division advises that it receives between 350 and 600 complaints annually concerning wireless telephone service, including complaints about calling areas, monthly fees, number of minutes included in the plan, and charges for extra minutes. It is anticipated that the number of complaints could increase and become more involved with specific jurisdiction over wireless telephone service. Accordingly, general fund expenditures could increase by an estimated \$100,414 in fiscal 2008, which accounts for the bill’s October 1, 2007 effective date. This estimate reflects the cost of one half-time assistant Attorney General and one complaint investigator to process complaints and pursue enforcement actions. It includes salaries, fringe benefits, one-time start-up costs, in-state travel, and ongoing operating expenses.

Salaries and Fringe Benefits	\$89,988
Other Operating Expenses	<u>10,426</u>
Total FY 2008 State Expenditures	\$100,414
Positions	1.5

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

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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mll/jr

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