

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 180
Finance

(Senator McFadden)

Business Regulation - Prepaid Mobile Phones and Prepaid Refill Cards - Retail Sales

This bill prohibits a seller from selling more than three prepaid mobile phones to a person within a 24-hour period and establishes that sellers must make a record of all transactions involving prepaid mobile phones and prepaid refill cards. Copies of these records must be submitted monthly to the Maryland State Police and the wireless telephone service provider, which must each retain them for one year.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the bill's penalty provisions. The Department of State Police can carry out the bill's requirements with existing budgeted resources.

Local Effect: Potential minimal increase in expenditures due to the bill's penalty provisions.

Small Business Effect: Potential meaningful for merchants to comply with the bill's recordkeeping requirements.

Analysis

Bill Summary: Sellers must make a record of each prepaid mobile phone or prepaid refill card; the records must include (1) a copy of the buyer's valid, government-issued identification that contains the buyer's name, address, and birth date; (2) the name, address, and telephone number of the seller; (3) the serial number and manufacturer of the prepaid mobile phone; (4) the name and address of the wireless telephone service

provider for the prepaid mobile phone or prepaid refill card; and (5) the date the records were submitted to the appropriate entities. Sellers must retain these records for two years. These records must be open to inspection during normal business hours by State or local law enforcement officers in the course of an investigation of a specific crime involving prepaid mobile phones.

Buyers who present false identification and sellers who do not satisfy the recordkeeping requirements are guilty of a misdemeanor and are subject to a \$500 fine for a first offense and a \$1,000 fine and/or 30 days imprisonment for a second or subsequent offense. Each transaction represents a separate offense.

Current Law/Background: Maryland currently has no restrictions on the sale of prepaid mobile phones or refill cards. If a buyer purchases a prepaid mobile phone or refill card with cash, there is no record of the transaction. For this reason, law enforcement agencies have difficulty investigating users of prepaid mobile phones if they are suspected of involvement in criminal activity. Privacy-rights advocates argue that requiring the identification of buyers when purchasing prepaid mobile phones or refill cards constitutes an invasion of privacy; such groups assert that many law-abiding citizens, such as domestic violence victims, rely on these phones for the anonymity they provide.

Pennsylvania, Michigan, and Georgia have introduced legislation similar to the bill. Nine countries have regulations that require mobile operators to collect customer information for prepaid service. Countries with such provisions include Australia, France, Germany, Hungary, Japan, Norway, Slovak Republic, South Africa, and Switzerland.

In 2008 there were about 48 million prepaid wireless users in the United States, accounting for approximately 20% of the country's wireless market. The proportions of prepaid phone users is expected to grow.

State Revenues: General fund revenues increase minimally as a result of the bill's monetary penalty provision from cases heard in District Court.

State Expenditures: General fund expenditures increase minimally as a result of the bill's incarceration penalty due to more people being committed to Division of Correction facilities for convictions in Baltimore City. The number of people convicted of this proposed crime is expected to be minimal.

Generally, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

Local Expenditures: Expenditures increase as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. Per diem operating costs of local detention facilities are expected to range from \$57 to \$157 per inmate in fiscal 2011.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): International Data Corporation; Centre for Policy Research on Science and Technology; National Conference of State Legislatures; Baltimore, Carroll, Harford, and Montgomery counties; Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; Maryland State Police; Public Service Commission; Department of Legislative Services

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