

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 913 (Delegate Howard, *et al.*)
Economic Matters

Consumer Protection - Prohibition on Placement of Unsolicited Commercial
Advertisements on Motor Vehicles

This bill prohibits the placement of an unsolicited commercial advertisement in or on a motor vehicle. Violation of the bill is an unfair or deceptive trade practice under the Maryland Consumer Protection Act (MCPA), subject to MCPA's civil and criminal penalty provisions.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the bill's imposition of existing penalty provisions. If the Consumer Protection Division of the Office of the Attorney General receives fewer than 50 complaints per year stemming from the bill, the additional workload can be handled with existing resources.

Local Effect: Potential minimal increase in revenues and expenditures due to the bill's imposition of existing penalty provisions.

Small Business Effect: Potential minimal.

Analysis

Current Law: State law defines "motor vehicle" as a vehicle that is self-propelled or propelled by electric power from overhead wires and is not operated on rails. A motor vehicle includes a low-speed vehicle but does not include a motor scooter or moped.

In Baltimore City, a person may not affix, place, or cause to be affixed or placed any advertising circular:

- in or on any vehicle in the city, except with the express permission of the owner or operator of the vehicle; or

- in or on any residential property in the city (whether in or on a fence, railing, door porch, lawn, sidewalk, or otherwise) except with the express permission of the owner or occupant of that property, or by placing the advertising circular into a door slot or a nonlockable bin consistent with federal law.

The person whose name, event, business, location, or merchandise is advertised on a circular affixed or placed in violation of the city code is presumed responsible for the violation and subject to the penalties imposed under local law. The burden of overcoming this presumption is on the contesting party. Any person who violates these provisions of the city code is guilty of a misdemeanor, and upon conviction, is subject to a fine of up to \$500 for each offense. Each advertising circular affixed or placed in violation of the city code constitutes a separate offense. (*See* Baltimore City Code, Art.19 §§ 1-2 through 1-5.)

An unfair or deceptive trade practice under MCPA includes any false, falsely disparaging, or misleading oral or written statement, visual description, or other representation of any kind which has the capacity, tendency, or effect of deceiving or misleading consumers. The prohibition against engaging in any unfair or deceptive trade practice encompasses the offer for or actual sale, lease, rental, loan, or bailment of any consumer goods, consumer realty, or consumer service; the extension of consumer credit; and the collection of consumer debt.

The Consumer Protection Division is responsible for enforcing MCPA and investigating the complaints of aggrieved consumers. The division may attempt to conciliate the matter, hold a public hearing, seek an injunction, or bring an action for damages. A merchant who violates MCPA is subject to a fine of up to \$1,000 for the first violation and up to \$5,000 for each subsequent violation. In addition to any civil penalties that may be imposed, any person who violates MCPA is guilty of a misdemeanor and, on conviction, is subject to a fine of up to \$1,000 and/or imprisonment for up to one year.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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mam/kdm

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