

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 455 (Senator Pinsky, *et al.*)

Education, Health, and Environmental Affairs
and Finance

Maryland Efficiency Standards Act - Televisions

This bill requires the Maryland Energy Administration (MEA) to adopt regulations establishing specified minimum efficiency standards and compliance test methods for televisions on or before June 1, 2011. New televisions sold or offered for sale in the State on or after March 1, 2013, must meet or exceed the established minimum efficiency standards. The efficiency standards and requirement that new televisions sold or offered for sale in the State on or after March 1, 2013, meet or exceed those standards are subject to existing provisions applicable to efficiency standards for other new products (*see Current Law*). The existing provisions, among other things, allow for delay of the effective date of efficiency standards for new products for up to one year due to limited availability of conforming products, authorize MEA to increase certain efficiency standards by regulation, specify product certification requirements, and provide for enforcement of the efficiency standards and civil penalties for violations.

Fiscal Summary

State Effect: The bill's requirements are expected to be handled with existing budgeted resources in the near term; however, beginning in FY 2013, additional resources may be required to enforce the standards, depending on the level of enforcement determined to be necessary. To the extent the efficiency standards limit the availability of television models in the State and restrict in-state consumer purchases, State sales tax revenues may decrease.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Current Law: Chapters 2 and 5 of 2004 and Chapter 568 of 2007 required MEA to establish specified minimum efficiency standards applicable to various types of new products, ranging from bottle-type water dispensers to commercial refrigeration cabinets, sold, offered for sale, or installed in the State. The State efficiency standards are subject to preemption by federal standards, but MEA is authorized to apply for a waiver of federal preemption for any product regulated by the federal government in accordance with specified procedures. Many of the efficiency standards required to be established for new products under Chapter 2 and 5 of 2004 and Chapter 568 of 2007 have been preempted by federal standards.

MEA may clarify but not expand the scope of products subject to regulation under State efficiency standards. Every two years, MEA must consider and propose to the General Assembly new standards for products not specifically listed as subject to efficiency standards and revised, more stringent standards for products already listed. MEA is also authorized to increase, by regulation, the efficiency standards established under Chapter 568 of 2007.

MEA is required to adopt procedures by rule for testing the energy efficiency of the new products if testing procedures are not provided for in the Maryland Building Performance Standards. Manufacturers must certify to MEA that new products are in compliance with the efficiency standards, though a copy of a certification to another state or the federal Energy Star Program which has standards/specifications that are equivalent to or more stringent than Maryland's standards may be submitted in place of a separate certification. Labeling requirements apply to certain products.

MEA is authorized to test products and make periodic inspections of distributors or retailers to determine compliance with the efficiency standards. MEA may also investigate complaints concerning violations of the efficiency standards law and must report the results of an investigation to the Attorney General. The Attorney General may institute proceedings to enforce the law. Manufacturers, distributors, or retailers that violate any provision of the efficiency standards law are subject to a warning from MEA for a first violation and repeat violators are subject to a civil penalty of up to \$250. Penalties are paid into the general fund.

Chapters 2 and 5 of 2004 and Chapter 568 of 2007 do not address efficiency standards for televisions.

Background: The minimum efficiency standards for televisions that the bill requires MEA to adopt are similar to standards adopted by the California Energy Commission

(CEC) that will take effect January 1, 2013 (“Tier 2” standards; the commission also adopted less stringent “Tier 1” standards that take effect in 2011), and revised Energy Star (a voluntary federal program) specifications for televisions, that will take effect May 1, 2010. MEA, in the *Maryland Energy Outlook* (2010), recommends implementation of a standard modeled after the California Tier 2 standard for televisions sold in Maryland.

Citing U.S. Energy Information Administration estimates, the *Maryland Energy Outlook* indicates that nationally, televisions accounted for about 5.3% of residential electricity use in 2006 and are projected to account for nearly 7.2% of residential electricity use by 2030. MEA indicates that 25% of televisions sold today already meet the California Tier 2 standard, and requiring mandatory compliance in 2013 will allow time for manufacturers to update remaining product lines and allow retailers to sell off existing stock.

A notable difference between the California standards and those required to be adopted under the bill is that the California standards apply to all televisions manufactured on or after January 1, 2013, and as a result appears to not prohibit the sale of existing stock of noncompliant televisions after that date. The standards under the bill, however, apply to all new televisions sold or offered for sale on or after March 1, 2013.

MEA indicates in the *Maryland Energy Outlook* that implementation of any federal efficiency standard for televisions is expected to be at least a number of years away.

State Expenditures: MEA indicates that development of the efficiency standards can be handled within existing resources if the standards are a direct copy of the California standards, which they substantively appear to be. Under the bill and the existing efficiency standards law, MEA is authorized, but not required, to test products, inspect distributors and retailers, and investigate complaints to determine compliance with the standards. Presumably a certain level of compliance and enforcement efforts, possibly complaint investigation only, can be handled with existing staff, while more rigorous enforcement, if necessary, could require additional resources.

State Revenues: To the extent the adopted efficiency standards limit television models available from retailers in Maryland (see discussion under Small Business Impact, below), general fund and Transportation Trust Fund revenues may decrease due to a loss in State sales tax revenue generated from television sales. The extent of any decrease cannot be reliably estimated.

It is assumed any increase in general fund revenues from the collection of civil penalties will be minimal.

Small Business Impact: Small businesses in the consumer electronic industry may be meaningfully impacted as a result of the efficiency standards adopted pursuant to the bill; however, the extent of any impact cannot be reliably estimated.

The Consumer Electronics Association (CEA) and at least two other industry associations that submitted comments regarding the California standards viewed the standards as detrimental to retail and/or installation businesses, generally indicating that the standards will reduce in-state sales and possibly shift sales online or otherwise out-of-state. However, the *Maryland Energy Outlook* notes that there are other manufacturers and trade associations that support the California standard. CEA also indicated in testimony on HB 1238 of 2009, legislation similar to this bill (requiring MEA to adopt efficiency and labeling standards for televisions), that mandatory efficiency standards for televisions would have a detrimental effect on retail and installation businesses in Maryland.

A November 2009 CEC staff report indicated that while the commission determined it was feasible for all manufacturers to make their entire line of products compliant with the California standards, it was up to the manufacturers to make those changes, meaning that there could be television models that would not be sold or offered for sale in California. While not specifically addressing the resulting impact on small businesses, the commission staff determined for several reasons that certain television models not being sold in the state would have an insignificant effect on the California economy.

Legislative Services notes that any impact the efficiency standards for televisions in California and under this bill will have on small businesses may initially be more significant under this bill than under the California standard because the bill does not allow for existing stock of noncompliant televisions to be sold once the standards take effect. MEA, however, views the effective date of the efficiency standards under the bill as providing retailers sufficient time to plan their inventory accordingly. The effective date of the efficiency standards under the bill is two months after the effective date of the California standards.

Additional Information

Prior Introductions: HB 1238 of 2009, a similar bill, received an unfavorable report from the House Economic Matters Committee.

Cross File: HB 349 (Delegates Carr and Bronrott) - Economic Matters.

Information Source(s): Department of Housing and Community Development, Maryland Energy Administration, California Energy Commission, Consumer Electronics Association, Consumer Electronics Retailers Coalition, California Retailers Association, Northeast Energy Efficiency Partnerships, Department of Legislative Services

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