

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 1256 (Delegate Frush)
Environmental Matters

**Vehicle Laws - Manufacturer, Distributor, or Factory Branch - Dealer Benefits
and Web Sites**

This bill governs Internet advertising practices of vehicle dealers and manufacturers, distributors, and factory branches; prohibits manufacturers, distributors, and factory branches from taking punitive actions and denying benefits based on certain Internet-based advertising practices of dealers; and prohibits specified discriminatory treatment of dealers by manufacturers, distributors, and factory branches.

Fiscal Summary

State Effect: The bill primarily regulates the activities of private entities. Any impact on the Motor Vehicle Administration (MVA) or Attorney General can likely be handled with existing budgeted resources. Transportation Trust Fund and general fund revenues may increase minimally due to the application of existing criminal and administrative penalties and due to the collection of additional restoration or reinstatement fees for licenses that are suspended or revoked under the bill.

Local Effect: Potential negligible increase in circuit court caseloads.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: A manufacturer, distributor, or factory branch may not take punitive action against a dealer; deny or refuse to pay any benefit to a dealer that is available to other dealers; or fail to provide to a dealer any links, referrals, or other benefits involving the manufacturer's, distributor's, or factory branch's Internet website that are available to other dealers because the dealer includes the dealer's Internet website address on advertising.

If a manufacturer, distributor, or factory branch requires that links from its Internet website be attached to a unique Internet website featuring only information on its products, the dealer may require the dealer's main Internet website address to be shown prominently on each page of the manufacturer's, distributor's, or factory branch's unique Internet website.

A manufacturer, distributor, or factory branch may not refuse to offer to a dealer a bonus, incentive, or other benefit program that is offered to all of its other same line-make dealers nationally or to all of its same line-make dealers in the states adjacent to Maryland, unless the refusal or failure is reasonably justified by the existence of substantially and demonstrably different economic or marketing conditions.

Current Law: The Maryland Vehicle Law contains a number of provisions that protect motor vehicle dealers from discriminatory or coercive business practices by manufacturers, distributors, and factory branches and that strengthen dealerships' franchise rights. Manufacturers, distributors, and factory branches are required to be licensed by MVA in order to transfer a motor vehicle or conduct business in the State. MVA may suspend or revoke the license of a manufacturer, distributor, or factory branch for violations of the Maryland Vehicle Law following an administrative hearing and subject to judicial review by a circuit court.

Background: There are 1,778 vehicle dealers in Maryland, including 451 new vehicle dealers and 79 motorcycle dealers. In addition, 987 wholesale dealers operate in Maryland; wholesale dealers can sell to another dealer but not to the public. There are also 23 manufacturers, 2 distributors, and 3 factory branches in Maryland, down significantly from 102 manufacturers, 51 distributors, and 4 factory branches as of 2009.

Small Business Effect: It is unknown how many motor vehicle dealers are engaged in the types of advertising practices specified in the bill, or how many manufacturers, distributors, or factory branches would take any of the actions against a dealer prohibited by the bill. However, a small business dealer realizes a meaningful benefit to the extent that it would otherwise be subject to the prohibited activities in the absence of the bill. To the extent that any manufacturer, distributor, or factory branch is a small business entity, the bill creates additional prohibitions that subject business licenses to the suspension and revocation authority of MVA.

Additional Information

Prior Introductions: None.

Cross File: SB 597 (Senators Raskin and Forehand) - Judicial Proceedings.

Information Source(s): Maryland Department of Transportation, Department of Legislative Services

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mc/ljm

Analysis by: Evan M. Isaacson

Direct Inquiries to:
(410) 946-5510
(301) 970-5510