

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

Senate Bill 527
Finance

(Senator Simonaire)

Anne Arundel County - Automated Political Telephone Calls - Prohibition

This bill prohibits, under the Maryland Telephone Consumer Protection Act, a person from placing or causing to have placed an automated telephone call to a Anne Arundel County residential telephone number that is in the national Do-Not-Call registry relating to a political issue or with the purpose of (1) promoting a political candidate; or (2) advertising, campaigning, or soliciting donations for or against a political candidate. Each call is a separate violation of the Telephone Consumer Protection Act.

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: The bill's imposition of existing penalty provisions does not have a material impact on State finances or operations. 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: None.

Small Business Effect: None.

Analysis

Current Law: Under regulations issued jointly by the Federal Trade Commission (FTC) and the Federal Communications Commission (FCC), individuals may enter their names into the national Do-Not-Call registry. With limited exceptions, telemarketers are

prohibited from calling telephone numbers that are entered in the registry. Once a number is entered into the registry, telemarketers must stop calling the number within 31 days from the date of entry. Political organizations are not included in the definition of “telemarketing” and are therefore exempt from any of the regulations centered on the Do-Not-Call registry. Violators are subject to a fine of up to \$16,000 for each violating call. FCC, FTC, and state Attorneys General may sue in federal court to enforce the federal registry. A state must pass a law adopting the federal registry in order for its state Attorney General to enforce the registry in state courts.

Violation of the Maryland Telephone Consumer Protection Act is an unfair or deceptive trade practice under MCPA. An individual injured by a violation of the Telephone Consumer Protection Act may also bring an action against a violator to recover reasonable attorney’s fees and the greater of \$500 for each violation or actual damages.

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: SB 598 of 2007, a similar bill with statewide application, received an unfavorable report from the Senate Finance Committee.

Cross File: None.

Information Source(s): Anne Arundel County, Office of the Attorney General (Consumer Protection Division), Maryland State Board of Elections, Federal Trade Commission, State Ethics Commission, Department of Legislative Services

Fiscal Note History: First Reader - February 27, 2011
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