

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

House Bill 908

(Delegate Stein)

Environmental Matters

Finance

Motor Vehicles - Leased Vehicles - Advertising Practices

This bill prohibits a vehicle lessor from (1) failing to include a dealer processing or freight charge when determining the adjusted capitalized cost used to calculate the base lease payment shown in an advertisement for a leased vehicle; or (2) advertising to the general public a capitalized cost reduction to a lessee unless the capitalized cost reduction is offered to all potential lessees. A violation of the bill is deemed an unfair and deceptive trade practice under the Maryland Consumer Protection Act (MCPA), subject to MCPA penalty provisions, except that an individual who is aggrieved by a violation of this bill may not bring an action under MCPA and is limited to the recovery of damages as provided under consumer motor vehicle leasing provisions of the Commercial Law Article.

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: The bill's imposition of existing penalty provisions does not have a material impact on local government finances or operations.

Small Business Effect: Potential minimal adverse impact on small business vehicle dealers to revise advertising and leasing practices.

Analysis

Current Law: Generally the lessor of a vehicle may not make any false, falsely disparaging, or misleading statement or representation that may have the effect of deceiving or misleading a lessee. Additionally, a lessor may not advertise a vehicle without the intent to lease it as advertised. Finally, a vehicle lessor may not misrepresent a lease of a vehicle as a sale.

The federal Consumer Leasing Act (CLA) was enacted to ensure meaningful and accurate disclosure of the terms of personal property leases. The CLA is implemented by the Federal Reserve Board's "Regulation M." According to the Federal Reserve, Regulation M requires lessors to provide consumers with various disclosures about consumer lease transactions, the most common of which are automobile leases. Regulation M was revised in 1997 to expand the disclosures required of vehicle lessors, including adjusted capitalized cost, and a description of the meaning of that cost.

Under Maryland law the "adjusted capitalized cost" serves as the basis for determining the base lease payment of a vehicle and is computed by subtracting from the capitalized cost any "capitalized cost reduction" (generally the down payment plus any trade-in value). The adjusted capitalized cost is then paid throughout the lease term to the estimated residual value of the vehicle.

A vehicle dealer may not state the sales price of a vehicle in an advertisement unless the price is the full delivered purchase price of the vehicle, excluding only taxes, title fees, and any freight or dealer processing charge. In a contract for the sale of a vehicle, the freight processing charge must be included in 12-point type or larger.

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); Department of Labor, Licensing, and Regulation; Maryland Department of Transportation; Board of Governors of the Federal Reserve System; Department of Legislative Services

Fiscal Note History: First Reader - February 17, 2011
mc/ljm Revised - Clarification - April 14, 2011

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