

Department of Legislative Services
 Maryland General Assembly
 2013 Session

FISCAL AND POLICY NOTE
Revised

House Bill 126
 Economic Matters

(Delegate Davis)

Finance

Consumer Protection - Maryland Consumer Protection Act - Scope

This bill expands the scope of the Maryland Consumer Protection Act (MCPA) by altering the definitions of “consumer” and “consumer goods” and “consumer services.” The bill defines “consumer” as including a fraternal, religious, civic, patriotic, educational, or charitable organization that purchases, rents, or leases goods or services for the benefit of the members of the organization. Likewise, “consumer goods” and “consumer services” include, respectively, goods and services which are purchased, rented, or leased by a fraternal, religious, civic, patriotic, educational, or charitable organization for the benefit of the members of the organization.

Fiscal Summary

State Effect: General fund expenditures for the Consumer Protection Division of the Office of the Attorney General (OAG) increase by \$137,300 in FY 2014 to handle additional mediations and resolve legal disputes involving fraternal, religious, civic, patriotic, educational, or charitable organizations, an area not currently covered by MCPA. Future year expenditures reflect annualization, elimination of one-time-only costs, and inflation. General fund revenues increase minimally due to likely imposition of additional civil penalties. The bill’s imposition of existing criminal penalties is not expected to materially affect State finances.

| (in dollars) | FY 2014 | FY 2015 | FY 2016 | FY 2017 | FY 2018 |
|----------------|-------------|-------------|-------------|-------------|-------------|
| GF Revenue | - | - | - | - | - |
| GF Expenditure | \$137,300 | \$171,800 | \$179,800 | \$188,300 | \$197,200 |
| Net Effect | (\$137,300) | (\$171,800) | (\$179,800) | (\$188,300) | (\$197,200) |

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: The bill’s imposition of existing criminal penalties is not expected to materially affect local government finances or operations.

Small Business Effect: None.

Analysis

Current Law: An unfair or deceptive trade practice under MCPA includes, among other acts, 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 services; the extension of consumer credit; the collection of consumer debt; or the offer for or actual purchase of consumer goods or consumer realty from a consumer by a merchant whose business includes paying off consumer debt in connection with the purchase of any consumer goods or consumer realty from a consumer.

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.

Background: In April 2009, the District of Columbia filed a lawsuit against five companies for fraudulently inducing approximately 30 area churches to accept computer kiosks on the representation that the kiosks were free of charge. The churches were told that the computer kiosks would be placed in the churches at no cost; would facilitate communication among congregation members; and could be used to post announcements, employment opportunities, etc. The churches were also told that the kiosks would generate revenue, since sponsors would pay to advertise on them. The lawsuit alleged that, instead of receiving free computer kiosks, the churches were induced to sign leases worth tens of thousands of dollars for faulty equipment. In 2010, one of the companies involved in the lawsuit settled and agreed to stop collecting lease payments.

State Fiscal Effect: OAG advises that two full-time and one part-time staff are necessary to handle additional mediations and legal disputes. The Department of Legislative Services (DLS) concurs.

General fund expenditures increase by \$137,293 in fiscal 2013, which accounts for the bill's October 1, 2013 effective date. This estimate reflects the cost of hiring one mediation unit supervisor, one administrative assistant, and one part-time assistant

Attorney General to handle additional mediations and legal disputes involving the affected organizations, an area not currently covered by MCPA. OAG advises that it frequently receives complaints from these organizations but is unable to pursue them. The estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

| | |
|---|------------------|
| Total Positions (full-time equivalent) | 2.5 |
| Salaries and Fringe Benefits | \$122,424 |
| Other Operating Expenses | <u>14,869</u> |
| Total FY 2014 State Expenditures | \$137,293 |

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

OAG advises that the criminal penalty provisions of MCPA are rarely used; however, civil penalties are frequently pursued. Thus, DLS advises that general fund revenues increase minimally due to inclusion of these organizations in MCPA and anticipated enforcement.

Additional Information

Prior Introductions: A similar bill, SB 726 of 2012, was amended in the Senate but received an unfavorable report from the House Economic Matters Committee.

Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division), *Washington Post*, Department of Legislative Services

Fiscal Note History: First Reader - February 4, 2013
mc/kdm Revised - Enrolled Bill - May 8, 2013

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