SB 700

Department of Legislative Services

Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

Senate Bill 700 (Senators Jennings and Feldman)
Finance

Commercial Law - Consumer Protection - Ticket Transfers

This bill prohibits a ticket seller or an operator of a ticket seller's website from (1) prohibiting the transfer of a ticket by the purchaser to another person; (2) requiring an additional fee for the transfer of a ticket by the purchaser to another person; or (3) requiring the purchaser of a ticket to present photo identification of the purchaser or the credit card originally used to purchase the ticket to gain entry to the entertainment event. 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: The bill's imposition of existing penalty provisions does not have a material impact on local government finances or operations.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: As in current law, "ticket" is defined as a ticket for admission to an entertainment event; "entertainment event" is defined as a performance, recreation, amusement, diversion, spectacle, show, or any similar event, and includes a theatrical or musical performance, concert, film, game, ride, or sporting event.

Current Law: A person may not intentionally sell or use software to circumvent a security measure, an access control system, or any other control or measure on a ticket seller's website that is used to ensure an equitable ticket buying process. A violation is an unfair or deceptive trade practice under MCPA.

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, issue a cease and desist order, or file a civil action in court. 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: According to *The New York Times*, ticket sellers (including promoters, producers, artists, and sports teams) have increasingly opted to utilize a process known as "paperless ticketing," in which tickets are purchased by credit card and the purchaser is required to present the same credit card as well as photo identification in order to gain entry to an event. Ticket sellers, including large-scale sellers like Ticketmaster, maintain that the restrictions are intended as safeguards to prevent scalping; bulk ticket purchases by automated software bots; and the use of counterfeit, stolen, or lost tickets. Critics of the practice, however, claim that the restrictions prevent purchasers from giving tickets as gifts or reselling them and that the restrictions actually target independent resale marketplaces (*e.g.*, StubHub) where consumers can purchase tickets for less than face value. Of the more than 100 million live-event tickets sold each year, only about 1% are paperless tickets. In 2010, New York became the first state to pass legislation to specifically establish that consumers may transfer paperless tickets to others as they please. Several other states, including Minnesota, Massachusetts, Connecticut, North Carolina, Florida, and New Jersey, have introduced similar legislation.

Small Business Effect: Small businesses that sell tickets to entertainment events and that currently engage in the bill's prohibited practices would need to alter their ticket sale practices to meet the bill's requirements and could also face increased competition from ticket resellers. However, small businesses that resell tickets to consumers, or allow consumers to resell tickets through their businesses, could benefit from an increased availability of tickets for resale.

Additional Information

Prior Introductions: None.

Cross File: HB 670 (Delegate Frick, *et al.*) - Economic Matters.

Information Source(s): *New York Times*, Office of the Attorney General (Consumer Protection Division), Department of Legislative Services

Fiscal Note History: First Reader - March 3, 2015
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Analysis by: Sasika Subramaniam

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