Department of Legislative Services

Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1323 (Delegate Parrott, *et al.*)
Economic Matters

Consumer Protection - Cellular Telephones - Disclosure

This bill requires a "carrier" or "vendor" that leases or sells a cellular telephone to a "consumer" that does not work on all networks of "major carriers" in the State to provide a disclosure with specified information to the consumer before the lease or sale. The disclosure must be separate from other disclosures or information provided at the time of the lease or sale. The carrier or vendor must also obtain the consumer's signature acknowledging that the consumer is aware of the information in the disclosure. Any person who leases or sells a cellular telephone in violation of the bill's provisions is subject to a fine of up to $250 for each violation.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues due to the bill's penalty provision. Expenditures are not affected.

Local Effect: The bill does not materially affect local finances or operations.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Definitions

A "carrier" is a provider of wireless or cellular telephone service. A "consumer" is a person who leases or purchases a cellular telephone in the State. A "major carrier" means a carrier that has 10% or more market share of the wireless or cellular subscriptions in the State. A "vendor" is a person in the business of leasing or selling cellular telephones, or selling or providing services related to the use of cellular telephones, to a consumer in the State.

Required Disclosure

The disclosure must state whether the cellular telephone functions:

- only on the network of the carrier for which it is designed to function;
- on networks of other carriers, but may have limited operability on those networks; or
- on networks of other carriers with full operability on those networks.

Current Law/Background: State law does not impose a requirement on wireless telephone providers to ensure that their devices work with all available networks, neither does State law require notification to consumers that their leased or purchased phones may not work on all available networks. The Federal Communications Commission (FCC) has broad responsibility for regulation of interstate and international communications within the United States. Accordingly, state authority to impose requirements on interstate wireless carriers relating to the quality of wireless communication is generally preempted. However, states have some authority to regulate the carriers that operate within their borders to enforce consumer protections.

According to FCC, when cell phone users change between compatible wireless service providers, users have the option of "unlocking" their phones to use on the new service provider's network, giving consumers greater freedom and flexibility while increasing incentives for service providers to innovate.

CTIA (the trade group for wireless carriers) maintains a list of participating wireless carriers along with its standards on unlocking as part of its Consumer Code for Wireless Service.

Mobile phones and device locks are meant to ensure that devices can only be used on the networks of specific service providers. Locking software is meant to ensure devices will be active for a certain period of time or amount of usage on the network of the provider that sold that device (perhaps with a subsidy or discount) or with a device installment plan. Devices can be unlocked with unlock codes or other software updates offered by the wireless provider. Some providers will complete the unlocking process in-store; others will unlock the device remotely.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Federal Communications Commission; Department of Legislative Services

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