

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 891

(Senator Feldman, *et al.*)

Finance

Economic Matters

Consumer Protection - Resale of Tickets - Disclosures and Refunds

This bill prohibits a ticket reseller from selling (or offering to sell) a “speculative ticket” (which the bill defines as a ticket that is not in the actual or constructive possession of the reseller at the time of sale) unless the reseller discloses specified information to a prospective purchaser at the outset of the sales transaction. The bill also requires a ticket reseller to refund any consideration or deposit paid for tickets if the reseller fails to obtain the tickets (1) within 24 hours after the approximate date of specified delivery but before the commencement of the event or (2) in conformity with the disclosures required by the bill. A reseller must make any refund required by the bill within 10 days after the final day of the event for which the tickets were sold.

Violation of the bill is an unfair, abusive, 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. The Office of the Attorney General, Consumer Protection Division, can handle the bill’s requirements 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:

Definitions

A “speculative ticket” includes a ticket sold by a reseller that, at the time of resale, is not: (1) in the physical possession of the reseller; (2) owned by the reseller; or (3) under contract to be transferred to the reseller.

A “resale” is the second or subsequent sale of a ticket. A “reseller” is a person who offers a ticket for resale. A “ticket” means physical, electronic, or other evidence that grants the possessor permission to enter a place of entertainment for one or more events at a specified date and time.

Disclosure Requirements

Specifically, the reseller must clearly and conspicuously disclose (1) that the tickets are speculative tickets, and the reseller is not in possession of the tickets; (2) that the reseller is making an offer to procure the tickets for the prospective purchaser; (3) an approximate date on which the tickets will be delivered to the purchaser; (4) the name or a description of the event for which the tickets will permit entry; (5) the total number of tickets included in the transaction; (6) the number of tickets for seats that are together; (7) the zone or section number of the tickets (if applicable to the venue); and (8) the seat numbers of any reserved seat tickets or, if applicable, that the reseller cannot guarantee the specific seats because the tickets are speculative tickets.

Current Law:

Reserved Ticket Seats

A person who sells reserved seat tickets for an athletic, recreational, cultural, or entertainment event must prominently display at the ticket-sale location a seating plan which clearly shows the location of every reserved seat and every physical obstruction to the viewing of the event. However, this requirement does not apply to nonprofit organizations.

Unfair, Abusive, or Deceptive Trade Practices

An unfair, abusive, 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, abusive, 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 \$10,000 for each violation and up to \$25,000 for each repetition of the same 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.

Small Business Effect: Any ticket resellers that are small businesses are subject to additional disclosure requirements under the bill. In addition, the bill also requires refunds for tickets in specified circumstances. Thus, such small businesses may be meaningfully affected by the bill's requirements.

Additional Information

Prior Introductions: None.

Cross File: HB 934 (Delegate D.E. Davis) - Economic Matters.

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

Fiscal Note History: First Reader - March 5, 2019
mag/kdm Third Reader - March 28, 2019
Revised - Amendment(s) - March 28, 2019

Analysis by: Eric F. Pierce

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