

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 179
Finance

(Senator Kagan)

Consumer Protection - Retail Sales - Return and Exchange Policy (Right to Refund Information Act)

This bill requires merchants to provide consumers with notice of the merchants' refund and exchange policies (or policies of no refunds or exchanges) by displaying the notice in a specified manner before the completion of any retail sales transactions. For in-person retail sales, the notice must be conspicuously displayed (1) on a label affixed to the consumer goods being sold or (2) at the location where the transaction occurs. For online retail sales, the notice must be conspicuously displayed on a webpage the consumer must view before completing the transaction. The bill's requirements may not be satisfied by only stating a refund and exchange policy (or policy of no refunds or exchanges) in a merchant's terms and conditions of service or on a receipt provided to a consumer on completion of a transaction. 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: Minimal.

Analysis

Bill Summary: The bill defines a “retail sale” as the sale of consumer goods by a merchant to a consumer for (1) the use or consumption of the consumer goods by the consumer or (2) the benefit or satisfaction that the consumer may derive from the use or consumption of the consumer goods by another. However, “retail sale” does not include the sale of consumer goods for resale by the purchaser.

Current Law: State [regulations](#) specify that it is an unfair or deceptive trade practice for a merchant in any retail sale to fail to disclose to all customers in writing (either on the sales form, by a clearly visible sign, or by conspicuous label on the consumer goods) the terms and conditions of the merchant’s refund and exchange policies (or policy of no refunds or exchanges).

A merchant is deemed to be in compliance with this requirement if the merchant discloses to the customer in writing any time limit on refunds or exchanges and, upon request by the customer or gift recipient, within a reasonable time of the purchase:

- gives (1) a cash refund for a cash purchase; (2) a cash refund or account credit for a credit purchase; (3) a cash refund, account credit, or merchandise exchange for a gift purchase; or
- otherwise complies with the refund and exchange policies disclosed.

However, the above requirements do not apply to the sale of (1) food, perishable goods, goods which are custom made (or which are custom altered at the request of the consumer) or (2) goods which cannot be resold by the merchant because of any valid law or regulation promulgated by a government body.

Maryland Consumer Protection Act

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.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

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

Fiscal Note History: First Reader - February 6, 2023
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