

Department of Legislative Services
 Maryland General Assembly
 2024 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 1299

(Chair, Economic Matters Committee)(By Request -
 Office of the Attorney General)

Economic Matters

Finance

**Consumer Protection - Maryland Consumer Protection Act - Trade or
 Commerce Violations**

This bill alters the applicability of the Maryland Consumer Protection Act (MCPA) to include certain unfair, abusive, or deceptive trade practices in trade or commerce, including any economic activity within the State that involves or relates to any commodity or service. The bill also makes related clarifying, conforming, and technical changes.

Fiscal Summary

State Effect: Special fund expenditures increase by approximately \$148,200 in FY 2025 due to administrative costs; future years reflect annualization and inflation. To the extent the Office of the Attorney General (OAG), Consumer Protection Division, brings additional cases under the bill due to the expansion of MCPA, special fund recoveries may increase.

(in dollars)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
SF Revenue	-	-	-	-	-
SF Expenditure	\$148,200	\$175,600	\$183,400	\$191,400	\$199,800
Net Effect	-/(-)	-/(-)	-/(-)	-/(-)	-/(-)

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

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

Current Law/Background: 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.

OAG advises that the bill expands the types of practices subject to MCPA to those that occur in trade or commerce (rather than only those that apply to consumers). Under the bill, OAG notes that businesses may file complaints with OAG's Consumer Protection Division alleging unfair, abusive, or deceptive practices. According to OAG, there have been cases where it has been unable to fully address egregious practices that did not fit within the category of sales of consumer goods and services, such as when a business has been the victim of a scam.

State Expenditures: Additional staff are necessary within OAG to handle a potentially significant influx of complaints. Thus, special fund expenditures increase by \$148,215 in fiscal 2025, which accounts for the bill's October 1, 2024 effective date. This estimate reflects the cost of hiring two mediators to handle additional complaints under the bill. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	2.0
Salaries and Fringe Benefits	\$133,703
Operating Expenses	<u>14,512</u>
Total FY 2025 State Expenditures	\$148,215

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

Small Business Effect: OAG notes the bill may allow small businesses to file complaints with the Consumer Protection Division regarding potentially unfair, abusive, or deceptive practices to which they have been subjected. To the extent OAG successfully pursues enforcement actions, such small businesses may benefit under the bill from greater protections.

Additional Information

Recent 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 - March 1, 2024
rh/jkb Third Reader - March 18, 2024

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