

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 208

(Delegate Pruski)

Economic Matters

Finance

Consumer Protection – False Advertising – Digital Goods

This bill prohibits a person that is a seller from advertising or offering for sale a “digital good” using certain terminology unless (1) a specified affirmative acknowledgement is received from the purchaser or (2) the seller provides the purchaser with a required disclosure. The bill does not (1) require a person to download a digital good or (2) prohibit a person from storing a digital good on a server that can be accessed through the Internet. Additionally, the bill’s requirements do not apply to a person who advertises or offers for sale (1) a subscription-based service that provides access to a digital good only for the duration of the subscription; (2) access to a digital good without the requirement for monetary consideration; or (3) a digital good for which the seller is unable to revoke access after completion of the sale, including a digital good that is, at the time of purchase, available for permanent offline download to an external source to be used without a connection to the Internet. Violation of the bill is an unfair, abusive, or deceptive trade practice under the Maryland Consumer Protection Act (MCPA), subject to MCPA’s civil penalty provisions. However, a violation is not subject to an action for damages under MCPA.

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: “Digital good” means a digital application or game, digital audio work, digital audiovisual work, digital book, or digital code, whether electronically or digitally delivered or accessed. “Digital good” does not include a cable television service, satellite relay television service, or any other distribution of television, video, or radio service.

The affirmative acknowledgement and disclosure statement must be distinct and separate, as specified.

Current Law:

False and Fraudulent Advertising

“Advertise” means (1) to publish, circulate, disseminate, or place before the public in any way or through any medium for the purpose of selling merchandise and (2) advertising by specified means (e.g., signs, radio, television, etc.).

State law prohibits false and fraudulent advertising. For example, for the purpose of purchasing, selling, or disposing of property or a service, a person may not advertise a statement containing a representation of fact that the person knows, or by the exercise of reasonable care should know, to be untrue, deceptive, or misleading. Violators are guilty of a misdemeanor and subject to a maximum fine of \$1,000 and/or imprisonment of up to one year.

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

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); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Public Safety and Correctional Services; Department of Legislative Services

Fiscal Note History: First Reader - January 17, 2025
rh/jkb Third Reader - March 17, 2025
Revised - Amendment(s) - March 17, 2025
Enrolled - April 30, 2025
Revised - Amendment(s) - April 30, 2025

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