

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 208
Economic Matters

(Delegate Pruski)

Finance

Consumer Protection – False Advertising – Digital Goods

This bill prohibits a person 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. A person who violates the bill’s requirements is guilty of a misdemeanor and subject to a fine of up to \$1,000.

Fiscal Summary

State Effect: The bill is not anticipated to have a material impact on State finances or operations.

Local Effect: The bill is not anticipated to 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 bill prohibits a person from advertising or offering for sale a digital good using terminology that a reasonable person would understand to confer an unrestricted ownership interest in the digital good, unless, at the time of sale:

- the seller receives an affirmative acknowledgement from the purchaser of the following: (1) that the purchaser is receiving a license to access a digital good; (2) a complete list of restrictions and conditions of the license; and (3) that access to the digital good may be unilaterally revoked by the seller if the purchaser no longer holds a right to the digital good; or
- the seller provides to the purchaser a clear and conspicuous statement that (1) states in plain language that the purchaser is buying a license for the digital good and (2) includes a digital method to access the license details, terms, and conditions.

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

Current Law: “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.

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
caw/jkb Third Reader - March 17, 2025
Revised - Amendment(s) - March 17, 2025

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