

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 208
Economic Matters

(Delegate Fraser-Hidalgo)

Consumer Protection – False Advertising – Digital Goods

This bill prohibits a person from advertising or offering for sale a “digital good” using certain terminology or alongside an option for a time-limited rental unless (1) specified affirmative acknowledgements are received from the purchaser and (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 and/or imprisonment for up to one year.

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; and
- 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 bill also prohibits a person from advertising or offering for sale a digital good alongside an option for a time-limited rental, unless, at the time of the sale, the same affirmative acknowledgement and disclosure requirements noted above are met.

The affirmative acknowledgements and disclosure statements 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

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km/jkb

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