

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 550
Finance

(Senator King, *et al.*)

Economic Matters

Online Child Safety Act of 2009

This bill requires an Internet access provider with subscribers in the State to create parental controls and to make the features available to each subscriber in the State at or near the time of subscription. Violation of the bill is an unfair or deceptive trade practice under the Maryland Consumer Protection Act (MCPA), subject to MCPA's civil and criminal penalty provisions.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the bill's imposition of existing penalty provisions. If the Consumer Protection Division of the Office of the Attorney General receives fewer than 50 complaints per year stemming from the bill, the additional workload can be handled with existing resources.

Local Effect: Potential minimal increase in revenues and expenditures due to the bill's imposition of existing penalty provisions.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: The bill defines an "Internet access provider" as a provider that offers direct Internet access to residential customers in exchange for consideration, but excludes a library or educational institution from the bill's provisions. An Internet access provider must allow a subscriber, in a commercially reasonable manner, to block all access to the Internet and:

- block a child's access to specified web sites or a category of web sites;
- restrict a child's access to subscriber-approved web sites;
- restrict a child's access to web sites approved by the parental control provider; or
- monitor a child's Internet use by reporting to the subscriber each web site a child visits or web site the child was denied access to by the parental control.

The bill also allows an Internet access provider or a third party to charge a subscriber a fee to use the parental control features.

Current Law: An unfair or deceptive trade practice under MCPA includes 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 or deceptive trade practice encompasses the offer for or actual sale, lease, rental, loan, or bailment of any consumer goods, consumer realty, or consumer service; the extension of consumer credit; and the collection of consumer debt.

The Consumer Protection Division is responsible for enforcing MCPA and investigating the complaints of aggrieved consumers. The division may attempt to conciliate the matter, hold a public hearing, seek an injunction, or bring an action for damages. A merchant who violates MCPA is subject to a fine of up to \$1,000 for the first violation and up to \$5,000 for each subsequent 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: None.

Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division), Department of Budget and Management, Judiciary (Administrative Office of the Courts), Public Service Commission, Department of Legislative Services

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