

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 1170
Economic Matters

(Delegate Gutierrez, *et al.*)

Consumer Protection - Prepaid International Calling Cards - Notice of Expiration

This bill prohibits a person from selling or issuing a prepaid international calling card that expires unless the expiration date is printed in at least 10-point type in a visible place on (1) the front or back of the card; or (2) a sticker permanently affixed to the card. 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

Current Law: State law does not specifically regulate prepaid international calling cards, as they are excluded from laws governing the sale and use of gift certificates and gift cards.

A person is prohibited from selling a gift certificate or gift card that, within four years after the date of purchase, is subject to expiration or a fee or charge of any kind. Any

term or condition concerning the expiration or a fee or charge that takes effect more than four years after purchase date of the gift certificate must be printed clearly in at least 10-point type in a visible place on:

- the front or back of the gift certificate;
- a sticker permanently affixed to the gift certificate; or
- an envelope containing the gift certificate.

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.

Background: Eleven states, including California, Connecticut, Florida, and Illinois, have laws specifically governing the use of prepaid telephone calling cards. Other states have relied on general consumer protection laws to address various consumer complaints regarding international prepaid calling card providers. The Federal Communications Commission handles consumer complaints associated with prepaid international calling cards. Specific consumer complaints received include:

- faulty access numbers and/or personal identification numbers;
- continuously busy service or access numbers;
- card issuers that cease doing business, leaving consumers with unusable cards;
- higher than advertised rates;
- undisclosed connection, service, or maintenance fees;
- poor quality connections;
- cards that expire without the purchaser's knowledge; and
- per-call fees deducted from the time.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): *BusinessWeek*, Federal Communications Commission, Office of the Attorney General (Consumer Protection Division), Department of Legislative Services

Fiscal Note History: First Reader - March 19, 2010
ncs/kdm

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