

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 168

(Senators Feldman and Rosapepe)

Judicial Proceedings

Real Property - Installation and Use of Electric Vehicle Recharging Equipment

This bill establishes that it is the policy of the State to promote, encourage, and remove obstacles to the use of electric vehicle recharging equipment. It establishes standards relating to the installation and use of electric vehicle recharging equipment at condominiums, residential and commercial rental properties, and residential properties governed by homeowners associations.

The bill's provisions related to residential or commercial leases only impact leases executed, extended, or renewed on or after October 1, 2016.

Fiscal Summary

State Effect: Special fund revenues increase for the Maryland Insurance Administration minimally in FY 2017 due to additional rate and form filings. Any increase in workload can be handled with existing resources. If the Office of the Attorney General receives fewer than 50 complaints per year stemming from the bill, any additional workload can be handled with existing resources. The bill's provisions are not anticipated to have a significant impact on the finances or operations of the Judiciary.

Local Effect: The bill's requirements are not anticipated to impact local finances or operations. Any increase in permit requests can likely be handled with existing resources.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill defines “electric vehicle recharging equipment” or “recharging equipment” as any electric vehicle supply station that (1) is designed and built in compliance with Article 625 of the National Electrical Code, as in effect on October 1, 2016, and (2) delivers electricity into a plug-in electric vehicle (or one or more electric vehicles) from a source outside the vehicle. For the provisions that apply to commercial properties, condominiums, or homeowners associations, “reasonable restrictions” or “reasonable standards” are defined as those that do not significantly increase the cost of electric vehicle recharging equipment or significantly decrease the efficiency or performance of the electric vehicle recharging equipment.

Residential and Commercial Leases

The bill’s requirements related to commercial and residential leases are shown in **Exhibit 1**.

The bill does not prohibit a residential or commercial lease from imposing reasonable restrictions on the installation of electric vehicle recharging equipment. For residential leases, the bill’s requirements further do not apply to residential rental property where electric vehicle recharging equipment already exists for tenants in at least 10% of the designated parking spaces or where parking is not provided. For commercial leases, the requirements do not apply to commercial property where recharging equipment already exists at a proportion of 2 spaces for every 100 parking spaces on the property, or where there are fewer than 50 parking spaces.

Condominiums and Homes

The bill’s requirements related to owners of condominiums or homes affected by a governing body of a condominium or homeowners association are shown in **Exhibit 2**.

The bill’s provisions do not prohibit a condominium or a homeowners association from imposing reasonable restrictions on electric vehicle recharging equipment.

Installation of the equipment for a unit or lot owner’s exclusive use in a common element or area that is not limited to the exclusive use of the unit or lot owner is authorized only if the installation in the owner’s designated parking space is impossible or unreasonably expensive. If such an installation is authorized, the condominium board or homeowners association must enter into a license agreement with the unit or lot owner for the use of the space in the common element or area. The unit or lot owner must comply with the specified requirements for installation of the equipment in the common or limited common element or area.

Exhibit 1
Installation of Electric Vehicle Recharging Equipment by Tenants

| | <u>Residential Tenant</u> | <u>Commercial Tenant</u> | <u>Residential Landlord</u> | <u>Commercial Landlord</u> |
|---|--------------------------------------|-------------------------------------|--|---------------------------------------|
| Unreasonable restrictions in lease against recharging equipment are void | | | No | Yes |
| Must use process for approval of modifications to property | | | Yes | No |
| Must approve if request complies with specified restrictions | | | Yes | Yes* |
| Must provide approval or denial in writing | | | No | Yes |
| May charge reasonable rent if additional space must be reserved | | | Yes | Yes |
| Must submit written request to landlord | Yes | As required by lease* | | |
| Must obtain necessary permits | Yes | Yes | | |
| Must pay costs associated with installation, use (including separately metered electricity usage), maintenance, damage, repair, removal, and replacement as specified | Yes | Yes** | | |
| Must maintain appropriate insurance | Yes | Yes | | |
| Equipment must meet health and safety standards and applicable zoning or land use requirements | No | Yes | | |
| Must agree to engage licensed contractor in writing | No | Yes | | |

*Only if approval of landlord is required.

**Although not specified, payment for the cost of installation is implied.

Source: Department of Legislative Services

Exhibit 2
Installation of Electric Vehicle Recharging Equipment by Owners
In Condominiums and Homeowners Associations

| | <u>Condo Owner</u> | <u>HOA Homeowner</u> | <u>Condo Board</u> | <u>HOA Board</u> |
|--|------------------------|--------------------------|------------------------|----------------------|
| Bylaws, covenants, or restrictions against recharging equipment are void | | | Yes | Yes |
| Must pay fines and actual damages to owner for willful violation of bill's requirements | | | Yes | Yes |
| Must use process for approval of architectural modifications | | | Yes | Yes |
| Must approve if owner complies with specified restrictions | | | Yes | Yes |
| Must provide approval or denial in writing | | | Yes | Yes |
| Request is deemed approved after 60 days unless otherwise specified | Yes | Yes | Yes | Yes |
| Must obtain approval from governing body if in common element or area | Yes | Yes | | |
| Must agree in writing to comply with architectural standards, engage licensed contractor, and pay costs for separately metered electricity usage | Yes | Yes | | |
| Must obtain necessary permits | Yes | Yes | | |
| Must pay costs associated with maintenance, damage, repair, and replacement | Yes * | Yes * | | |
| Must disclose equipment and related responsibilities to prospective buyers | Yes | Yes | | |

*Although not specified, payment of the cost for installation (and/or removal) is implied.
Note: "Board" refers to the governing body of a condominium or homeowners association.

Source: Department of Legislative Services

Unless otherwise specified, the governing body of a condominium or homeowners association must approve a unit or lot owner's request to install an electric vehicle recharging equipment station if the owner agrees to comply with architectural standards, engage a licensed contractor for installation, and pay the electric utility charges.

The governing body of a condominium or homeowners association may install electric vehicle recharging equipment in common elements or areas for the use of all owners. If it does so, it must develop reasonable rules for the use of the equipment.

A governing body that willfully violates the bill's requirements is liable to the affected unit or lot owner for damages and a civil penalty of up to \$1,000. In any action to enforce compliance with the bill's requirements, the court is required to award the prevailing plaintiff reasonable attorney's fees.

Current Law/Background: Plug-in vehicles, which include hybrid-electric vehicles (*e.g.*, the Chevrolet Volt) and vehicles without gasoline-powered motors (*e.g.*, the Nissan Leaf and Tesla Model S), have experienced a recent resurgence in popularity that has led to commercialization of more than two dozen vehicle models from major manufacturers. Although plug-in electric vehicles represent a small percentage of total vehicle sales, the rate of growth in sales for these vehicles has generally been significant.

According to data from the Motor Vehicle Administration and the Maryland Electric Vehicle Infrastructure Council (EVIC), only 1 plug-in electric vehicle was registered in Maryland in fiscal 2010, 72 plug-in electric vehicles were registered in fiscal 2011, and 2,597 plug-in electric vehicles were registered in fiscal 2012. Although the number of newly registered plug-in electric vehicles dropped sharply in fiscal 2013 (with 2,727 total registered electric vehicles), a sharp increase occurred once again in fiscal 2014 and the first half of fiscal 2015. According to EVIC data, as of December 1, 2014, there were 5,544 plug-in electric vehicles registered in Maryland. A second slowdown in registrations occurred in the following months, and as of October 31, 2015, there were 5,932 plug-in electric vehicles registered in the State. For context, this is only about 0.01% of the total registered vehicles in the State and about 9.9% of the EVIC goal of 60,000 registered electric vehicles in Maryland by 2020.

Chapters 400 and 401 of 2011 established EVIC and required it to develop a plan to expand the adoption of electric vehicles and develop an infrastructure charging network. In its final report issued in December 2012, the council issued several recommendations, including (1) extending EVIC through June 2015; (2) increasing the amount of zero-emission State fleet vehicle purchases to 10% by 2020 and at least 25% by 2025; (3) establishing a grant program for electric vehicle support equipment installation and procurement of transaction management software for multiunit dwellings; and

(4) extending the recharging equipment tax credit through December 2016 and the qualified electric vehicle excise tax credit to July 1, 2016.

To implement EVIC's recommendations, Chapters 64 and 65 of 2013 extended EVIC through June 2015. Further, Chapters 359 and 360 of 2014 extended the termination date of the tax credit program through fiscal 2017, altered the value of the tax credits, and replaced the electric vehicle recharging equipment income tax credit with a rebate program. Chapter 378 of 2015 subsequently extended EVIC to June 30, 2020, and shifted the reporting deadline to December 1 of each year, with a final report due June 30, 2020.

According to the U.S. Department of Energy, as of January 2016, Maryland has 828 public electric vehicle charging outlets, which ranks ninth in the United States in terms of the number of chargers per state.

The January 1, 2015 EVIC interim report contained two recommendations for future legislation: (1) establishing high occupancy vehicle lane reciprocity with Virginia; and (2) prohibiting homeowners associations, condominium associations, and landlords from prohibiting or unreasonably restricting the installation of charging equipment by residents in such developments. Neither recommendation has been implemented to date.

The Maryland Clean Cars Act of 2007 requires Maryland to adopt a Zero Emissions Vehicle program applicable to vehicles beginning in model year 2011. State regulations require manufacturers to comply with California Zero Emission Vehicle Requirements, which generally rely on the use of a system of credits to ensure that a sufficient number of low- and zero-emissions vehicles are sold.

Additional Information

Prior Introductions: SB 762 of 2015 received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken.

Cross File: None.

Information Source(s): Anne Arundel, Baltimore, Charles, Frederick, Montgomery, and Somerset counties; cities of Frederick and Havre de Grace; Office of the Attorney General; Maryland Insurance Administration; Judiciary (Administrative Office of the Courts); U.S. Department of Energy; Maryland Electric Vehicle Infrastructure Council; Department of Legislative Services

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