

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 340 (Delegate Pena-Melnyk)
Economic Matters

Commercial Law – Retail Transactions – Cash Payments (Cash Transactions Preservation Act)

This bill establishes that a merchant may not (1) prohibit a person from making a cash payment to purchase goods or services; (2) require a person to use a credit or debit card to purchase goods or service; or (3) charge or collect a fee for making a cash payment for the purchase of goods or services. The bill applies only to in-person retail transactions and does not apply to telephone, mail, or Internet transactions. Violation of the bill is an unfair, abusive, or deceptive trade practice under the Maryland Consumer Protection Act (MCPA), subject to MCPA’s civil and criminal penalty provisions.

Fiscal Summary

State Effect: The bill’s imposition of existing penalty provisions does not have a material impact on State finances or operations. The Office of the Attorney General, Consumer Protection Division, can handle the bill’s requirements with existing resources.

Local Effect: The bill’s imposition of existing penalty provisions does not have a material impact on local government finances or operations.

Small Business Effect: Meaningful.

Analysis

Current Law: An unfair, abusive, or deceptive trade practice under MCPA includes, among other acts, any false, falsely disparaging, or misleading oral or written statement, visual description, or other representation of any kind that has the capacity, tendency, or effect of deceiving or misleading consumers. The prohibition against engaging in any

unfair, abusive, or deceptive trade practice encompasses the offer for or actual sale, lease, rental, loan, or bailment of any consumer goods, consumer realty, or consumer services; the extension of consumer credit; the collection of consumer debt; or the offer for or actual purchase of consumer goods or consumer realty from a consumer by a merchant whose business includes paying off consumer debt in connection with the purchase of any consumer goods or consumer realty from a consumer.

The Consumer Protection Division is responsible for enforcing MCPA and investigating the complaints of aggrieved consumers. The division may attempt to conciliate the matter, issue a cease and desist order, or file a civil action in court. A merchant who violates MCPA is subject to a fine of up to \$10,000 for each violation and up to \$25,000 for each repetition of the same 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.

Small Business Effect: Any small businesses in the State that engage in the activities prohibited by the bill may be meaningfully affected, as the bill stipulates that such businesses must generally accept cash payments. This may result in substantial operational changes for businesses that only accept electronic payments for retail transactions. The prevalence of small businesses in the State that no longer take cash for retail transactions is unknown; however, in the aftermath of the COVID-19 pandemic, many more businesses have moved toward only accepting electronic forms of payment in order to reduce physical contact with customers.

Additional Comments: According to the Board of Governors of the Federal Reserve System, there is no federal statute mandating that a private business, a person, or an organization must accept currency or coins as payment for goods or services. Private businesses are free to develop their own policies on whether to accept cash unless there is a state law that says otherwise.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): U.S. Federal Reserve; Department of Legislative Services

Fiscal Note History: First Reader - January 25, 2021
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