

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 822 (Senator Lam)
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 and those residential properties governed by homeowners associations (HOAs).

Fiscal Summary

State Effect: The bill’s provisions do not materially affect State finances or operations.

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: Potential minimal.

Analysis

Bill Summary: The bill defines “electric vehicle recharging equipment” as property in the State that is used for recharging motor vehicles propelled by electricity. “Reasonable restrictions” 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.

The bill’s requirements related to owners of condominiums or homes affected by a governing body of a condominium or HOA are shown in **Exhibit 1**.

Exhibit 1
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 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 agrees, in writing, to comply with specified restrictions			Yes	Yes
Must provide approval or denial in writing			Yes	Yes
Request is deemed approved after 60 days unless reasonably delayed for additional information	Yes	Yes	Yes	Yes
Must obtain prior approval from governing body if in common element or area	Yes	Yes		
Must agree to comply with architectural standards, engage a licensed electrician, pay for separately metered electricity usage, and certify that the recharging equipment is for personal, noncommercial use	Yes	Yes		
Must obtain necessary permits	Yes	Yes		
Must pay costs associated with installation, maintenance, damage, repair, replacement, operations, and removal	Yes	Yes		
Must disclose equipment and related responsibilities to prospective buyers	Yes	Yes		
Must maintain liability coverage of \$1,000,000 naming the condominium or HOA as an additional insured with right to notice of cancellation	Yes	Yes		
Must pay appropriate share of costs for electrical capacity upgrades if required	Yes	Yes		
Must pay a \$1,000 deposit for removal of electric vehicle recharging equipment if required by a governing body to address costs borne by the condominium or HOA	Yes	Yes		

HOA: homeowners association

Note: "Board" refers to the governing body of a condominium or homeowners association.

Source: Department of Legislative Services

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

The governing body of a condominium or HOA may authorize the installation of recharging equipment for a unit or lot owner's exclusive use in a common element or area that is not otherwise limited to the exclusive use of the unit or lot owner – but only if the installation of recharging equipment in the owner's deeded parking space is impossible or unreasonably expensive. If such an installation is authorized, the condominium board or HOA 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.

Unless otherwise specified, the governing body of a condominium or HOA 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 electrician for installation, pay for electricity usage costs, and certify that the installed electric vehicle recharging equipment is intended for personal, noncommercial use.

The governing body of a condominium or HOA 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.

If multiple owners install electric vehicle recharging equipment requiring electrical capacity upgrades, a governing body of a condominium or HOA may evaluate energy management components of electric vehicle charging technologies prior to implementation of electrical capacity upgrades and subsequent cost recovery from owners.

A governing body that willfully violates the bill's requirements is liable to the affected unit or lot owner for actual damages. In an action to enforce compliance with the bill's requirements, the court must award a prevailing party reasonable attorney's fees.

Current Law/Background: According to the U.S. Department of Energy, as of February 2019, Maryland had 554 public electric vehicle charging stations and 1,504 charging outlets, which ranks twelfth in the United States in terms of the number of charging stations per state.

Sales of Plug-in Vehicles

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), 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.

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-emission vehicles are sold.

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 new registrations for 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, in fiscal 2017, the most recent year for which data is available, there were 5,624 plug-in electric vehicles registered in Maryland.

Implementation of Maryland Electric Vehicle Infrastructure Council Recommendations

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.

Chapter 734 of 2016 extended the authorization of plug-in electric vehicles to use high-occupancy vehicle (HOV) lanes regardless of the number of passengers through September 30, 2018, and allowed qualified hybrid vehicles to use HOV lanes through

September 30, 2018. Chapters 678 and 679 of 2018 extended both authorizations through September 30, 2022.

The January 1, 2015, EVIC interim report contained two recommendations for future legislation: (1) establishing HOV lane reciprocity with Virginia; and (2) prohibiting HOAs, 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.

Additional Information

Prior Introductions: HB 602 of 2018, a similar bill, received an unfavorable report from the House Environment and Transportation Committee. HB 699 of 2017, also a similar bill, was heard by the House Environment and Transportation Committee and was subsequently withdrawn. SB 301, identified as a cross file but not identical, received an unfavorable report from the Senate Judicial Proceedings Committee. SB 168 of 2016, a bill containing similar provisions, received an unfavorable report from the Senate Judicial Proceedings Committee. SB 762 of 2015, another bill containing similar provisions, was heard in the Senate Judicial Proceedings Committee, but no further action was taken.

Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); U.S. Department of Energy; Electric Vehicle Infrastructure Council; Department of Legislative Services

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sb/kdm

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