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'Wal-Mart Law' in Md. Rejected By Court

Measure Sought To Boost Workers' Health Benefits

By Matthew Mosk and Ylan Q. Mui
Washington Post Staff Writers
Thursday, July 20, 2006; A01

A federal judge struck down a Maryland law yesterday that would have effectively forced the nation's largest employer, Wal-Mart Stores, to spend more money on health care for its employees here.

U.S. District Judge J. Frederick Motz ruled that the "Wal-Mart Law," which won overwhelming support in the General Assembly this year, ran afoul of a 32-year-old federal statute intended to protect corporations from having to navigate a patchwork of benefits requirements from state to state.

The ruling could stymie plans by labor unions and health-care advocates to replicate Maryland's law in states across the country and turn the legislation into a model for shifting more of the health-care burden onto large corporations

They are urging Maryland officials to appeal, and the attorney general's office said an appeal is likely.

Wal-Mart spokeswoman Sarah Clark said yesterday that the company welcomed the judge's ruling. She said the law, which called on large companies to spend at least 8 percent of their payroll on health benefits, would have done "nothing to control the cost of health care or improve access to health care."

The decision could rekindle a fierce political debate in Maryland as most lawmakers and Gov. Robert L. Ehrlich Jr. are seeking reelection. The measure drew a sharp contrast between Democratic lawmakers, who viewed it as striking a blow for working-class families, and the Republican governor, who described it as an assault on the state's business climate.

Ehrlich lobbied hard to defeat the measure and then vetoed it. After his veto was overridden in January, he predicted that the measure would have a chilling effect on businesses weighing whether to locate or expand in Maryland.

Yesterday he praised the judge's ruling, saying the law was a prime example of "overreaching" by an activist legislature that "overstepped its bounds in an effort to demonize that employer for political gain."

Democrats, meanwhile, called the ruling an affront. Senate President Thomas V. Mike Miller Jr. (D-Calvert), one of the measure's chief sponsors, said it was nothing less than a matter of "good versus evil."

"These guys are billionaires," he said. "We're not going to let a big Arkansas corporation, protected by their contributions to the Republican Party, avoid their basic responsibility to the citizens of Maryland."

The law would have applied only to companies with at least 10,000 employees. There are four such companies in Maryland: Northrop Grumman Corp., Giant Food LLC, Johns Hopkins University and Wal-Mart Stores Inc. All but Wal-Mart either were exempt or met the health spending thresholds set in

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the measure.

Wal-Mart, based in Bentonville, Ark., hired a brigade of lobbyists in Annapolis to block passage of the bill. After the legislature overrode Ehrlich's veto, the Retail Industry Leaders Association filed suit on behalf of its roughly 400 members, Wal-Mart among them.

Over the past year, the retail giant has announced several changes to its benefits package, including a reduction of the two-year waiting period for part-time workers to become eligible for benefits; an expansion of its cheapest health plan, which costs \$11 a month; and a provision allowing children of part-time workers to become eligible for coverage. In addition, Wal-Mart is opening low-cost health clinics at select stores for customers and employees.

In Maryland, the law has remained widely popular. A Washington Post poll conducted last month found that 77 percent of registered voters supported it.

House Speaker Michael E. Busch (D-Anne Arundel) said the judge failed to consider that Maryland's health-care system is different from those in most states, in that the uninsured are guaranteed hospital care, and the costs are passed on to the public through higher premiums.

"When large employers don't provide health benefits, the rest of us pick up those costs," Busch said. Moreover, he said, if Wal-Mart succeeds in court, other large retailers will have difficulty competing and will be forced to deny their own employees health coverage.

"It starts a downward spiral," Busch said.

But those arguments did not satisfy Motz, who wrote in a 32-page opinion that the federal Employment Retirement Income Security Act prevails when determining the types of health and pension plans companies can offer. It also allows companies to create a uniform system of benefits across several states.

The Maryland law, Motz wrote, "violates ERISA's fundamental purpose of permitting multi-state employers to maintain nationwide health and welfare plans, providing uniform nationwide benefits and permitting uniform national administration."

Maryland lawmakers had been relying on an advisory opinion signed by Attorney General J. Joseph Curran Jr. (D) that listed a series of recent Supreme Court opinions, which, he argued, gave Maryland the latitude to impose the restrictions on Wal-Mart.

Motz, however, said his reading of the cases was different. "My finding that the Act is preempted is in accordance with long established Supreme Court law that state laws which impose employee health or welfare mandates on employers are invalid," the judge wrote.

Sandy Kennedy, president of the retail association, said she expects the judge's ruling to reverberate across the country.

"The decision sends a clear signal that employer health plans are governed by federal law, not a patchwork of state and local laws," she said in a statement. "It also is a clear message that similar bills under consideration in other states and municipalities violate federal law as well."

For labor unions and health-care advocates, much was riding on Maryland's legislation.

After Ehrlich's veto was overridden, those groups fanned out to other states where they thought lawmakers and residents might support similar legislation. Washington state had been considered among the most likely to follow in Maryland's footsteps, but a measure there did not pass. Similar bills were also introduced in Colorado, Connecticut, Rhode Island, New Hampshire and Wisconsin.

"Today's decision is not the final word," said Nu Wexler, spokesman for Wal-Mart Watch.

Eugene Scalia, the lawyer who argued the case for the retailers, and the son of U.S. Supreme Court Justice Antonin Scalia, said, "It's widely recognized that employers and employees need more assistance addressing problems with rising health-care costs."

But to accomplish that, he said, the ruling makes clear that "attempts to address the problem are going to require a federal response, not a patchwork of state and local mandates."

Staff writers Amy Joyce, Ray Rivera and John Wagner contributed to this report.

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