

BY: Conference Committee

AMENDMENTS TO HOUSE BILL NO. 19

(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 4, after "Act;" insert "specifying that provisions of certain consumer protection laws apply to certain consumer contracts; specifying that provisions of law granting jurisdiction over a person in a cause of action include certain computer information and computer information transactions;".

AMENDMENT NO. 2

On page 3, after line 15, insert:

"BY repealing and reenacting, with amendments,

Article - Courts and Judicial Proceedings

Section 6-103

Annotated Code of Maryland

(1998 Replacement Volume and 1999 Supplement)".

AMENDMENT NO. 3

On page 86, after line 16, insert:

"Article - Courts and Judicial Proceedings

6-103.

(a) If jurisdiction over a person is based solely upon this section, he may be sued only on a cause of action arising from any act enumerated in this section.

(b) A court may exercise personal jurisdiction over a person, who directly or by an agent:

(Over)

- (1) Transacts any business or performs any character of work or service in the State;
- (2) Contracts to supply goods, food, services, or manufactured products in the State;
- (3) Causes tortious injury in the State by an act or omission in the State;
- (4) Causes tortious injury in the State or outside of the State by an act or omission outside the State if he regularly does or solicits business, engages in any other persistent course of conduct in the State or derives substantial revenue from goods, food, services, or manufactured products used or consumed in the State;
- (5) Has an interest in, uses, or possesses real property in the State; or
- (6) Contracts to insure or act as surety for, or on, any person, property, risk, contract, obligation, or agreement located, executed, or to be performed within the State at the time the contract is made, unless the parties otherwise provide in writing.

(C) (1) (I) IN THIS SUBSECTION THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

(II) “COMPUTER INFORMATION” HAS THE MEANING STATED IN § 21-102 OF THE COMMERCIAL LAW ARTICLE.

(III) “COMPUTER PROGRAM” HAS THE MEANING STATED IN § 21-102 OF THE COMMERCIAL LAW ARTICLE.

(2) THE PROVISIONS OF THIS SECTION APPLY TO COMPUTER INFORMATION AND COMPUTER PROGRAMS IN THE SAME MANNER AS THEY APPLY TO GOODS AND SERVICES.”.

AMENDMENT NO. 4

On page 6, in line 2, after “SIZE” insert “EQUAL TO OR”.

On page 20, strike in their entirety lines 32 through 36, inclusive.

On page 21, strike beginning with "CONSUMER" in line 8 down through "LICENSEE" in line 11, and substitute "MASS MARKET TRANSACTION IS GOVERNED BY THE LAW OF MARYLAND";

in line 27, after "(A)" insert "(1)"; in line 28, strike "AND" and substitute "OR"; after line 28 insert:

"(2) IN A MASS MARKET TRANSACTION, THE ENFORCEABILITY OF A CHOICE OF FORUM TERM SHALL BE DECIDED BY A MARYLAND COURT.";

and after line 30, insert:

"(C) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION OR A CONTRARY TERM IN AN AGREEMENT, THE PARTIES TO A COMPUTER INFORMATION TRANSACTION THAT IS FOR THE CREATION OF COMPUTER INFORMATION MAY, BY MUTUAL CONSENT, CHOOSE AN ALTERNATIVE DISPUTE RESOLUTION MECHANISM, INCLUDING MEDIATION, ARBITRATION, OR OTHER NON-JUDICIAL DISPUTE RESOLUTION PROCESS, AS THE MEANS FOR RESOLVING A DISPUTE UNDER THE AGREEMENT."

AMENDMENT NO. 5

On page 30, in line 27, strike "OR" and substitute ";

(2) THE TERM";

in the same line, after "UNENFORCEABLE" insert ", AFTER WEIGHING FUNDAMENTAL PUBLIC POLICIES, INCLUDING FUNDAMENTAL PUBLIC POLICIES CONCERNING COMPETITION OR INNOVATION,"; in line 28, strike the second "OR"; in line 29, strike "(2)" and substitute "(3)"; and in line 30, after "AGREED" insert "; OR

(4) THE TERM IS NOT AVAILABLE FOR VIEWING BEFORE AND AFTER ASSENT:

(Over)

(I) IN A PRINTED LICENSE; OR

(II) IN ELECTRONIC FORM THAT:

1. CAN BE PRINTED OR STORED FOR ARCHIVAL AND REVIEW PURPOSES BY THE LICENSEE; OR

2. IS MADE AVAILABLE BY A LICENSOR TO A LICENSEE, AT NO COST TO THE LICENSEE, IN A PRINTED FORM ON THE REQUEST OF A LICENSEE THAT IS UNABLE TO PRINT OR STORE THE LICENSE FOR ARCHIVAL AND REVIEW PURPOSES”.

On page 77, in line 15, strike “CONSUMER CONTRACT” and substitute “MASS-MARKET TRANSACTION”.

AMENDMENT NO. 6

On page 82, in line 25, strike “THE PROVISIONS OF”.

On pages 82 and 83, strike in their entirety the lines beginning with line 30 on page 82 through line 12 on page 83, inclusive, and substitute:

“(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, BEFORE DISCONTINUING ALL CONTRACTUAL RIGHTS OF ACCESS IN AN ACCESS CONTRACT, A PARTY SHALL GIVE NOTICE IN A RECORD TO THE PARTY IN BREACH STATING:

(1) THAT THE PARTY INTENDS TO DISCONTINUE ALL CONTRACTUAL RIGHTS OF ACCESS IN THE ACCESS CONTRACT ON OR AFTER 3 DAYS FOLLOWING THE DATE NOTICE IS GIVEN;

(2) THE NATURE OF THE CLAIMED BREACH THAT ENTITLES THE PARTY TO DISCONTINUE ALL CONTRACTUAL RIGHTS OF ACCESS IN THE ACCESS CONTRACT;

(3) THE OPPORTUNITY TO CURE AS PROVIDED UNDER § 21-703 OF THIS TITLE; AND

(4) INFORMATION TO ALLOW FOR COMMUNICATION CONCERNING THE CLAIMED BREACH, INCLUDING THE PARTY'S:

(I) ADDRESS AND TELEPHONE NUMBER; AND

(II) 1. FACSIMILE NUMBER; OR

2. E-MAIL ADDRESS."

(C) THE NOTICE REQUIRED IN SUBSECTION (B) OF THIS SECTION IS NOT REQUIRED FOR A DISCONTINUATION TO MEET A STATUTORY OR LEGAL REQUIREMENT OR DUE TO A MATERIAL BREACH OF A CONTRACTUAL USE TERM."

On page 86, after line 31, insert:

"SECTION 6. AND BE IT FURTHER ENACTED, That:

(a) There is a Joint Technology Oversight Committee.

(b) The Committee consists of the following ten members:

(1) five members of the Senate of Maryland, appointed by the President of the Senate; and

(2) five members of the House of Delegates, appointed by the Speaker.

(c) The members of the Committee serve at the pleasure of the presiding officer who appointed them.

(d) The President and the Speaker shall jointly appoint a Senator and a Delegate to serve as co-chairmen who shall alternate in serving as the presiding chairman of the Committee each year.

(Over)

(e) (1) The Committee shall:

(i) review the implementation of the Maryland Uniform Computer Information Transactions Act in this State; and

(ii) recommend to the Governor and the General Assembly any appropriate changes in State law based on the findings of the Committee.

(2) The Committee may examine and evaluate additional technology related issues as designated by the co-chairmen of the Committee.

(f) The Committee shall report its findings and recommendations to the Governor, the Legislative Policy Committee, the Senate Finance Committee, and the House Economic Matters Committee on or before December 1 of each year.

SECTION 7. AND BE IT FURTHER ENACTED, That Section 6 of this Act shall take effect July 1, 2000. It shall remain effective for a period of 5 years and, at the end of June 30, 2005, with no further action required by the General Assembly, Section 6 of this Act shall be abrogated and of no further force and effect.”;

and in line 32, strike “6.” and substitute “8.”.