
By: **Delegate V. Clagett**

Introduced and read first time: February 2, 2004

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law - Telephone Solicitations - Maryland Do-Not-Call Registry**

3 FOR the purpose of adopting the do-not-call registry established and maintained by
4 the Federal Trade Commission as the State do-not-call registry; prohibiting a
5 telephone solicitor from initiating a telephone solicitation to a residential
6 subscriber if the residential subscriber's telephone number has been listed on
7 the registry for a certain time before the initiation of the telephone solicitation;
8 authorizing a residential subscriber to cause the residential subscriber's
9 telephone number to be placed on the registry in a certain manner; providing
10 that information contained in the registry is confidential; prohibiting the
11 information contained in the registry from being used other than for the purpose
12 of compliance with this Act; authorizing the Attorney General to institute a civil
13 action against a telephone solicitor that violates this Act to recover a certain
14 penalty for the State; providing that each prohibited telephone solicitation is a
15 separate violation; authorizing the Attorney General to seek an injunction under
16 certain circumstances; authorizing a residential subscriber to bring an action
17 against a telephone solicitor that violates this Act to recover liquidated damages
18 in a certain amount for each violation; authorizing a residential subscriber who
19 brings an action under this Act and who is awarded damages to also seek
20 reasonable attorney's fees; authorizing a court to grant attorney's fees to a
21 residential subscriber who brings an action under this Act and who is awarded
22 damages; providing for the application of this Act; defining certain terms; and
23 generally relating to the establishment of the State do-not-call registry.

24 BY adding to

25 Article - Commercial Law

26 Section 14-3201 through 14-3208, inclusive, to be under the new subtitle

27 "Subtitle 32. Do-Not-Call Registry"

28 Annotated Code of Maryland

29 (2000 Replacement Volume and 2003 Supplement)

30 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

31 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Commercial Law**2 **SUBTITLE 32. DO-NOT-CALL REGISTRY.**

3 14-3201.

4 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
5 INDICATED.6 (B) "ESTABLISHED BUSINESS RELATIONSHIP" MEANS A RELATIONSHIP
7 BETWEEN A TELEPHONE SOLICITOR AND A RESIDENTIAL SUBSCRIBER THAT IS
8 BASED ON:9 (1) THE RESIDENTIAL SUBSCRIBER'S PURCHASE, RENTAL, OR LEASE OF
10 THE TELEPHONE SOLICITOR'S GOODS OR SERVICES OR A FINANCIAL TRANSACTION
11 BETWEEN THE RESIDENTIAL SUBSCRIBER AND THE TELEPHONE SOLICITOR WITHIN
12 18 MONTHS BEFORE THE DATE OF THE INITIATION OF THE TELEPHONE
13 SOLICITATION; OR14 (2) THE RESIDENTIAL SUBSCRIBER'S INQUIRY OR APPLICATION
15 REGARDING A PRODUCT OR SERVICE OFFERED BY THE TELEPHONE SOLICITOR,
16 WITHIN 3 MONTHS BEFORE THE DATE OF THE INITIATION OF THE TELEPHONE
17 SOLICITATION.18 (C) "REGISTRY" MEANS THE STATE DO-NOT-CALL REGISTRY ESTABLISHED
19 UNDER § 14-3203 OF THIS SUBTITLE.

20 (D) "RESIDENTIAL SUBSCRIBER" MEANS:

21 (1) AN INDIVIDUAL WHO HAS SUBSCRIBED TO RESIDENTIAL
22 TELEPHONE SERVICE FROM A LOCAL EXCHANGE COMPANY; OR

23 (2) AN INDIVIDUAL WHO RESIDES WITH THE SUBSCRIBER.

24 (E) "TELEPHONE SOLICITATION" MEANS A TELEPHONE CALL INITIATED FOR
25 THE PURPOSE OF ENCOURAGING THE PURCHASE, RENTAL, OR LEASE OF GOODS OR
26 SERVICES.27 (F) "TELEPHONE SOLICITOR" MEANS A PERSON WHO INITIATES A TELEPHONE
28 SOLICITATION OR A PERSON ON WHOSE BEHALF A TELEPHONE SOLICITATION IS
29 INITIATED.

30 14-3202.

31 THIS SUBTITLE DOES NOT APPLY TO TELEPHONE SOLICITATIONS MADE:

32 (1) BY A TELEPHONE SOLICITOR WHO HAS OBTAINED EXPRESS
33 WRITTEN PERMISSION FROM A RESIDENTIAL SUBSCRIBER TO CALL THE
34 RESIDENTIAL SUBSCRIBER;

1 (2) BY A TELEPHONE SOLICITOR WITH WHOM THE RESIDENTIAL
2 SUBSCRIBER HAS AN ESTABLISHED BUSINESS RELATIONSHIP;

3 (3) FOR THE SOLE PURPOSE OF URGING SUPPORT FOR OR OPPOSITION
4 TO A POLITICAL CANDIDATE OR BALLOT ISSUE;

5 (4) FOR THE SOLE PURPOSE OF CONDUCTING POLITICAL POLLS OR
6 SOLICITING THE EXPRESSION OF OPINIONS, IDEAS, OR VOTES; OR

7 (5) BY OR ON BEHALF OF A CHARITABLE ORGANIZATION, AS THAT TERM
8 IS DEFINED IN § 6-101 OF THE BUSINESS REGULATION ARTICLE.

9 14-3203.

10 THE NATIONAL DO-NOT-CALL REGISTRY ESTABLISHED AND MAINTAINED BY
11 THE FEDERAL TRADE COMMISSION PURSUANT TO THE TELEMARKETING SALES RULE
12 (16 C.F.R. PART 310) IS ADOPTED AND SHALL SERVE AS THE STATE DO-NOT-CALL
13 REGISTRY FOR PURPOSES OF THIS SUBTITLE.

14 14-3204.

15 A TELEPHONE SOLICITOR MAY NOT INITIATE A TELEPHONE SOLICITATION TO A
16 RESIDENTIAL SUBSCRIBER IN THE STATE IF THE RESIDENTIAL SUBSCRIBER'S
17 TELEPHONE NUMBER HAS BEEN LISTED ON THE REGISTRY FOR AT LEAST 3 MONTHS
18 BEFORE THE DATE OF THE INITIATION OF THE TELEPHONE SOLICITATION.

19 14-3205.

20 A RESIDENTIAL SUBSCRIBER MAY CAUSE THE RESIDENTIAL SUBSCRIBER'S
21 TELEPHONE NUMBER TO BE PLACED ON THE REGISTRY IN THE MANNER
22 PRESCRIBED BY THE FEDERAL TRADE COMMISSION.

23 14-3206.

24 INFORMATION CONTAINED IN THE REGISTRY ESTABLISHED UNDER § 14-3203
25 OF THIS SUBTITLE IS CONFIDENTIAL AND MAY NOT BE USED OTHER THAN FOR THE
26 PURPOSE OF COMPLIANCE WITH THIS SUBTITLE.

27 14-3207.

28 (A) (1) THE ATTORNEY GENERAL MAY INSTITUTE A CIVIL ACTION AGAINST
29 A TELEPHONE SOLICITOR THAT VIOLATES THIS SUBTITLE TO RECOVER FOR THE
30 STATE A PENALTY NOT EXCEEDING \$1,000 FOR EACH VIOLATION.

31 (2) FOR PURPOSES OF THIS SUBSECTION, EACH PROHIBITED
32 TELEPHONE SOLICITATION IS A SEPARATE VIOLATION.

33 (B) THE ATTORNEY GENERAL MAY SEEK AN INJUNCTION IN A CIVIL ACTION
34 TO PROHIBIT A TELEPHONE SOLICITOR THAT HAS ENGAGED OR IS ENGAGED IN A
35 VIOLATION OF THIS SUBTITLE FROM ENGAGING IN THE VIOLATION.

1 14-3208.

2 (A) (1) IN ADDITION TO ANY ACTION BY THE ATTORNEY GENERAL
3 AUTHORIZED BY THIS SUBTITLE AND ANY ACTION OTHERWISE AUTHORIZED BY LAW,
4 A RESIDENTIAL SUBSCRIBER MAY BRING AN ACTION AGAINST A TELEPHONE
5 SOLICITOR THAT VIOLATES THE SUBTITLE TO RECOVER LIQUIDATED DAMAGES IN
6 THE AMOUNT OF \$500 FOR EACH VIOLATION.

7 (2) FOR PURPOSES OF THIS SUBSECTION, EACH PROHIBITED
8 TELEPHONE SOLICITATION IS A SEPARATE VIOLATION.

9 (B) A RESIDENTIAL SUBSCRIBER WHO BRINGS AN ACTION UNDER THIS
10 SECTION AND WHO IS AWARDED LIQUIDATED DAMAGES MAY ALSO SEEK, AND THE
11 COURT MAY AWARD, REASONABLE ATTORNEY'S FEES.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2004.