

HOUSE BILL 194

Unofficial Copy
E1

2004 Regular Session
(4lr1779)

ENROLLED BILL
-- Judiciary/Judicial Proceedings --

Introduced by **Delegates Lee, Stern, Goldwater, Barkley, Feldman, Gaines, Gutierrez, Hennessy, Kaiser, Kelley, King, Madaleno, Mandel, McComas, McDonough, Menes, Montgomery, Niemann, Pendergrass, Petzold, Quinter, Shank, F. Turner, and V. Turner**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER 157

1 AN ACT concerning

2 **Crimes - ~~Computers - Internet Auction Fraud~~ Theft - Use of Interactive**
3 **Computer Service**

4 FOR the purpose of ~~establishing the crime of using an Internet auction listing service~~
5 ~~or an interactive computer service with the intent to defraud an individual of~~
6 ~~property, services, or anything of value; providing a certain exception for the~~
7 ~~person who provides the Internet auction listing service; providing jurisdiction~~
8 ~~for prosecution of the crime of theft by use of an interactive computer service;~~
9 ~~requiring a person who provides the Internet auction listing service to collect~~
10 ~~certain identification information and make this information available to a~~
11 ~~seller or bidder who alleges fraud or deception in an auction transaction;~~
12 ~~defining certain terms a certain term; and generally relating to the use of an~~
13 ~~Internet auction listing~~ interactive computer service to obtain property by theft
14 ~~or fraud.~~

1 BY renumbering
 2 Article - Criminal Law
 3 Section 7-101(e) through (m), respectively
 4 to be Section 7-101(f) through (n), respectively
 5 Annotated Code of Maryland
 6 (2002 Volume and 2003 Supplement)

7 BY adding to
 8 Article - Criminal Law
 9 Section ~~8-409~~ 7-101(e) and 7-104(j)
 10 Annotated Code of Maryland
 11 (2002 Volume and 2003 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 13 MARYLAND, That, Section(s) 7-101(e) through (m), respectively, of Article -
 14 Criminal Law of the Annotated Code of Maryland be renumbered to be Section(s)
 15 7-101(f) through (n), respectively.

16 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
 17 read as follows:

18 **Article - Criminal Law**

19 ~~8-409.~~

20 ~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS~~
 21 ~~INDICATED.~~

22 ~~(2) "INTERNET AUCTION LISTING SERVICE" MEANS A WEBSITE ON THE~~
 23 ~~INTERNET OR OTHER INTERACTIVE COMPUTER SERVICE THAT IS DESIGNED TO~~
 24 ~~ALLOW OR ADVERTISED AS A MEANS OF ALLOWING USERS TO OFFER PERSONAL~~
 25 ~~PROPERTY OR SERVICES FOR SALE OR LEASE TO A PROSPECTIVE BUYER OR LESSEE~~
 26 ~~THROUGH AN ON-LINE BID SUBMISSION PROCESS USING THAT WEBSITE OR~~
 27 ~~INTERACTIVE COMPUTER SERVICE.~~

28 7-101.

29 ~~(3) (4) (E) (1)~~ "INTERACTIVE COMPUTER SERVICE" MEANS AN
 30 INFORMATION SERVICE, SYSTEM, OR ACCESS SOFTWARE PROVIDER THAT PROVIDES
 31 OR ENABLES COMPUTER ACCESS BY MULTIPLE USERS TO A COMPUTER SERVER.

32 ~~(H) (2)~~ "INTERACTIVE COMPUTER SERVICE" INCLUDES A
 33 SERVICE OR SYSTEM THAT PROVIDES ACCESS TO THE INTERNET.

34 ~~(B) A PERSON MAY NOT KNOWINGLY AND WILLFULLY USE ELECTRONIC~~
 35 ~~COMMUNICATION THROUGH AN INTERNET AUCTION LISTING SERVICE OR AN~~
 36 ~~INTERACTIVE COMPUTER SERVICE.~~

1 (1) WITH AN INTENT TO DEFRAUD AN INDIVIDUAL OF MONEY, GOODS,
2 SERVICES, OR ANYTHING OF VALUE; OR

3 (2) TO EXERT CONTROL OVER OR OBTAIN AN INDIVIDUAL'S MONEY,
4 GOODS, SERVICES, OR ANYTHING OF VALUE BY MEANS OF DECEPTION.

5 (C) (1) IF THE VALUE OF ALL MONEY, GOODS, SERVICES, AND OTHER
6 THINGS OF VALUE OBTAINED IN VIOLATION OF THIS SECTION EXCEEDS \$500, A
7 PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION
8 IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 15 YEARS OR A FINE NOT
9 EXCEEDING \$10,000 OR BOTH.

10 (2) IF THE VALUE OF ALL MONEY, GOODS, SERVICES, AND OTHER
11 THINGS OF VALUE OBTAINED IN VIOLATION OF THIS SECTION DOES NOT EXCEED
12 \$500, A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
13 ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 18 MONTHS OR A
14 FINE NOT EXCEEDING \$500 OR BOTH.

15 7-104.

16 (D) (J) A PERSON WHO VIOLATES THIS SECTION BY USE OF AN INTERACTIVE
17 COMPUTER SERVICE MAY BE PROSECUTED, INDICTED, TRIED, AND CONVICTED IN
18 ANY COUNTY ~~OR STATE~~ IN WHICH THE VICTIM RESIDES OR THE ELECTRONIC
19 COMMUNICATION ORIGINATED OR TERMINATED.

20 (E) EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION, THIS SECTION
21 DOES NOT APPLY TO THE PERSON WHO PROVIDES THE INTERNET AUCTION LISTING
22 SERVICE IF THE PERSON DOES NOT EXAMINE, SET THE PRICE, OR PREPARE THE
23 DESCRIPTION OF THE PERSONAL PROPERTY OR SERVICE TO BE OFFERED THROUGH
24 THE LISTING SERVICE.

25 (F) A PERSON WHO PROVIDES AN INTERNET AUCTION LISTING SERVICE
26 SHALL:

27 (1) REQUIRE A SELLER OR BIDDER TO REGISTER WITH THE WEBSITE
28 AND PROVIDE THE SELLER'S OR BIDDER'S NAME, ADDRESS, TELEPHONE NUMBER,
29 AND ELECTRONIC MAIL ADDRESS;

30 (2) RETAIN A SELLER'S OR BIDDER'S REGISTRATION INFORMATION FOR
31 A PERIOD OF AT LEAST 2 YEARS;

32 (3) HAVE A MECHANISM TO RECEIVE COMPLAINTS OR INQUIRIES FROM
33 A SELLER OR BIDDER; AND

34 (4) HAVE A MECHANISM TO MAKE A SELLER'S OR BIDDER'S
35 REGISTRATION INFORMATION AVAILABLE TO ANOTHER SELLER OR BIDDER WHO
36 ALLEGES FRAUD OR DECEPTION IN AN AUCTION TRANSACTION.

37 SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
38 effect October 1, 2004.

