

HOUSE BILL 739

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By: **Delegates Ali, Anderson, Barkley, Barnes, Bartlett, Barve, Benson, Bobo, Boteler, Braveboy, Bromwell, Bronrott, Cane, Cardin, Carter, V. Clagett, Conaway, DeBoy, Donoghue, Dumais, Elmore, Feldman, Frush, Gaines, Glenn, Goldwater, Gutierrez, Guzzone, Harrison, Haynes, Healey, Heller, Hixson, Holmes, Howard, Hubbard, Hucker, Impallaria, Ivey, Kach, Kaiser, Kelly, J. King, N. King, Kirk, Krysiak, Kullen, Lawton, Lee, Levi, Love, Malone, Manno, Mathias, McComas, McDonough, McIntosh, Mizeur, Montgomery, Morhaim, Murphy, Myers, Nathan-Pulliam, Niemann, Oaks, Olszewski, Pena-Melnyk, Ramirez, Rice, Riley, Robinson, Rosenberg, Ross, Schuler, Simmons, Stein, Stukes, Stull, Tarrant, Taylor, F. Turner, Valderrama, Vaughn, Waldstreicher, Walker, and Weir**

Introduced and read first time: February 8, 2007

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Protection – Protection and Disclosure of Information About**
3 **Consumers Collected by Merchants**

4 FOR the purpose of requiring certain merchants that collect certain personal and
5 marketing information to implement and maintain certain security procedures
6 and practices; requiring a merchant to disclose to a consumer certain personal
7 and marketing information in a certain manner; establishing procedures for
8 requesting certain personal and marketing information; requiring a merchant to
9 provide certain personal and marketing information requested within a certain
10 period of time; authorizing a merchant to charge a certain fee for the disclosure
11 of certain personal and marketing information; prohibiting a merchant from
12 sharing or selling certain personal and marketing information about certain
13 consumers; providing that a violation of this Act is an unfair or deceptive trade
14 practice within the meaning of the Maryland Consumer Protection Act and is
15 subject to certain enforcement and penalty provisions; defining certain terms;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 and generally relating to the protection and disclosure of information about
2 consumers collected by merchants.

3 BY adding to
4 Article – Commercial Law
5 Section 14–3501 through 14–3505 to be under the new subtitle “Subtitle 35.
6 Protection and Disclosure of Information About Consumers Collected by
7 Merchants”
8 Annotated Code of Maryland
9 (2005 Replacement Volume and 2006 Supplement)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
11 MARYLAND, That the Laws of Maryland read as follows:

12 **Article – Commercial Law**

13 **SUBTITLE 35. PROTECTION AND DISCLOSURE OF INFORMATION ABOUT**
14 **CONSUMERS COLLECTED BY MERCHANTS.**

15 **14-3501.**

16 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
17 INDICATED.

18 (B) “CONSUMER LOYALTY CARD” MEANS ANY CARD, PLATE, COUPON
19 BOOK, OR OTHER DEVICE ISSUED BY A MERCHANT TO A CONSUMER THAT MAY
20 BE USED TO TRACK A CONSUMER’S PURCHASES.

21 (C) “CONSUMER” HAS THE MEANING STATED IN § 13–101 OF THIS
22 ARTICLE.

23 (D) “CONSUMER GOODS” HAS THE MEANING STATED IN § 13–101 OF
24 THIS ARTICLE.

25 (E) “MARKETING INFORMATION” MEANS THE DETAILED PURCHASING
26 HISTORY OF A CONSUMER LOYALTY CARD HOLDER COMPILED BY A MERCHANT.

27 (F) “MERCHANT” HAS THE MEANING STATED IN § 13–101 OF THIS
28 ARTICLE.

1 (G) (1) "PERSONAL INFORMATION" MEANS THE FOLLOWING
2 INFORMATION WHEN THE INFORMATION IS CAPABLE OF BEING ASSOCIATED
3 WITH A PARTICULAR CONSUMER AND IS NOT ENCRYPTED:

4 (I) A NAME;

5 (II) AN ADDRESS;

6 (III) A TELEPHONE NUMBER;

7 (IV) A DRIVER'S LICENSE NUMBER;

8 (V) A FINANCIAL ACCOUNT NUMBER, INCLUDING A CREDIT
9 CARD NUMBER OR DEBIT CARD NUMBER;

10 (VI) A REQUIRED SECURITY CODE, ACCESS CODE, OR
11 PASSWORD THAT WOULD PERMIT ACCESS TO A CONSUMER'S FINANCIAL
12 ACCOUNT; OR

13 (VII) AN ELECTRONIC MAIL ADDRESS.

14 (2) "PERSONAL INFORMATION" DOES NOT INCLUDE
15 INFORMATION THAT A CONSUMER HAS CONSENTED TO HAVE PUBLICLY
16 DISSEMINATED OR LISTED.

17 **14-3502.**

18 THIS SUBTITLE APPLIES ONLY TO MERCHANTS THAT HAVE 50 OR MORE
19 EMPLOYEES.

20 **14-3503.**

21 (A) A MERCHANT THAT COLLECTS PERSONAL INFORMATION OR
22 MARKETING INFORMATION ABOUT A CONSUMER IN THE STATE SHALL
23 IMPLEMENT AND MAINTAIN REASONABLE SECURITY PROCEDURES AND
24 PRACTICES TO PROTECT THE PERSONAL INFORMATION AND MARKETING
25 INFORMATION FROM UNAUTHORIZED ACCESS, USE, MODIFICATION, OR
26 DISCLOSURE.

1 **(B) A MERCHANT, ON REQUEST, SHALL DISCLOSE CLEARLY AND**
2 **ACCURATELY TO A CONSUMER ALL PERSONAL INFORMATION AND MARKETING**
3 **INFORMATION COLLECTED ABOUT THE CONSUMER AT THE TIME OF THE**
4 **REQUEST.**

5 **(C) (1) A CONSUMER MAY REQUEST THE PERSONAL INFORMATION**
6 **AND MARKETING INFORMATION A MERCHANT HAS COLLECTED ABOUT THE**
7 **CONSUMER BY:**

8 **(I) WRITTEN REQUEST SENT BY CERTIFIED MAIL;**

9 **(II) TELEPHONE; OR**

10 **(III) ELECTRONIC MAIL IF A SECURE ELECTRONIC MAIL**
11 **CONNECTION IS MADE AVAILABLE BY THE MERCHANT.**

12 **(2) A MERCHANT SHALL REQUIRE A CONSUMER TO PROVIDE**
13 **PROPER IDENTIFICATION WHEN MAKING A REQUEST.**

14 **(3) A MERCHANT SHALL PROVIDE THE CONSUMER WITH THE**
15 **PERSONAL INFORMATION AND MARKETING INFORMATION REQUESTED WITHIN**
16 **30 DAYS AFTER RECEIVING THE REQUEST.**

17 **(D) A MERCHANT MAY CHARGE A REASONABLE FEE, NOT EXCEEDING**
18 **\$5, FOR PROVIDING THE CONSUMER WITH THE REQUESTED PERSONAL**
19 **INFORMATION AND MARKETING INFORMATION.**

20 **14-3504.**

21 **(A) A MERCHANT MAY NOT SHARE OR SELL PERSONAL INFORMATION**
22 **OR MARKETING INFORMATION ABOUT A CONSUMER IN THE STATE.**

23 **(B) (1) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, A**
24 **MERCHANT THAT OFFERS A CONSUMER LOYALTY CARD TO CONSUMERS MAY**
25 **SHARE THE NAME AND ADDRESS OF A CONSUMER WITH A THIRD PARTY FOR THE**
26 **SOLE PURPOSE OF MAILING TO THE CONSUMER INFORMATION ABOUT THE**
27 **CONSUMER LOYALTY CARD.**

1 **(2) THE THIRD PARTY MAY NOT USE A CONSUMER'S NAME AND**
2 **ADDRESS FOR ANY OTHER PURPOSE.**

3 **14-3505.**

4 **(A) A VIOLATION OF THIS SUBTITLE:**

5 **(1) IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE**
6 **MEANING OF TITLE 13 OF THIS ARTICLE; AND**

7 **(2) IS SUBJECT TO THE ENFORCEMENT AND PENALTY**
8 **PROVISIONS CONTAINED IN TITLE 13 OF THIS ARTICLE.**

9 **(B) FOR PURPOSES OF THIS SECTION, EACH INDIVIDUAL FAILURE TO**
10 **COMPLY WITH THE REQUIREMENTS OF THIS SUBTITLE IS A SEPARATE**
11 **VIOLATION.**

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2007.