

HOUSE BILL 829

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By: **Delegates Benson, Barnes, Bobo, Burns, Cane, Costa, Davis, Gaines, Haynes, Healey, Holmes, Howard, Hubbard, Ivey, Nathan-Pulliam, Niemann, Pena-Melnyk, Proctor, Ross, Stukes, Taylor, Vallario, Vaughn, and Walker**

Introduced and read first time: February 9, 2007

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law - Consumer Protection - Wireless Telephone Consumer**
3 **Protection Act**

4 FOR the purpose of requiring wireless telephone service providers to provide a certain
5 disclosure to certain customers and potential customers; specifying the contents
6 of the disclosure; requiring a certain bill to include notice to customers of the
7 terms on which and the time period during which service may be terminated by
8 the customer without penalty; requiring providers to provide certain maps of
9 their coverage area in the State and in each county; requiring wireless
10 telephone service providers to file information on rates and charges with the
11 Division of Consumer Protection of the Office of the Attorney General;
12 establishing certain requirements for wireless telephone service bills; requiring
13 wireless telephone service providers to give certain notice to customers under
14 certain circumstances; requiring wireless telephone providers to provide
15 customers with a certain trial period during which service can be terminated by
16 the customer without incurring certain fees, charges, or penalties; limiting the
17 liability of wireless telephone customers in the case of the loss or theft of
18 wireless telephone equipment; authorizing the Division to adopt certain
19 regulations; providing that a violation of this Act is an unfair or deceptive trade
20 practice within the meaning of the Maryland Consumer Protection Act and is
21 subject to certain enforcement and penalty provisions; defining certain terms;
22 and generally relating to the protection of customers of wireless telephone
23 service providers.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
2 Article – Commercial Law
3 Section 13–301(14)
4 Annotated Code of Maryland
5 (2005 Replacement Volume and 2006 Supplement)

6 BY adding to
7 Article – Commercial Law
8 Section 14–3501 through 14–3506 to be under the new subtitle “Subtitle 35.
9 Wireless Telephone Consumer Protection Act”
10 Annotated Code of Maryland
11 (2005 Replacement Volume and 2006 Supplement)

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

14 **Article – Commercial Law**

15 13–301.

16 Unfair or deceptive trade practices include any:

17 (14) Violation of a provision of:

18 (i) This title;

19 (ii) An order of the Attorney General or agreement of a party
20 relating to unit pricing under Title 14, Subtitle 1 of this article;

21 (iii) Title 14, Subtitle 2 of this article, the Maryland Consumer
22 Debt Collection Act;

23 (iv) Title 14, Subtitle 3 of this article, the Maryland
24 Door-to-Door Sales Act;

25 (v) Title 14, Subtitle 9 of this article, Kosher Products;

26 (vi) Title 14, Subtitle 10 of this article, Automotive Repair
27 Facilities;

28 (vii) Section 14–1302 of this article;

- 1 (viii) Title 14, Subtitle 11 of this article, Maryland Layaway Sales
2 Act;
- 3 (ix) Section 22–415 of the Transportation Article;
- 4 (x) Title 14, Subtitle 20 of this article;
- 5 (xi) Title 14, Subtitle 15 of this article, the Automotive Warranty
6 Enforcement Act;
- 7 (xii) Title 14, Subtitle 21 of this article;
- 8 (xiii) Section 18–107 of the Transportation Article;
- 9 (xiv) Title 14, Subtitle 22 of this article, the Maryland Telephone
10 Solicitations Act;
- 11 (xv) Title 14, Subtitle 23 of this article, the Automotive Crash
12 Parts Act;
- 13 (xvi) Title 10, Subtitle 6 of the Real Property Article;
- 14 (xvii) Title 14, Subtitle 25 of this article, the Hearing Aid Sales
15 Act;
- 16 (xviii) Title 14, Subtitle 26 of this article, the Maryland
17 Door-to-Door Solicitations Act;
- 18 (xix) Title 14, Subtitle 31 of this article, the Maryland Household
19 Goods Movers Act;
- 20 (xx) Title 14, Subtitle 32 of this article, the Maryland Telephone
21 Consumer Protection Act;
- 22 (xxi) Title 14, Subtitle 33 of this article, the Social Security
23 Number Privacy Act;
- 24 **(XXII) TITLE 14, SUBTITLE 35 OF THIS ARTICLE, THE**
25 **WIRELESS TELEPHONE CONSUMER PROTECTION ACT;**
- 26 [(xxii)] **(XXIII)** Section 14–1319 or § 14–1320 of this article; or

1 [(xxiii)] (XXIV) Section 7-304 of the Criminal Law Article; or

2 **SUBTITLE 35. WIRELESS TELEPHONE CONSUMER PROTECTION ACT.**

3 **14-3501.**

4 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
5 INDICATED.

6 (B) “BASIC WIRELESS 9-1-1 SERVICE” MEANS THE ABILITY OF
7 WIRELESS TELEPHONE SERVICE SUBSCRIBERS TO DIAL THE DIGITS 9-1-1 AND
8 BE CONNECTED TO A LOCAL PUBLIC SAFETY ANSWERING POINT OR A STATE
9 PUBLIC SAFETY ANSWERING POINT.

10 (C) “DIVISION” MEANS THE DIVISION OF CONSUMER PROTECTION OF
11 THE OFFICE OF THE ATTORNEY GENERAL.

12 (D) “LOCAL PUBLIC SAFETY ANSWERING POINT” MEANS A SITE
13 DESIGNATED AND OPERATED BY A LOCAL GOVERNMENTAL ENTITY FOR THE
14 PURPOSE OF RECEIVING EMERGENCY CALLS FROM CUSTOMERS OF A WIRELESS
15 TELEPHONE SERVICE PROVIDER.

16 (E) “STATE PUBLIC SAFETY ANSWERING POINT” MEANS A SITE
17 DESIGNATED AND OPERATED BY THE DEPARTMENT OF STATE POLICE FOR THE
18 PURPOSES OF RECEIVING EMERGENCY CALLS FROM CUSTOMERS OF A
19 WIRELESS TELEPHONE SERVICE PROVIDER.

20 **14-3502.**

21 (A) A WIRELESS TELEPHONE SERVICE PROVIDER SHALL PROVIDE
22 WRITTEN DISCLOSURE TO EACH CUSTOMER OR POTENTIAL CUSTOMER OF THE
23 FOLLOWING INFORMATION ABOUT ANY PLAN OR PROPOSED PLAN OFFERED FOR
24 THE PROVISION OF RESIDENTIAL WIRELESS TELEPHONE SERVICE TO THE
25 CUSTOMER:

26 (1) THE CALLING AREA FOR THE PLAN;

27 (2) THE MONTHLY ACCESS FEE OR BASE CHARGE;

1 **(3) THE NUMBER OF AIRTIME MINUTES INCLUDED IN THE PLAN;**

2 **(4) ANY NIGHT AND WEEKEND MINUTES INCLUDED IN THE PLAN,**
3 **OTHER DIFFERING CHARGES FOR DIFFERING TIME PERIODS, AND THE TIME**
4 **PERIODS WHEN NIGHT AND WEEKEND MINUTES OR OTHER CHARGES APPLY;**

5 **(5) THE CHARGES FOR EXCESS OR ADDITIONAL MINUTES;**

6 **(6) WHETHER OR NOT, AND THE EXTENT TO WHICH, PER-MINUTE**
7 **DOMESTIC OR INTERNATIONAL LONG DISTANCE CHARGES ARE INCLUDED IN**
8 **OTHER RATES AND, TO THE EXTENT NOT INCLUDED, THE APPLICABLE**
9 **PER-MINUTE LONG DISTANCE RATES;**

10 **(7) PER-MINUTE ROAMING OR OFF-NETWORK CHARGES;**

11 **(8) THE AMOUNT OF ANY ADDITIONAL TAXES, FEES, OR**
12 **SURCHARGES THAT WILL BE COLLECTED OR RETAINED BY THE WIRELESS**
13 **TELEPHONE SERVICE PROVIDER;**

14 **(9) IF THE PLAN REQUIRES A FIXED-TERM CONTRACT, THE**
15 **DURATION OF THE CONTRACT;**

16 **(10) THE AMOUNT OF ANY EARLY TERMINATION FEE AND THE**
17 **CONDITIONS UNDER WHICH AN EARLY TERMINATION FEE WOULD APPLY,**
18 **INCLUDING THE LENGTH OF ANY TRIAL PERIOD DURING WHICH NO EARLY**
19 **TERMINATION FEE WOULD APPLY;**

20 **(11) A STATEMENT NOTIFYING THE CUSTOMER THAT THE SERVICE**
21 **INCLUDES BASIC WIRELESS 9-1-1 SERVICE; AND**

22 **(12) BASED ON CUSTOMER SUPPLIED INFORMATION REGARDING**
23 **ANTICIPATED USAGE PATTERNS AND ON THE CUSTOMER'S REQUEST, A GOOD**
24 **FAITH ESTIMATE OF:**

25 **(I) THE MONTHLY FIXED AND USAGE CHARGES;**

26 **(II) ADDITIONAL TAXES, FEES, OR SURCHARGES; AND**

1 **(III) THE ANTICIPATED TOTAL MONTHLY BILL FOR THE**
2 **CUSTOMER UNDER THE PLAN.**

3 **(B) IN ADDITION TO ANY DISCLOSURES REQUIRED UNDER THIS**
4 **SECTION, THE FIRST BILL SENT BY A WIRELESS TELEPHONE SERVICE PROVIDER**
5 **TO A CUSTOMER SHALL INCLUDE NOTICE OF THE TERMS ON WHICH AND THE**
6 **PERIOD OF TIME DURING WHICH THE SERVICE MAY BE TERMINATED BY THE**
7 **CUSTOMER WITHOUT PENALTY.**

8 **(C) (1) A WIRELESS TELEPHONE SERVICE PROVIDER SHALL**
9 **PROVIDE, AT ANY POINT OF SALE OR POINT OF CONTACT WITH A POTENTIAL OR**
10 **EXISTING RESIDENTIAL CUSTOMER, A MAP THAT DISPLAYS THE WIRELESS**
11 **TELEPHONE SERVICE PROVIDER'S COVERAGE IN THE STATE AND EACH COUNTY**
12 **IN WHICH THE PROVIDER PROVIDES WIRELESS TELEPHONE SERVICE.**

13 **(2) A MAP PREPARED ON THE COUNTY LEVEL SHALL IDENTIFY**
14 **ALL GEOGRAPHIC AREAS IN THE COUNTY LARGER THAN 4 SQUARE MILES IN**
15 **WHICH WIRELESS TELEPHONE SERVICE IS NOT SUPPLIED.**

16 **(D) (1) A WIRELESS TELEPHONE SERVICE PROVIDER SHALL PROVIDE**
17 **TO THE DIVISION AN INFORMATIONAL FILING OF THE RATES, CHARGES, AND**
18 **RATE PLANS OFFERED BY THE PROVIDER TO RESIDENTIAL CUSTOMERS.**

19 **(2) THE INFORMATIONAL FILING REQUIRED UNDER PARAGRAPH**
20 **(1) OF THIS SUBSECTION MAY NOT BE USED TO REGULATE, DIRECTLY OR**
21 **INDIRECTLY, THE RATES CHARGED BY A WIRELESS TELEPHONE SERVICE**
22 **PROVIDER OR ENTRY INTO THE WIRELESS TELEPHONE SERVICE MARKET.**

23 **(E) A BILL FOR WIRELESS TELEPHONE SERVICE SHALL:**

24 **(1) (I) BE CLEARLY ORGANIZED;**

25 **(II) CLEARLY DESCRIBE IN PLAIN LANGUAGE THE**
26 **PRODUCTS AND SERVICES FOR WHICH CHARGES ARE IMPOSED; AND**

27 **(III) CONFORM TO ANY FORMAT STANDARDS ESTABLISHED**
28 **BY THE DIVISION;**

1 (I) **AFTER PAYMENT FOR SERVICES USED, MAY TERMINATE**
2 **THE SERVICE WITHOUT INCURRING ANY TERMINATION FEES, CHARGES, OR**
3 **PENALTY OF ANY KIND; AND**

4 (II) **ON THE RETURN OF ANY HANDSET PURCHASED OR**
5 **LEASED IN CONNECTION WITH THE SERVICE, MAY RECEIVE A PRO RATA REFUND**
6 **OF ANY AMOUNT PAID FOR THE HANDSET.**

7 **14-3504.**

8 **CHARGES ASSOCIATED WITH THE USE OF WIRELESS TELEPHONE**
9 **EQUIPMENT OR SERVICE IS NOT THE LIABILITY OF THE CUSTOMER IF:**

10 (1) **THE CUSTOMER'S WIRELESS TELEPHONE EQUIPMENT IS LOST**
11 **OR STOLEN;**

12 (2) **USE OF THE WIRELESS TELEPHONE EQUIPMENT IS NOT**
13 **AUTHORIZED BY THE CUSTOMER; AND**

14 (3) **THE LOSS OR THEFT IS REPORTED PROMPTLY BY THE**
15 **CUSTOMER TO THE WIRELESS TELEPHONE SERVICE PROVIDER.**

16 **14-3505.**

17 (A) **THE DIVISION MAY ADOPT REGULATIONS TO IMPLEMENT THE**
18 **PROVISIONS OF THIS SUBTITLE FOR CUSTOMERS OF RESIDENTIAL WIRELESS**
19 **SERVICE.**

20 (B) **ANY REGULATION ADOPTED SHALL ENSURE THAT THE CONSUMER**
21 **PROTECTIONS ESTABLISHED UNDER THIS SUBTITLE, AT A MINIMUM, ARE**
22 **COMPARABLE TO THOSE APPLICABLE TO WIRELINE TELEPHONE SERVICE**
23 **PROVIDERS.**

24 **14-3506.**

25 **A VIOLATION OF THIS SUBTITLE IS:**

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

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

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