

# HOUSE BILL 210

I3, P1  
HB 1349/06 – ECM

71r0539

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By: **Delegates Howard, Benson, Braveboy, Healey, Holmes, Niemann,  
F. Turner, and Vaughn**

Introduced and read first time: January 26, 2007

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Protection – Sale or Distribution of Personal Information –**  
3 **Limitations**

4 FOR the purpose of prohibiting certain businesses from disclosing to a third party, for  
5 compensation, certain personal information obtained in a certain manner;  
6 providing that a violation of certain provisions of this Act is an unfair or  
7 deceptive trade practice within the meaning of the Maryland Consumer  
8 Protection Act and is subject to certain enforcement and penalty provisions;  
9 providing that a waiver of certain provisions of this Act is contrary to public  
10 policy and is void and unenforceable; providing that compliance with certain  
11 provisions of this Act does not relieve a certain business from a duty to comply  
12 with certain other requirements of federal, State, or local law; establishing a  
13 private right of action for an individual affected by a violation of certain  
14 provisions of this Act; prohibiting units of State government from selling or  
15 distributing certain mailing lists under certain circumstances; providing certain  
16 exceptions; defining certain terms; and generally relating to the sale or  
17 distribution of personal information obtained or prepared by businesses or units  
18 of State government.

19 BY adding to

20 Article – Commercial Law

21 Section 14–3501 through 14–3504 to be under the new subtitle “Subtitle 35.  
22 Disclosure of Personal Information Act”

23 Annotated Code of Maryland

24 (2005 Replacement Volume and 2006 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,  
2 Article – State Government  
3 Section 10–624(c)  
4 Annotated Code of Maryland  
5 (2004 Replacement Volume and 2006 Supplement)

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

8 **Article – Commercial Law**

9 **SUBTITLE 35. DISCLOSURE OF PERSONAL INFORMATION ACT.**

10 **14-3501.**

11 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
12 INDICATED.

13 (B) (1) “BUSINESS” MEANS A SOLE PROPRIETORSHIP, PARTNERSHIP,  
14 CORPORATION, ASSOCIATION, OR ANY OTHER BUSINESS ENTITY, WHETHER OR  
15 NOT ORGANIZED TO OPERATE AT A PROFIT.

16 (2) “BUSINESS” DOES NOT INCLUDE:

17 (I) A FINANCIAL INSTITUTION ORGANIZED, CHARTERED,  
18 LICENSED, OR OTHERWISE AUTHORIZED TO OPERATE IN THIS STATE THAT IS  
19 SUBJECT TO FEDERAL LAW OR REGULATION GOVERNING THE DISCLOSURE OF  
20 INFORMATION TO A THIRD PARTY; OR

21 (II) A COVERED ENTITY SUBJECT TO MEDICAL PRIVACY  
22 RULES IN ACCORDANCE WITH THE FEDERAL HEALTH INSURANCE PORTABILITY  
23 AND AVAILABILITY ACT OF 1996.

24 (C) “COMPENSATION” MEANS ANYTHING OF ECONOMIC VALUE THAT IS  
25 PAID OR TRANSFERRED TO A BUSINESS FOR OR IN DIRECT CONSIDERATION OF  
26 THE DISCLOSURE OF PERSONAL INFORMATION.

27 (D) “CONSUMER TRANSACTION” HAS THE MEANING STATED IN § 14-201  
28 OF THIS TITLE.

1           **(E) “MEDICAL INFORMATION” MEANS ANY INDIVIDUALLY**  
2 **IDENTIFIABLE INFORMATION, IN ELECTRONIC OR PHYSICAL FORM, REGARDING**  
3 **AN INDIVIDUAL’S MEDICAL HISTORY OR MEDICAL TREATMENT OR DIAGNOSIS BY**  
4 **A HEALTH CARE PROFESSIONAL.**

5           **(F) (1) “PERSONAL INFORMATION” MEANS AN INDIVIDUAL’S FIRST**  
6 **NAME OR FIRST INITIAL AND LAST NAME, COMBINED WITH ONE OR MORE OF**  
7 **THE FOLLOWING ITEMS WHEN EITHER THE NAME OR ITEM IS NOT ENCRYPTED:**

8                   **(I) A HOME TELEPHONE NUMBER;**

9                   **(II) AN ELECTRONIC MAIL ADDRESS;**

10                  **(III) A HOME ADDRESS;**

11                  **(IV) A SOCIAL SECURITY NUMBER;**

12                  **(V) MEDICAL INFORMATION; OR**

13                   **(VI) INFORMATION USED TO DESCRIBE AN INDIVIDUAL’S**  
14 **CREDIT WORTHINESS OR FINANCIAL STATUS, INCLUDING EMPLOYMENT**  
15 **HISTORY, PERSONAL INCOME, OR A CONSUMER REPORT, AS DEFINED IN §**  
16 **14-1201 OF THIS TITLE.**

17           **(2) “PERSONAL INFORMATION” DOES NOT INCLUDE**  
18 **INFORMATION THAT AN INDIVIDUAL HAS CONSENTED TO HAVE PUBLICLY**  
19 **DISSEMINATED OR LISTED.**

20 **14-3502.**

21           **(A) A BUSINESS THAT ENTERS INTO A CONSUMER TRANSACTION WITH**  
22 **AN INDIVIDUAL AND OBTAINS PERSONAL INFORMATION AS A RESULT OF THAT**  
23 **TRANSACTION MAY NOT DISCLOSE THAT INFORMATION TO A THIRD PARTY FOR**  
24 **COMPENSATION.**

25           **(B) A BUSINESS IS CONSIDERED TO HAVE OBTAINED PERSONAL**  
26 **INFORMATION AS A RESULT OF A CONSUMER TRANSACTION IF:**

1           (1) THE INDIVIDUAL PROVIDES THE INFORMATION TO THE  
2 BUSINESS AT ANY TIME DURING THE CONSUMER TRANSACTION AT THE  
3 REQUEST OF THE BUSINESS OR AS A REQUIREMENT TO COMPLETE THE  
4 CONSUMER TRANSACTION; OR

5           (2) THE BUSINESS OTHERWISE OBTAINS THE PERSONAL  
6 INFORMATION TO OFFER, CONDUCT, OR COMPLETE THE CONSUMER  
7 TRANSACTION.

8 **14-3503.**

9           (A) A VIOLATION OF THIS SUBTITLE:

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

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

14           (B) IN ADDITION TO THE REMEDIES PROVIDED IN § 13-408 OF THIS  
15 ARTICLE, AN INDIVIDUAL WHO IS AFFECTED BY A VIOLATION OF THIS SUBTITLE  
16 MAY BRING AN ACTION AGAINST A PERSON THAT VIOLATES THIS SUBTITLE TO  
17 RECOVER:

18           (1) DAMAGES IN THE AMOUNT OF THE GREATER OF:

19           (I) \$1,000 FOR EACH VIOLATION; OR

20           (II) ACTUAL DAMAGES SUSTAINED AS A RESULT OF THE  
21 VIOLATION; AND

22           (2) REASONABLE ATTORNEY'S FEES.

23           (C) FOR PURPOSES OF THIS SECTION, EACH FAILURE TO COMPLY WITH  
24 THE REQUIREMENTS OF THIS SUBTITLE IS A SEPARATE VIOLATION.

25 **14-3504.**



1 MAILING LIST THAT IS PREPARED BY THE UNIT IF THE LIST CONTAINS  
2 PERSONAL INFORMATION.

3 (II) A UNIT OF STATE GOVERNMENT MAY SELL OR  
4 DISTRIBUTE:

5 1. A MAILING LIST FOR NONCOMMERCIAL USE BY  
6 ANOTHER UNIT OF STATE GOVERNMENT OR A POLITICAL SUBDIVISION OF THE  
7 STATE;

8 2. A LIST OF REGISTERED VOTERS IN THE STATE;

9 3. A MAILING LIST PREPARED BY OR FOR A  
10 STATE-AFFILIATED CREDIT UNION TO SOLICIT MEMBERSHIP IN THE CREDIT  
11 UNION OR FOR EDUCATIONAL PURPOSES; OR

12 4. A LIST PREPARED WITH THE INTENT TO NOTIFY  
13 PROSPECTIVE STUDENTS ABOUT STATE-SPONSORED EDUCATIONAL  
14 OPPORTUNITIES.

15 (III) THIS PARAGRAPH DOES NOT PROHIBIT AN INDIVIDUAL  
16 FROM COMPILING A MAILING LIST BY EXAMINATION OF ORIGINAL DOCUMENTS  
17 OR APPLICATIONS THAT ARE OTHERWISE OPEN TO PUBLIC INSPECTION.

18 [(5)] (6) The following personal records shall be exempt from the  
19 requirements of this subsection:

20 (i) information pertaining to the enforcement of criminal laws  
21 or the administration of the penal system;

22 (ii) information contained in investigative materials kept for the  
23 purpose of investigating a specific violation of State law and maintained by a State  
24 agency whose principal function may be other than law enforcement;

25 (iii) information contained in public records which are accepted  
26 by the State Archivist for deposit in the Maryland Hall of Records;

27 (iv) information gathered as part of formal research projects  
28 previously reviewed and approved by federally mandated institutional review boards;  
29 and

1                   (v) any other personal records exempted by regulations adopted  
2 by the Secretary of Budget and Management, based on the recommendation of the  
3 Chief of Information Technology.

4                   **[(6)] (7)** In accordance with § 2-1246 of this article, the Secretary of  
5 Budget and Management shall report on October 1 of each year to the General  
6 Assembly on the personal records exempted by regulations under paragraph **[(5)(v)]**  
7 **(6)(v)** of this subsection.

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