

HOUSE BILL 284

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8lr0562

By: **Delegates Ali and Feldman**

Introduced and read first time: January 23, 2008

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Loyalty Card Privacy Act**

3 FOR the purpose of prohibiting a merchant from sharing or selling certain personal
4 and marketing information about certain consumers; establishing a certain
5 exception; prohibiting a certain third party from using a consumer's name and
6 address for any purpose other than mailing certain information to the
7 consumer; providing that a violation of this Act is an unfair or deceptive trade
8 practice within the meaning of the Maryland Consumer Protection Act and is
9 subject to certain enforcement and penalty provisions; defining certain terms;
10 and generally relating to the Consumer Loyalty Card Privacy Act.

11 BY adding to

12 Article – Commercial Law

13 Section 14–3601 through 14–3604 to be under the new subtitle “Subtitle 36.
14 Consumer Loyalty Card Privacy Act”

15 Annotated Code of Maryland

16 (2005 Replacement Volume and 2007 Supplement)

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

19 **Article – Commercial Law**

20 **SUBTITLE 36. CONSUMER LOYALTY CARD PRIVACY ACT.**

21 **14–3601.**

22 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
23 INDICATED.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (B) "CONSUMER" HAS THE MEANING STATED IN § 13-101 OF THIS
2 ARTICLE.

3 (C) "CONSUMER LOYALTY CARD" MEANS ANY CARD, PLATE, COUPON
4 BOOK, OR OTHER DEVICE ISSUED BY A MERCHANT TO A CONSUMER THAT MAY
5 BE USED TO TRACK A CONSUMER'S PURCHASES.

6 (D) "MARKETING INFORMATION" MEANS THE DETAILED PURCHASING
7 HISTORY OF A CONSUMER LOYALTY CARDHOLDER COMPILED BY A MERCHANT.

8 (E) "MERCHANT" HAS THE MEANING STATED IN § 13-101 OF THIS
9 ARTICLE.

10 (F) (1) "PERSONAL INFORMATION" MEANS THE FOLLOWING
11 INFORMATION WHEN THE INFORMATION IS CAPABLE OF BEING ASSOCIATED
12 WITH A PARTICULAR CONSUMER AND IS NOT ENCRYPTED:

13 (I) A NAME;

14 (II) AN ADDRESS;

15 (III) A TELEPHONE NUMBER;

16 (IV) A DRIVER'S LICENSE NUMBER;

17 (V) A FINANCIAL ACCOUNT NUMBER, INCLUDING A CREDIT
18 CARD NUMBER OR DEBIT CARD NUMBER;

19 (VI) A REQUIRED SECURITY CODE, ACCESS CODE, OR
20 PASSWORD THAT WOULD PERMIT ACCESS TO A CONSUMER'S FINANCIAL
21 ACCOUNT; OR

22 (VII) AN ELECTRONIC MAIL ADDRESS.

23 (2) "PERSONAL INFORMATION" DOES NOT INCLUDE
24 INFORMATION THAT A CONSUMER HAS CONSENTED TO HAVE PUBLICLY
25 DISSEMINATED OR LISTED.

26 14-3602.

27 THIS SUBTITLE APPLIES ONLY TO MERCHANTS THAT HAVE 50 OR MORE
28 EMPLOYEES.

29 14-3603.

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

3 **(B) (1) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, A**
4 **MERCHANT THAT OFFERS A CONSUMER LOYALTY CARD TO CONSUMERS MAY**
5 **SHARE THE NAME AND ADDRESS OF A CONSUMER WITH A THIRD PARTY FOR THE**
6 **SOLE PURPOSE OF MAILING TO THE CONSUMER INFORMATION ABOUT THE**
7 **CONSUMER LOYALTY CARD.**

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

10 **14-3604.**

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

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

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

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

19 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
20 **October 1, 2008.**