

HOUSE BILL 1430

P2, C5

6lr3106

By: **Delegate S. Howard**

Introduced and read first time: February 12, 2016

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Telecommunications Access of Maryland Program – Communications**
3 **Companies – Registration Requirement**

4 FOR the purpose of specifying that certain provisions of law do not prohibit or require
5 certain providers of voice over Internet protocol service to register or assess a fee for
6 certain telecommunications relay service under the Telecommunications Access of
7 Maryland Program; requiring the Department of Information Technology, in
8 consultation with the Governor's Advisory Board for Telecommunications Relay, to
9 establish a requirement for a certain communications company to register with the
10 Department for a certain purpose; and generally relating to the Telecommunications
11 Access of Maryland Program.

12 BY repealing and reenacting, without amendments,
13 Article – Public Utilities
14 Section 8–601
15 Annotated Code of Maryland
16 (2010 Replacement Volume and 2015 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – Public Utilities
19 Section 8–602
20 Annotated Code of Maryland
21 (2010 Replacement Volume and 2015 Supplement)

22 BY repealing and reenacting, without amendments,
23 Article – State Finance and Procurement
24 Section 3A–101(a) and (b), 3A–501(a), (c), (d), and (e), 3A–502, and 3A–506
25 Annotated Code of Maryland
26 (2015 Replacement Volume)

27 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – State Finance and Procurement
2 Section 3A–504
3 Annotated Code of Maryland
4 (2015 Replacement Volume)

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

7 **Article – Public Utilities**

8 8–601.

9 In this subtitle:

10 (1) “voice over Internet protocol service” or “VoIP service” means any
11 service that:

12 (i) enables real–time two–way voice communications that originate
13 from or terminate to the subscriber end user’s location requiring Internet protocol or any
14 successor protocol to Internet protocol; and

15 (ii) requires a broadband connection from the user’s location; and

16 (2) “voice over Internet protocol service” or “VoIP service” includes any
17 such service that permits users generally to receive calls that originate on the public
18 switched telephone network and to terminate calls to the public switched telephone
19 network.

20 8–602.

21 (a) The Commission does not have jurisdiction over the regulation of VoIP service,
22 including the imposition of regulatory fees, certification requirements, and the filing or
23 approval of tariffs.

24 (b) Nothing in this subtitle may be construed to:

25 (1) require or prohibit the assessment of 9–1–1 fees in accordance with §
26 1–310 of the Public Safety Article on VoIP;

27 (2) require or prohibit the **REGISTRATION OR** assessment of fees for
28 telecommunications relay service under Title [3, Subtitle 8] **3A, SUBTITLE 5** of the State
29 Finance and Procurement Article;

30 (3) require or prohibit the payment of any switched network access rates
31 or other intercarrier compensation rates that may be determined to apply;

1 (4) relieve a company that is otherwise subject to § 8–201 of this title of its
2 obligation to provide telephone lifeline service over local exchange access lines that are
3 subject to the Commission’s jurisdiction;

4 (5) exempt VoIP service from generally applicable State and federal laws
5 relating to public safety, consumer protection, and unfair and deceptive trade practices, or
6 to exempt VoIP service from the authority of the Division of Consumer Protection in the
7 Office of the Attorney General; or

8 (6) remove the Commission’s jurisdiction over circuit switched local
9 exchange access service.

10 (c) A company that moves a customer from a Commission–approved tariff service
11 to VoIP service shall notify the customer that the Commission does not have jurisdiction
12 over the regulation of VoIP service and that complaints about VoIP service may be filed
13 with the Division of Consumer Protection in the Office of the Attorney General.

14 **Article – State Finance and Procurement**

15 3A–101.

16 (a) In this title the following words have the meanings indicated.

17 (b) “Department” means the Department of Information Technology.

18 3A–501.

19 (a) In this subtitle the following words have the meanings indicated.

20 (c) “Communications company” means a public service company, as defined in §
21 1–101 of the Public Utilities Article, or any other company, that provides a communications
22 service.

23 (d) “Communications service” means:

24 (1) landline telephone service;

25 (2) wireless or cellular telephone service; or

26 (3) Voice over Internet Protocol (VoIP) service, as defined in § 8–601 of the
27 Public Utilities Article.

28 (e) “Dual party telephone relay program” means a service that provides full and
29 simultaneous communication between a person or persons with a disability that prevents
30 them from using a standard telephone and a person or persons without that disability using
31 conventional telephone equipment or other technology or equipment, whereby the disabled

1 person or persons have their message relayed through an intermediary party using
2 specialized telecommunications equipment.

3 3A-502.

4 There is a Governor's Advisory Board for Telecommunications Relay in the
5 Department.

6 3A-504.

7 (a) The Department in consultation with the Board shall:

8 (1) establish and administer a program to provide cost-efficient, 24-hour,
9 dual party relay service to program participants at a comparable level of access and quality
10 that a standard telecommunication service provides to a person without a hearing or speech
11 disability;

12 (2) develop the program in collaboration with State programs currently
13 serving disabled individuals and with community agencies or other organizations that have
14 established relay programs; [and]

15 (3) maintain an information and referral service to provide information
16 about the availability of the relay service; **AND**

17 **(4) ESTABLISH A REGISTRATION REQUIREMENT FOR A**
18 **COMMUNICATIONS COMPANY TO ENSURE THAT SUBSCRIBERS PAY THE SURCHARGE**
19 **REQUIRED UNDER § 3A-506(C)(1) OF THIS SUBTITLE.**

20 (b) The Department in consultation with the Board may:

21 (1) contract with a private vendor or nonprofit organization to provide the
22 information and referral service required under subsection (a)(3) of this section; and

23 (2) provide appropriate staff assistance from the Department to assist the
24 Board in carrying out its duties under this subtitle.

25 3A-506.

26 (a) The programs under § 3A-504(a) of this subtitle and § 3A-602(a) of this title
27 shall be funded as provided in the State budget.

28 (b) (1) There is a Universal Service Trust Fund created for the purpose of
29 paying the costs of maintaining and operating the program under § 3A-504(a) of this
30 subtitle subject to the limitations and controls provided in this subtitle, and the program
31 under § 3A-602(a) of this title subject to the limitations and controls provided in Subtitle 6
32 of this title.

1 (2) Money in the Universal Service Trust Fund shall be held in the State
2 Treasury.

3 (3) Money in the Universal Service Trust Fund may only be used:

4 (i) to fund the costs of the programs specified in paragraph (1) of
5 this subsection; and

6 (ii) to pay for the administration of the Universal Service Trust
7 Fund.

8 (c) (1) The costs of the programs under § 3A-504(a) of this subtitle and §
9 3A-602(a) of this title shall be funded by revenues generated by:

10 (i) a surcharge to be paid by the subscribers to a communications
11 service; and

12 (ii) other funds as provided in the State budget.

13 (2) (i) The surcharge may not exceed 18 cents per month for each
14 account and shall be applied to all current bills rendered for a communications service in
15 the State.

16 (ii) The surcharge is payable at the time the bills for a
17 communications service are due.

18 (3) The surcharge to be collected under this section only applies to a
19 communications service for which charges are billed by, or on behalf of, a communications
20 company to a subscriber of the communications service.

21 (d) (1) The Secretary shall annually certify to the Public Service Commission
22 the costs of the programs under § 3A-504(a) of this subtitle and § 3A-602(a) of this title to
23 be paid by the Universal Service Trust Fund for the following fiscal year.

24 (2) (i) The Public Service Commission shall determine the surcharge
25 for the following fiscal year necessary to fund the programs under § 3A-504(a) of this
26 subtitle and § 3A-602(a) of this title.

27 (ii) 1. In accordance with subsection (c)(2) of this section and
28 subparagraph 2 of this subparagraph, the Public Service Commission shall set the
29 surcharge for the following fiscal year at an amount that is no higher than necessary to
30 generate sufficient revenues to fund the costs of the programs for the following fiscal year,
31 as certified under paragraph (1) of this subsection.

32 2. In setting the surcharge under subparagraph 1 of this
33 subparagraph, the Public Service Commission shall take into account whether the

1 surcharge may be adjusted as a result of any uncommitted funds in the Universal Service
2 Trust Fund at the end of the fiscal year that may be used to fund the costs of the programs
3 for the following fiscal year.

4 (3) The Secretary shall, on 60 days' notice, direct the affected
5 communications companies to add the surcharge determined by the Public Service
6 Commission under paragraph (2) of this subsection to all current bills rendered for
7 communications service in the State.

8 (e) (1) The affected communications companies shall act as collection agents
9 for the Universal Service Trust Fund and shall remit all proceeds monthly to the
10 Comptroller for deposit to the Universal Service Trust Fund.

11 (2) The communications companies shall be entitled to credit against these
12 proceeds in an amount equal to 1 1/2 percent of these proceeds to cover the expenses of
13 billing, collecting, and remitting the surcharge and any additional charges.

14 (f) (1) The Secretary shall administer the Universal Service Trust Fund.

15 (2) The income derived from investment of money in the Universal Service
16 Trust Fund shall accrue to the Universal Service Trust Fund.

17 (3) Any funds remaining at the end of a fiscal year in the Universal Service
18 Trust Fund shall be carried forward within the Universal Service Trust Fund for the
19 maintenance and operation of the programs specified under subsection (b) of this section in
20 the following fiscal year.

21 (g) (1) The Legislative Auditor shall conduct postaudits of a fiscal and
22 compliance nature of the Universal Service Trust Fund and the expenditures made for
23 purposes of § 3A-504(a) of this subtitle and § 3A-602(a) of this title.

24 (2) The cost of the fiscal portion of the postaudit examination shall be paid
25 from the Universal Service Trust Fund as an administrative cost.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2016.