

HOUSE BILL 1323

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8lr1603

By: **Delegates Parrott, Atterbeary, Glass, and J. Lewis**

Introduced and read first time: February 9, 2018

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Protection – Cellular Telephones – Disclosure**

3 FOR the purpose of requiring a certain carrier or vendor to provide a certain disclosure to
4 a consumer prior to the lease or sale of a cellular telephone; requiring a carrier or
5 vendor to provide the disclosure to a consumer in a certain manner and obtain a
6 certain signature; providing that a person who violates the disclosure requirement
7 is subject to a certain fine; defining certain terms; and generally relating to cellular
8 telephones.

9 BY adding to

10 Article – Commercial Law

11 Section 14–4101 to be under the new subtitle “Subtitle 41. Cellular Telephones”

12 Annotated Code of Maryland

13 (2013 Replacement Volume and 2017 Supplement)

14 Preamble

15 WHEREAS, As the United States’ primary authority for communications law,
16 regulation, and technological innovation, the Federal Communications Commission
17 regulates interstate and international communications by radio, television, wire, satellite,
18 and cable in all states, D.C., and U.S. territories; and

19 WHEREAS, Under federal law, states cannot regulate rates charged by wireless
20 carriers or establish requirements for carriers to enter the field; however, federal law does
21 not preempt state laws governing consumer protections; and

22 WHEREAS, Carriers use different frequencies and air interface technologies to
23 provide wireless network access, with AT&T and T-Mobile operating on a Global System
24 for Mobile Communications network that uses a Subscriber Identity Module (SIM) card for
25 second generation voice and text (2G), third generation voice, text, and Internet (3G), and
26 fourth generation high-speed Internet and Voice over Long-Term Evolution (4G)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 operation, and others, including Sprint and Verizon Wireless, operating on a Code Division
2 Multiple Access network that does not use a SIM card for 2G or 3G, but requires one for
3 4G; and

4 WHEREAS, There are hurdles for consumers to move from a current carrier to a
5 desired carrier since a carrier may “lock” a cellular telephone to enable software to prevent
6 a consumer from attempting to activate a cellular telephone designed for one carrier’s
7 network on another carrier’s network; and

8 WHEREAS, Even after “unlocking” a cellular telephone, if the desired network is not
9 technically compatible with the cellular telephone, the desired network may not enable any
10 functionality at all, or may enable some functionality of the cellular telephone; and

11 WHEREAS, Consumers deserve to know at the point of sale for a cellular telephone
12 whether their cellular telephone will function only on the carrier’s network for which it is
13 designed to function; function on networks of other carriers, but may have limited
14 operability on those networks; or function on networks of other carriers with full operability
15 on those networks; now, therefore,

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

18 **Article – Commercial Law**

19 **SUBTITLE 41. CELLULAR TELEPHONES.**

20 **14-4101.**

21 **(A) (1) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
22 **INDICATED.**

23 **(2) “CARRIER” MEANS A PROVIDER OF WIRELESS OR CELLULAR**
24 **TELEPHONE SERVICE.**

25 **(3) “CONSUMER” MEANS A PERSON WHO LEASES OR PURCHASES A**
26 **CELLULAR TELEPHONE IN THE STATE.**

27 **(4) “MAJOR CARRIER” MEANS A CARRIER THAT HAS 10% OR**
28 **GREATER MARKET SHARE OF THE WIRELESS OR CELLULAR SUBSCRIPTIONS IN THE**
29 **STATE.**

30 **(5) “VENDOR” MEANS A PERSON IN THE BUSINESS OF LEASING OR**
31 **SELLING CELLULAR TELEPHONES, OR SELLING OR PROVIDING SERVICES RELATED**
32 **TO THE USE OF CELLULAR TELEPHONES, TO A CONSUMER IN THE STATE.**

1 **(B) (1) A CARRIER OR VENDOR THAT LEASES OR SELLS TO A CONSUMER**
2 **A CELLULAR TELEPHONE THAT DOES NOT WORK ON ALL OF THE NETWORKS OF THE**
3 **MAJOR CARRIERS SHALL PROVIDE A DISCLOSURE TO THE CONSUMER PRIOR TO THE**
4 **LEASE OR SALE OF THE CELLULAR TELEPHONE STATING WHETHER THE CELLULAR**
5 **TELEPHONE FUNCTIONS:**

6 **(I) ONLY ON THE NETWORK OF THE CARRIER FOR WHICH IT IS**
7 **DESIGNED TO FUNCTION;**

8 **(II) ON NETWORKS OF OTHER CARRIERS, BUT MAY HAVE**
9 **LIMITED OPERABILITY ON THOSE NETWORKS; OR**

10 **(III) ON NETWORKS OF OTHER CARRIERS WITH FULL**
11 **OPERABILITY ON THOSE NETWORKS.**

12 **(2) THE CARRIER OR VENDOR SHALL:**

13 **(I) PROVIDE TO THE CONSUMER THE DISCLOSURE THAT IS**
14 **REQUIRED UNDER PARAGRAPH (1) SEPARATE FROM OTHER DISCLOSURES OR**
15 **INFORMATION PROVIDED TO THE CONSUMER AT THE TIME OF THE LEASE OR SALE**
16 **OF THE CELLULAR TELEPHONE; AND**

17 **(II) OBTAIN THE CONSUMER'S SIGNATURE ACKNOWLEDGING**
18 **THAT THE CONSUMER IS AWARE OF THE INFORMATION IN THE DISCLOSURE.**

19 **(C) ANY PERSON WHO LEASES OR SELLS A CELLULAR TELEPHONE IN**
20 **VIOLATION OF THIS SECTION IS SUBJECT TO A FINE NOT TO EXCEED \$250 FOR EACH**
21 **VIOLATION.**

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2018.