

Chapter 214

(House Bill 1228)

AN ACT concerning

**Consumer Protection – Telephone Solicitation – Exemptions and ~~Waiver of~~
Remedies**

FOR the purpose of establishing that certain provisions of law that prohibit a person from making or causing to make a certain telephone solicitation that involves using a certain automated system or playing a recorded message do not apply to a noncommercial telephone solicitation for public opinion research; authorizing a certain called party who is aggrieved by a person who violates certain provisions of law to bring an action to enjoin further violations and to recover certain damages; prohibiting the waiver of requirements and remedies relating to telephone solicitations under certain circumstances; and generally relating to the regulation of telephone solicitation in the State.

BY repealing and reenacting, without amendments,
Article – Commercial Law
Section 14–4501(a), (b), and (f)
Annotated Code of Maryland
(2013 Replacement Volume and 2023 Supplement)

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 14–4502(a) and 14–4503
Annotated Code of Maryland
(2013 Replacement Volume and 2023 Supplement)

BY repealing and reenacting, without amendments,
Article – Public Utilities
Section 8–205(a)
Annotated Code of Maryland
(2020 Replacement Volume and 2023 Supplement)

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

Article – Commercial Law

14–4501.

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

(b) “Called party” means a person who is a regular user of a telephone number that receives a telephone solicitation.

(f) “Telephone solicitation” has the meaning stated in § 8–205 of the Public Utilities Article.

14–4502.

(a) (1) This subsection does not apply to:

(i) A telephone solicitation that is an isolated transaction and not performed in the course of a pattern of repeated transactions of a similar nature;

(ii) Subject to paragraph (2) of this subsection, a noncommercial telephone solicitation for religious, charitable, political, or educational purposes;

(iii) A business-to-business sale where the telephone solicitor has been lawfully operating continuously for at least 3 years under the same business name;

(iv) A person who solicits contracts for the maintenance or repair of goods previously purchased from the person making the solicitation or on whose behalf the solicitation is made;

(v) A single telephone solicitation made to a customer or client in response to an inquiry or request from the customer or client; [or]

(vi) A communication between a business and a customer that have an existing business contract or relationship with each other if:

1. The communication is initially intended for informational purposes only; and

2. Based on further inquiry from the customer, the communication becomes a telephone solicitation; **OR**

(VII) A NONCOMMERCIAL TELEPHONE SOLICITATION FOR THE PURPOSE OF PUBLIC OPINION RESEARCH.

(2) A person soliciting for noncommercial purposes under paragraph (1)(ii) of this subsection is exempt only if:

(i) The person is soliciting for a nonprofit entity; and

(ii) The entity is:

1. Registered with the Secretary of State in accordance with Title 6 of the Business Regulation Article; and

2. Exempt from taxation under § 501(c)(3), (4), or (6) of the Internal Revenue Code.

(3) Without the prior express written consent of the called party, a person may not make or cause to be made a telephone solicitation that involves:

(i) An automated system for the selection or dialing of telephone numbers; or

(ii) The playing of a recorded message when a connection is completed to the number called.

14-4503.

(a) **(1)** ~~A SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A~~ violation of this subtitle is:

~~(1)~~ **(I)** An unfair, abusive, or deceptive trade practice within the meaning of Title 13 of this article; and

~~(2)~~ **(II)** Subject to the enforcement and penalty provisions contained in Title 13 of this article.

(2) (I) A CALLED PARTY WHO IS AGGRIEVED BY A PERSON WHO VIOLATES THIS SUBTITLE MAY BRING AN ACTION IN ACCORDANCE WITH § 13-408 OF THIS ARTICLE TO ENJOIN FURTHER VIOLATIONS AND TO RECOVER DAMAGES UP TO \$500 OR ACTUAL DAMAGES, WHICHEVER IS GREATER.

(II) IF THE COURT FINDS THE DEFENDANT WILLFULLY OR KNOWINGLY VIOLATED THIS SUBTITLE, THE COURT MAY AWARD DAMAGES UP TO THREE TIMES THE AMOUNT OF DAMAGES UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(b) There is a rebuttable presumption that a telephone solicitation made to any area code in the State is made to a resident or a person who is reasonably presumed to reside or have a place of business in the State at the time the call is made.

(c) This subtitle does not preclude the applicability of §§ 8-204 and 8-205 and Title 13 of the Public Utilities Article to a telephone solicitation subject to this subtitle.

(D) EXCEPT AS PROVIDED IN § 14-4502(A)(3) OF THIS SUBTITLE, THE REQUIREMENTS AND REMEDIES PROVIDED UNDER THIS SUBTITLE MAY NOT BE

WAIVED BY AN AGREEMENT, UNLESS THE AGREEMENT IS PART OF A SETTLEMENT OF A LEGAL DISPUTE OR ACTION.

(E) NOTHING IN THIS SUBTITLE PROHIBITS AN AGREEMENT FROM ESTABLISHING MORE EXTENSIVE REQUIREMENTS OR REMEDIES THAN THE REQUIREMENTS AND REMEDIES CONTAINED IN THIS SUBTITLE.

Article – Public Utilities

8–205.

(a) (1) In this section, “telephone solicitation” means an organized activity, program, or campaign to communicate by telephone with residents of Maryland in order to:

- (i) sell, lease, or rent goods or services;
- (ii) attempt to sell, lease, or rent goods or services;
- (iii) offer or attempt to offer a gift or prize;
- (iv) conduct or attempt to conduct a poll; or

(v) request or attempt to request survey information, if the results of the survey will be used directly to solicit persons to purchase, lease, or rent goods or services.

(2) “Telephone solicitation” includes the act of managing, directing, or supervising an individual engaged in telephone solicitation under paragraph (1) of this subsection.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, April 25, 2024.