
By: Senator Green

Requested: September 8, 1995

Introduced and read first time: January 10, 1996

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Protection - Credit Card Holders Signature Protection**

3 FOR the purpose of prohibiting, with certain exceptions, the use or disclosure of the
4 signature of the holder of a credit card or other payment device; prohibiting the
5 possession, with certain intent, of the signature of the holder of a credit card or
6 other payment device; making a violation of this Act a felony subject to certain
7 penalties; authorizing the Attorney General to institute certain actions; defining a
8 certain term; and generally relating to protecting the signatures of holders of credit
9 cards and other payment devices.

10 BY repealing and reenacting, with amendments,
11 Article - Commercial Law
12 Section 14-1401, 14-1402, 14-1403, and 14-1405
13 Annotated Code of Maryland
14 (1990 Replacement Volume and 1995 Supplement)

15 BY repealing and reenacting, without amendments,
16 Article - Commercial Law
17 Section 14-1404
18 Annotated Code of Maryland
19 (1990 Replacement Volume and 1995 Supplement)

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

22 **Article - Commercial Law**

23 14-1401.

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

25 (b) "Authorized use, disclosure, or receipt" means any use, disclosure, or receipt
26 necessary to accomplish the specific purpose for which the person issued a credit card
27 number or payment device number granted to another the right to use, disclose, or
28 receive the credit card number or other payment device number.

1 (c) "Payment device number" means any code, account number, or other means
2 of account access, other than a check, draft, or similar paper instrument, that can be used
3 to obtain money, goods, services, or anything of value, or for purposes of initiating a
4 transfer of funds. For purposes of § 14-1402(a)(5)(iii) of this subtitle, this term does not
5 include an encoded credit card number or encoded payment device number.

6 (d) "Holder" means any person who:

7 (1) Has been issued a credit card number or other payment device number;
8 or

9 (2) Is authorized by the person who has been issued a credit card number or
10 other payment device number to use, disclose, or receive that credit card number or
11 payment device number.

12 (e) "Person" includes an individual, corporation, business trust, estate, trust,
13 partnership, association, 2 or more persons having a joint or common interest, or any
14 other legal or commercial entity.

15 (F) "SIGNATURE" INCLUDES AN ELECTRONICALLY RECORDED SIGNATURE.

16 14-1402.

17 (a) A person may not use or disclose any credit card number or other payment
18 device number OR HOLDER'S SIGNATURE unless:

19 (1) The person is the holder of the credit card or payment device number;

20 (2) The disclosure is made to the holder or issuer of the credit card or
21 payment device number;

22 (3) The use or disclosure is:

23 (i) Pursuant to obligations under federal or State law;

24 (ii) At the direction of a governmental entity pursuant to law; or

25 (iii) In response to the order of a court having jurisdiction to issue the
26 order;

27 (4) Disclosure is in connection with an authorization, processing, billing,
28 collection, chargeback, insurance collection, fraud prevention, or credit card or payment
29 device recovery that relates to the credit card or payment device number, an account
30 accessed by the credit card or payment account number, a debt for which the holder or
31 person authorized by the holder gave the credit card number or payment device number
32 for purposes of identification, or debts or obligations arising, alone or in conjunction with
33 another means of payment, from the use of the credit card or payment device number;

34 (5) Except as provided in subsection (b) of this section, disclosure is
35 reasonably necessary in connection with:

36 (i) The sale or pledge, or negotiation of the sale or pledge, of any
37 portion of a business or the assets of a business;

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1 (ii) The management, operation, or other activities involving the
2 internal functioning of the person making the disclosure; or

3 (iii) The management, operation, or other activities involving
4 disclosures between a corporation and its subsidiaries or controlled affiliates or between
5 the subsidiaries or the controlled affiliates, provided that a disclosure for marketing
6 purposes may not be made if the holder of an active credit card or payment device
7 number has notified the issuer in writing at an address specified by the issuer that such
8 use is not permitted. The issuer shall provide holders of active accounts notice of such
9 nondisclosure option and the specified address on a periodic basis at the issuer's
10 discretion provided the time between such notifications does not exceed 1 year. The
11 issuer shall comply with such elections within 45 days after receipt of the holder's
12 response. The election shall remain in effect until the holder rescinds the election or until
13 there have been no debits or credits to the account for a 12-month period;

14 (6) Disclosure is made to a consumer reporting agency, as defined in §
15 14-1201 of this article;

16 (7) Whether or not the person is a consumer reporting agency and whether
17 or not the disclosure is a consumer report, disclosure is made under a circumstance
18 specified in the credit reporting provisions of § 14-1202(3)(i), (ii), (iii), or (iv) of this
19 article, except that a person may not furnish any report containing a credit card number
20 or payment device number in a circumstance other than as provided in § 14-1202(3)(i) of
21 this article prior to receipt of an individual written, electronic or other tangible record of
22 a certification from the requestor:

23 (i) Containing the reason that the credit card or payment device
24 number is required; and

25 (ii) Stating that the credit card or payment device number:

26 1. Cannot be obtained under a circumstance specified under
27 this title; or

28 2. Is needed for security, or loss or fraud prevention purposes;
29 or

30 (8) The disclosure is permitted under § 1-303 of the Financial Institutions
31 Article of the Code.

32 (b) A disclosure for marketing purposes may not be made if the holder of any
33 active credit card or payment device number has prohibited the issuer in writing at the
34 issuer's address from using the card or number for marketing purposes.

35 14-1403.

36 A person may not possess, with unlawful or fraudulent intent, any credit card
37 number or other payment device number belonging to another person OR ANY
38 HOLDER'S SIGNATURE.

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1 14-1404.

2 Any person who violates this title is guilty of a felony and on conviction is subject to
3 a fine not to exceed \$1,000 or imprisonment of not more than 15 years, or both.

4 14-1405.

5 (a) (1) The Attorney General may institute a civil action against any person who
6 violates this subtitle to recover for the State a penalty not to exceed \$1,000 for each
7 violation.

8 (2) For the purposes of this subsection, each prohibited disclosure or use of
9 a credit card number or other payment device number OR HOLDER'S SIGNATURE shall
10 be considered an independent violation.

11 (b) The Attorney General may seek an injunction in a civil action to prohibit a
12 person who has engaged or is engaged in a violation of this subtitle from engaging in the
13 violation.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 1996.