

(PRE-FILED)

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**By: Senator Green**

Requested: September 8, 1995

Introduced and read first time: January 10, 1996

Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 23, 1996

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CHAPTER \_\_\_\_

1 AN ACT concerning

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

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

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1 **Article - Commercial Law**

2 14-1401.

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

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

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

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

14 (1) Has been issued a credit card number or other payment device number;  
15 or

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

19 (E) "HOLDER'S SIGNATURE" MEANS THE SIGNATURE, INCLUDING AN  
20 ELECTRONICALLY RECORDED SIGNATURE, OF A HOLDER IN CONNECTION WITH A  
21 CREDIT APPLICATION OR CREDIT CARD TRANSACTION.

22 ~~(E)~~ (F) "Person" includes an individual, corporation, business trust, estate,  
23 trust, partnership, association, 2 or more persons having a joint or common interest, or  
24 any other legal or commercial entity.

25 ~~(F) "SIGNATURE" INCLUDES AN ELECTRONICALLY RECORDED SIGNATURE.~~

26 14-1402.

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

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

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

32 (3) The use or disclosure is:

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

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

35 (iii) In response to the order of a court having jurisdiction to issue the  
36 order;

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

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

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

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

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

25 (6) Disclosure is made to a consumer reporting agency, as defined in §  
26 14-1201 of this article;

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

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

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

37 1. Cannot be obtained under a circumstance specified under  
38 this title; or

39 2. Is needed for security, or loss or fraud prevention purposes;  
40 or

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

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

6 14-1403.

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

10 14-1404.

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

13 14-1405.

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

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

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

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