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**By: Delegate Pendergrass**

Requested: July 1, 1996

Introduced and read first time: January 8, 1997

Assigned to: Economic Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Telephone Solicitations by Merchants - Restrictions**

3 FOR the purpose of prohibiting a merchant from making a telephone solicitation to a  
4 residential telephone number in the State except during certain days and between  
5 certain times of the day; limiting the number of telephone solicitations that a  
6 merchant may make to a residential telephone number in this State during a certain  
7 period of time on a single day; and generally relating to telephone solicitations by  
8 merchants.

9 BY repealing and reenacting, without amendments,  
10 Article - Commercial Law  
11 Section 14-2201, 14-2203, 14-2204, and 14-2205  
12 Annotated Code of Maryland  
13 (1990 Replacement Volume and 1996 Supplement)

14 BY repealing and reenacting, with amendments,  
15 Article - Commercial Law  
16 Section 14-2202  
17 Annotated Code of Maryland  
18 (1990 Replacement Volume and 1996 Supplement)

19 BY adding to  
20 Article - Commercial Law  
21 Section 14-2202.1  
22 Annotated Code of Maryland  
23 (1990 Replacement Volume and 1996 Supplement)

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

26 **Article - Commercial Law**

27 14-2201.

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

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1 (b) "Consumer" means an actual or prospective purchaser, lessee, or recipient of  
2 consumer goods, consumer services, or consumer realty.

3 (c) (1) "Consumer goods", "consumer realty", and "consumer services" mean,  
4 respectively, goods, real property, and services which are primarily for personal,  
5 household, family, or agricultural purposes.

6 (2) (i) Subject to subparagraph (ii) of this paragraph, "consumer services"  
7 does not include financial services or securities sales.

8 (ii) "Consumer services" includes any solicitation offering credit  
9 services where:

- 10 1. The consumer is required to call a telephone number;
- 11 2. The consumer is charged a separate toll fee for the call; and
- 12 3. The person making the solicitation receives any portion of  
13 the separate telephone toll fee paid by the consumer.

14 (d) "Credit services" means providing or offering to provide any service in return  
15 for the payment of money or other consideration, where the service is held out to provide  
16 assistance to a consumer with regard to:

- 17 (1) Improving the consumer's credit history, credit rating, or credit record;  
18 or
- 19 (2) Obtaining an extension of credit for the consumer.

20 (e) (1) "Merchant" means a person who, directly or indirectly, offers or makes  
21 available to consumers any consumer goods, consumer services, or consumer realty.

22 (2) "Merchant" does not include a person who is exempt under § 13-104 of  
23 this article.

24 (f) "Telephone solicitation" means the attempt by a merchant to sell or lease  
25 consumer goods, services, or realty to a consumer located in this State that is:

- 26 (1) Made entirely by telephone; and
- 27 (2) Initiated by the merchant.

28 14-2202.

29 (a) [The] SUBJECT TO § 14-2202.1 OF THIS SUBTITLE, THE provisions of this  
30 subtitle do not apply to a transaction:

31 (1) Made in accordance with prior negotiations in the course of a visit by the  
32 consumer to a merchant operating a retail business establishment which has a fixed  
33 permanent location and where consumer goods are displayed or offered for sale on a  
34 continuing basis;

35 (2) In which the person making the solicitation or the business enterprise  
36 for which the person is calling:

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1 (i) Has made a previous sale to the consumer; or

2 (ii) Has a preexisting business relationship with the consumer;

3 (3) Which is covered by the provisions of Subtitle 3 of this title;

4 (4) In which:

5 (i) The consumer may obtain a full refund for the return of  
6 undamaged and unused goods to the seller within 7 days of receipt by the consumer; and

7 (ii) The seller will process the refund within 30 days of receipt of the  
8 returned merchandise by the consumer;

9 (5) In which the consumer purchases goods or services pursuant to an  
10 examination of a television, radio, or print advertisement or a sample, brochure,  
11 catalogue, or other mailing material of the merchant that contains:

12 (i) The name, address, and telephone number of the merchant;

13 (ii) A description of the goods or services being sold; and

14 (iii) Any limitations or restrictions that apply to the offer; or

15 (6) In which the merchant is a bona fide charitable organization as defined  
16 in § 6-101 of the Business Regulation Article.

17 (b) Notwithstanding subsection (a) of this section, this subtitle applies to any  
18 solicitation offering credit services where:

19 (1) The consumer is required to call a telephone number;

20 (2) The consumer is charged a separate toll fee for the call; and

21 (3) The person making the solicitation receives any portion of the separate  
22 telephone toll fee paid by the consumer.

23 14-2202.1.

24 A MERCHANT MAY NOT:

25 (1) MAKE A TELEPHONE SOLICITATION TO A RESIDENTIAL TELEPHONE  
26 NUMBER IN THE STATE EXCEPT DURING MONDAY THROUGH FRIDAY BETWEEN 9  
27 A.M. AND 5 P.M. ACCORDING TO THE TIME IN THE STATE; AND

28 (2) COMPLETE MORE THAN ONE TELEPHONE SOLICITATION TO A  
29 RESIDENTIAL TELEPHONE NUMBER IN THE STATE DURING EACH 8-HOUR PERIOD  
30 ON A SINGLE DAY.

31 14-2203.

32 (a) A contract made pursuant to a telephone solicitation is not valid and  
33 enforceable against a consumer unless made in compliance with this subtitle.

34 (b) A contract made pursuant to a telephone solicitation:

35 (1) Shall be reduced to writing and signed by the consumer;

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1 (2) Shall comply with all other applicable laws and regulations;

2 (3) Shall match the description of goods or services as that principally used  
3 in the telephone solicitation;

4 (4) Shall contain the name, address, and telephone number of the seller, the  
5 total price of the contract, and a detailed description of the goods or services being sold;

6 (5) Shall contain, in at least 12 point type, immediately preceding the  
7 signature, the following statement:

8 "You are not obligated to pay any money unless you sign this contract and return it  
9 to the seller."; and

10 (6) May not exclude from its terms any oral or written representations made  
11 by the merchant to the consumer in connection with the transaction.

12 14-2204.

13 A merchant engaging in a telephone solicitation may not make or submit any charge  
14 to the consumer's credit account until after the merchant receives from the consumer a  
15 copy of the contract which complies with this subtitle.

16 14-2205.

17 In addition to any remedies otherwise available at law, a violation of this subtitle  
18 shall be:

19 (1) An unfair and deceptive trade practice under Title 13, Subtitle 3 of this  
20 article; and

21 (2) If the violation involves a solicitation offering credit services, a violation  
22 of the Maryland Credit Services Businesses Act.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
24 October 1, 1997.