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**By: Delegate Clagett**

Introduced and read first time: January 16, 1997

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law - Deceptive Trade Practices - Names of Businesses**

3 FOR the purpose of making it an unfair and deceptive trade practice under the Maryland  
4 Consumer Protection Act to use a name in the conduct of a person's business to  
5 intentionally misrepresent the geographic origin or location of the person's  
6 business; requiring that whenever a person uses the name of a locality in the State  
7 in its business name, the person shall disclose certain information in certain places;  
8 making it an unfair and deceptive trade practice under the Maryland Consumer  
9 Protection Act to fail to disclose certain information in certain places whenever a  
10 person uses the name of a locality in the State in its business; and generally relating  
11 to the use of names in business.

12 BY repealing and reenacting, with amendments,

13 Article - Commercial Law  
14 Section 13-301  
15 Annotated Code of Maryland  
16 (1990 Replacement Volume and 1996 Supplement)

17 BY adding to

18 Article - Commercial Law  
19 Section 14-1315  
20 Annotated Code of Maryland  
21 (1990 Replacement Volume and 1996 Supplement)

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

24 **Article - Commercial Law**

25 13-301.

26 Unfair or deceptive trade practices include any:

27 (1) False, falsely disparaging, or misleading oral or written statement, visual  
28 description, or other representation of any kind which has the capacity, tendency, or  
29 effect of deceiving or misleading consumers;

30 (2) Representation that:

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1 (i) Consumer goods, consumer realty, or consumer services have a  
2 sponsorship, approval, accessory, characteristic, ingredient, use, benefit, or quantity  
3 which they do not have;

4 (ii) A merchant has a sponsorship, approval, status, affiliation, or  
5 connection which he does not have;

6 (iii) Deteriorated, altered, reconditioned, reclaimed, or secondhand  
7 consumer goods are original or new; or

8 (iv) Consumer goods, consumer realty, or consumer services are of a  
9 particular standard, quality, grade, style, or model which they are not;

10 (3) Failure to state a material fact if the failure deceives or tends to deceive;

11 (4) Disparagement of the goods, realty, services, or business of another by a  
12 false or misleading representation of a material fact;

13 (5) Advertisement or offer of consumer goods, consumer realty, or  
14 consumer services:

15 (i) Without intent to sell, lease, or rent them as advertised or offered;  
16 or

17 (ii) With intent not to supply reasonably expected public demand,  
18 unless the advertisement or offer discloses a limitation of quantity or other qualifying  
19 condition;

20 (6) False or misleading representation of fact which concerns:

21 (i) The reason for or the existence or amount of a price reduction; or

22 (ii) A price in comparison to a price of a competitor or to one's own  
23 price at a past or future time;

24 (7) Knowingly false statement that a service, replacement, or repair is  
25 needed;

26 (8) False statement which concerns the reason for offering or supplying  
27 consumer goods, consumer realty, or consumer services at sale or discount prices;

28 (9) Deception, fraud, false pretense, false premise, misrepresentation, or  
29 knowing concealment, suppression, or omission of any material fact with the intent that a  
30 consumer rely on the same in connection with:

31 (i) The promotion or sale of any consumer goods, consumer realty, or  
32 consumer service; or

33 (ii) A contract or other agreement for the evaluation, perfection,  
34 marketing, brokering or promotion of an invention; or

35 (iii) The subsequent performance of a merchant with respect to an  
36 agreement of sale, lease, or rental;

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1 (10) Solicitations of sales or services over the telephone without first clearly,  
2 affirmatively, and expressly stating:

3 (i) The solicitor's name and the trade name of a person represented  
4 by the solicitor;

5 (ii) The purpose of telephone conversation; and

6 (iii) The kind of merchandise, real property, intangibles, or service  
7 solicited;

8 (11) Use of any plan or scheme in soliciting sales or services over the  
9 telephone that misrepresents the solicitor's true status or mission;

10 (12) Use of a contract related to a consumer transaction which contains a  
11 confessed judgment clause that waives the consumer's right to assert a legal defense to an  
12 action;

13 (13) Use by a seller, who is in the business of selling consumer realty, of a  
14 contract related to the sale of single family residential consumer realty, including  
15 condominiums and townhouses, that contains a clause limiting or precluding the buyer's  
16 right to obtain consequential damages as a result of the seller's breach or cancellation of  
17 the contract;

18 (14) USE OF A NAME IN THE CONDUCT OF A PERSON'S BUSINESS TO  
19 INTENTIONALLY MISREPRESENT THE GEOGRAPHIC ORIGIN OR LOCATION OF THE  
20 PERSON'S BUSINESS;

21 [(14)] (15) Violation of a provision of:

22 (i) This title;

23 (ii) An order of the Attorney General or agreement of a party relating  
24 to unit pricing under Title 14, Subtitle 1 of this article;

25 (iii) Title 14, Subtitle 2 of this article, the Maryland Consumer Debt  
26 Collection Act;

27 (iv) Title 14, Subtitle 3 of this article, the Maryland Door-to-Door  
28 Sales Act;

29 (v) Title 14, Subtitle 9 of this article, Kosher Products;

30 (vi) Title 14, Subtitle 10 of this article, Automotive Repair Facilities;

31 (vii) Section 14-1302 of this article;

32 (viii) Title 14, Subtitle 11 of this article, Maryland Layaway Sales Act;

33 (ix) Section 22-415 of the Transportation Article;

34 (x) Title 14, Subtitle 20 of this article;

35 (xi) Title 14, Subtitle 15 of this article, the Automotive Warranty  
36 Enforcement Act;

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1 (xii) Title 14, Subtitle 21 of this article;

2 (xiii) Section 18-107 of the Transportation Article;

3 (xiv) Title 14, Subtitle 22 of this article, the Maryland Telephone  
4 Solicitations Act;

5 (xv) Title 14, Subtitle 23 of this article, the Automotive Crash Parts  
6 Act;

7 (xvi) Title 10, Subtitle 6 of the Real Property Article;

8 (xvii) Title 10, Subtitle 8 of the Real Property Article;

9 (xviii) Title 14, Subtitle 25 of this article, the Hearing Aid Sales Act; or

10 (xix) Title 14, Subtitle 26 of this article, the Maryland Door-to-Door  
11 Solicitations Act; or

12 [(15)] (16) Any act or omission that relates to a residential building and that is  
13 chargeable as a misdemeanor under or otherwise violates a provision of the Energy  
14 Conservation Building Standards Act, Article 78, § 54-I of the Code.

15 14-1315.

16 (A) WHENEVER A PERSON USES THE NAME OF A LOCALITY IN THE STATE IN  
17 ITS BUSINESS NAME, THE PERSON SHALL DISCLOSE THE ACTUAL ADDRESS OF THE  
18 BUSINESS IN ANY TELEPHONE DIRECTORY OR ANY TELEPHONE DIRECTORY  
19 ASSISTANCE SERVICE THAT LISTS THE TELEPHONE NUMBER OF THE BUSINESS.

20 (B) A VIOLATION OF THIS SECTION IS AN UNFAIR AND DECEPTIVE TRADE  
21 PRACTICE UNDER TITLE 13 OF THIS ARTICLE.

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