
By: Delegate Clagett

Introduced and read first time: January 16, 1997

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 20, 1997

CHAPTER ____

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:

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1 **Article - Commercial Law**

2 13-301.

3 Unfair or deceptive trade practices include any:

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

7 (2) Representation that:

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

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

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

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

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

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

20 (5) Advertisement or offer of consumer goods, consumer realty, or
21 consumer services:

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

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

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

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

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

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

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

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

4 (i) The promotion or sale of any consumer goods, consumer realty, or
5 consumer service; or

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

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

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

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

14 (ii) The purpose of telephone conversation; and

15 (iii) The kind of merchandise, real property, intangibles, or service
16 solicited;

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

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

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

27 (14) USE OF A NAME IN THE CONDUCT OF A PERSON'S BUSINESS TO
28 INTENTIONALLY MISREPRESENT THE GEOGRAPHIC ORIGIN OR LOCATION OF THE
29 PERSON'S BUSINESS;

30 [(14)] (15) Violation of a provision of:

31 (i) This title;

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

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

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

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- 1 (v) Title 14, Subtitle 9 of this article, Kosher Products;
- 2 (vi) Title 14, Subtitle 10 of this article, Automotive Repair Facilities;
- 3 (vii) Section 14-1302 of this article;
- 4 (viii) Title 14, Subtitle 11 of this article, Maryland Layaway Sales Act;
- 5 (ix) Section 22-415 of the Transportation Article;
- 6 (x) Title 14, Subtitle 20 of this article;
- 7 (xi) Title 14, Subtitle 15 of this article, the Automotive Warranty
8 Enforcement Act;
- 9 (xii) Title 14, Subtitle 21 of this article;
- 10 (xiii) Section 18-107 of the Transportation Article;
- 11 (xiv) Title 14, Subtitle 22 of this article, the Maryland Telephone
12 Solicitations Act;
- 13 (xv) Title 14, Subtitle 23 of this article, the Automotive Crash Parts
14 Act;
- 15 (xvi) Title 10, Subtitle 6 of the Real Property Article;
- 16 (xvii) Title 10, Subtitle 8 of the Real Property Article;
- 17 (xviii) Title 14, Subtitle 25 of this article, the Hearing Aid Sales Act; or
- 18 (xix) Title 14, Subtitle 26 of this article, the Maryland Door-to-Door
19 Solicitations Act; or

20 [(15)] (16) Any act or omission that relates to a residential building and that is
21 chargeable as a misdemeanor under or otherwise violates a provision of the Energy
22 Conservation Building Standards Act, Article 78, § 54-I of the Code.

23 ~~44-1315.~~

24 ~~(A) WHENEVER A PERSON USES THE NAME OF A LOCALITY IN THE STATE IN~~
25 ~~ITS BUSINESS NAME, THE PERSON SHALL DISCLOSE THE ACTUAL ADDRESS OF THE~~
26 ~~BUSINESS IN ANY TELEPHONE DIRECTORY OR ANY TELEPHONE DIRECTORY~~
27 ~~ASSISTANCE SERVICE THAT LISTS THE TELEPHONE NUMBER OF THE BUSINESS.~~

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

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

