

HOUSE BILL 607

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1998 Regular Session
(8lr1766)

ENROLLED BILL
-- Judiciary/Judicial Proceedings --

Introduced by **Delegates Montague, Mandel, Menes, and Preis**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 ~~Telemarketing Fraud~~ Criminal Procedure - Telephone Solicitation Theft -
3 Wire and Electronic Surveillance

4 FOR the purpose of creating an exception to the prohibition against willfully
5 intercepting a wire or electronic communication for a person who intercepts a
6 wire or electronic communication in the course of a governmental law
7 enforcement investigation of possible ~~telemarketing fraud~~ telephone solicitation
8 theft under certain circumstances; defining a certain term; and generally
9 relating to wire and electronic surveillance and ~~telemarketing fraud~~ telephone
10 solicitation theft.

11 BY adding to
12 Article - Courts and Judicial Proceedings
13 Section 10-401(18) and 10-402(c)(9)
14 Annotated Code of Maryland
15 (1995 Replacement Volume and 1997 Supplement)

1 BY repealing and reenacting, without amendments,
 2 Article - Courts and Judicial Proceedings
 3 Section 10-402(a) and (b)
 4 Annotated Code of Maryland
 5 (1995 Replacement Volume and 1997 Supplement)

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

8 **Article - Courts and Judicial Proceedings**

9 10-401.

10 As used in this subtitle, the following terms have the meanings indicated:

11 ~~(18) "TELEMARKETING FRAUD" MEANS A FRAUDULENT PRACTICE~~
 12 ~~ENGAGED IN AS A PART OF A PATTERN OF USING ONE OR MORE TELEPHONES FOR~~
 13 ~~THE PURPOSE OF ASKING A PERSON:~~

14 ~~(I) TO PAY MONEY AS A CONDITION TO THAT PERSON RECEIVING~~
 15 ~~OR POSSIBLY RECEIVING A PRODUCT, SERVICE, DISCOUNT, OR PRIZE; OR~~

16 ~~(II) TO CONTRIBUTE MONEY FOR A CHARITABLE OR BENEVOLENT~~
 17 ~~PURPOSE.~~

18 (18) "TELEPHONE SOLICITATION THEFT" MEANS CONDUCT OF A PERSON
 19 THAT:

20 (I) CONSTITUTES THE OFFENSE OF THEFT OR ATTEMPTED THEFT
 21 BY; AND

22 (II) INVOLVES THE USE OF A TELEPHONE TO SOLICIT THE
 23 PAYMENT OF MONEY.

24 10-402.

25 (a) Except as otherwise specifically provided in this subtitle it is unlawful for
 26 any person to:

27 (1) Wilfully intercept, endeavor to intercept, or procure any other person
 28 to intercept or endeavor to intercept, any wire, oral, or electronic communication;

29 (2) Wilfully disclose, or endeavor to disclose, to any other person the
 30 contents of any wire, oral, or electronic communication, knowing or having reason to
 31 know that the information was obtained through the interception of a wire, oral, or
 32 electronic communication in violation of this subtitle; or

33 (3) Wilfully use, or endeavor to use, the contents of any wire, oral, or
 34 electronic communication, knowing or having reason to know that the information

1 was obtained through the interception of a wire, oral, or electronic communication in
2 violation of this subtitle.

3 (b) Any person who violates subsection (a) of this section is guilty of a felony
4 and is subject to imprisonment for not more than 5 years or a fine of not more than
5 \$10,000, or both.

6 (c) (9) IT IS LAWFUL UNDER THIS SUBTITLE FOR A PERSON TO INTERCEPT A
7 WIRE OR ELECTRONIC COMMUNICATION IN THE COURSE OF A ~~GOVERNMENTAL LAW~~
8 ENFORCEMENT INVESTIGATION OF POSSIBLE ~~TELEMARKETING FRAUD~~ TELEPHONE
9 SOLICITATION THEFT IF:

10 (I) THE PERSON IS ~~A GOVERNMENT INVESTIGATOR~~ AN
11 INVESTIGATIVE OR LAW ENFORCEMENT OFFICER OR IS ACTING UNDER THE
12 DIRECTION OF A GOVERNMENT INVESTIGATOR AN INVESTIGATIVE OR LAW
13 ENFORCEMENT OFFICER; AND

14 (II) THE PERSON IS A PARTY TO THE COMMUNICATION AND
15 PARTICIPATES IN THE COMMUNICATION THROUGH THE USE OF A TELEPHONE
16 INSTRUMENT.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 1998.