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By: **Delegates Montague, Mandel, Menes, and Preis**  
Introduced and read first time: February 9, 1998  
Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Telemarketing Fraud - Wire and Electronic Surveillance**

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

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

14 BY repealing and reenacting, without amendments,  
15 Article - Courts and Judicial Proceedings  
16 Section 10-402(a) and (b)  
17 Annotated Code of Maryland  
18 (1995 Replacement Volume and 1997 Supplement)

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

21 **Article - Courts and Judicial Proceedings**

22 10-401.

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

24 (18) "TELEMARKETING FRAUD" MEANS A FRAUDULENT PRACTICE  
25 ENGAGED IN AS A PART OF A PATTERN OF USING ONE OR MORE TELEPHONES FOR  
26 THE PURPOSE OF ASKING A PERSON:

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

3 (II) TO CONTRIBUTE MONEY FOR A CHARITABLE OR BENEVOLENT  
4 PURPOSE.

5 10-402.

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

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

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

14 (3) Wilfully use, or endeavor to use, the contents of any wire, oral, or  
15 electronic communication, knowing or having reason to know that the information  
16 was obtained through the interception of a wire, oral, or electronic communication in  
17 violation of this subtitle.

18 (b) Any person who violates subsection (a) of this section is guilty of a felony  
19 and is subject to imprisonment for not more than 5 years or a fine of not more than  
20 \$10,000, or both.

21 (c) (9) IT IS LAWFUL UNDER THIS SUBTITLE FOR A PERSON TO INTERCEPT A  
22 WIRE OR ELECTRONIC COMMUNICATION IN THE COURSE OF A GOVERNMENTAL  
23 INVESTIGATION OF POSSIBLE TELEMARKETING FRAUD IF:

24 (I) THE PERSON IS A GOVERNMENT INVESTIGATOR OR LAW  
25 ENFORCEMENT OFFICER OR IS ACTING UNDER THE DIRECTION OF A GOVERNMENT  
26 INVESTIGATOR OR LAW ENFORCEMENT OFFICER; AND

27 (II) THE PERSON IS A PARTY TO THE COMMUNICATION AND  
28 PARTICIPATES IN THE COMMUNICATION THROUGH THE USE OF A TELEPHONE  
29 INSTRUMENT.

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