

HOUSE BILL 725

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HB 224/97 - ECM

1998 Regular Session
8r2300

By: **Delegates Clagett and Love**

Introduced and read first time: February 11, 1998

Assigned to: Economic Matters

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
4 Maryland Consumer Protection Act to use a name in the conduct of a person's
5 business to intentionally misrepresent the geographic origin or location of the
6 person's business; and generally relating to the use of names in business.

7 BY repealing and reenacting, with amendments,
8 Article - Commercial Law
9 Section 13-301
10 Annotated Code of Maryland
11 (1990 Replacement Volume and 1997 Supplement)

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

14 **Article - Commercial Law**

15 13-301.

16 Unfair or deceptive trade practices include any:

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

20 (2) Representation that:

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

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

- 1 (iii) Deteriorated, altered, reconditioned, reclaimed, or secondhand
2 consumer goods are original or new; or
- 3 (iv) Consumer goods, consumer realty, or consumer services are of a
4 particular standard, quality, grade, style, or model which they are not;
- 5 (3) Failure to state a material fact if the failure deceives or tends to
6 deceive;
- 7 (4) Disparagement of the goods, realty, services, or business of another
8 by a false or misleading representation of a material fact;
- 9 (5) Advertisement or offer of consumer goods, consumer realty, or
10 consumer services:
- 11 (i) Without intent to sell, lease, or rent them as advertised or
12 offered; or
- 13 (ii) With intent not to supply reasonably expected public demand,
14 unless the advertisement or offer discloses a limitation of quantity or other qualifying
15 condition;
- 16 (6) False or misleading representation of fact which concerns:
- 17 (i) The reason for or the existence or amount of a price reduction;
18 or
- 19 (ii) A price in comparison to a price of a competitor or to one's own
20 price at a past or future time;
- 21 (7) Knowingly false statement that a service, replacement, or repair is
22 needed;
- 23 (8) False statement which concerns the reason for offering or supplying
24 consumer goods, consumer realty, or consumer services at sale or discount prices;
- 25 (9) Deception, fraud, false pretense, false premise, misrepresentation, or
26 knowing concealment, suppression, or omission of any material fact with the intent
27 that a consumer rely on the same in connection with:
- 28 (i) The promotion or sale of any consumer goods, consumer realty,
29 or consumer service; or
- 30 (ii) A contract or other agreement for the evaluation, perfection,
31 marketing, brokering or promotion of an invention; or
- 32 (iii) The subsequent performance of a merchant with respect to an
33 agreement of sale, lease, or rental;
- 34 (10) Solicitations of sales or services over the telephone without first
35 clearly, affirmatively, and expressly stating:

- 1 (i) The solicitor's name and the trade name of a person represented
2 by the solicitor;
- 3 (ii) The purpose of telephone conversation; and
- 4 (iii) The kind of merchandise, real property, intangibles, or service
5 solicited;
- 6 (11) Use of any plan or scheme in soliciting sales or services over the
7 telephone that misrepresents the solicitor's true status or mission;
- 8 (12) Use of a contract related to a consumer transaction which contains a
9 confessed judgment clause that waives the consumer's right to assert a legal defense
10 to an action;
- 11 (13) Use by a seller, who is in the business of selling consumer realty, of a
12 contract related to the sale of single family residential consumer realty, including
13 condominiums and townhouses, that contains a clause limiting or precluding the
14 buyer's right to obtain consequential damages as a result of the seller's breach or
15 cancellation of the contract;
- 16 (14) USE OF A NAME IN THE CONDUCT OF A PERSON'S BUSINESS TO
17 INTENTIONALLY MISREPRESENT THE GEOGRAPHIC ORIGIN OR LOCATION OF THE
18 PERSON'S BUSINESS;
- 19 [(14)] (15) Violation of a provision of:
- 20 (i) This title;
- 21 (ii) An order of the Attorney General or agreement of a party
22 relating to unit pricing under Title 14, Subtitle 1 of this article;
- 23 (iii) Title 14, Subtitle 2 of this article, the Maryland Consumer Debt
24 Collection Act;
- 25 (iv) Title 14, Subtitle 3 of this article, the Maryland Door-to-Door
26 Sales Act;
- 27 (v) Title 14, Subtitle 9 of this article, Kosher Products;
- 28 (vi) Title 14, Subtitle 10 of this article, Automotive Repair Facilities;
- 29 (vii) Section 14-1302 of this article;
- 30 (viii) Title 14, Subtitle 11 of this article, Maryland Layaway Sales
31 Act;
- 32 (ix) Section 22-415 of the Transportation Article;
- 33 (x) Title 14, Subtitle 20 of this article;

- 1 (xi) Title 14, Subtitle 15 of this article, the Automotive Warranty
2 Enforcement Act;
- 3 (xii) Title 14, Subtitle 21 of this article;
- 4 (xiii) Section 18-107 of the Transportation Article;
- 5 (xiv) Title 14, Subtitle 22 of this article, the Maryland Telephone
6 Solicitations Act;
- 7 (xv) Title 14, Subtitle 23 of this article, the Automotive Crash Parts
8 Act;
- 9 (xvi) Title 10, Subtitle 6 of the Real Property Article;
- 10 (xvii) Title 10, Subtitle 8 of the Real Property Article;
- 11 (xviii) Title 14, Subtitle 25 of this article, the Hearing Aid Sales Act;
12 or
- 13 (xix) Title 14, Subtitle 26 of this article, the Maryland Door-To-Door
14 Solicitations Act; or
- 15 [(15)] (16) Any act or omission that relates to a residential building and
16 that is chargeable as a misdemeanor under or otherwise violates a provision of the
17 Energy Conservation Building Standards Act, Article 78, § 54-I of the Code.

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