

HOUSE BILL 20

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1999 Regular Session  
9r0030

(PRE-FILED)

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By: **Delegate Owings (By Request)**  
Requested: July 21, 1998  
Introduced and read first time: January 13, 1999  
Assigned to: Economic Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law - Telephone and Mail Solicitation Privacy Act**

3 FOR the purpose of prohibiting a person from making or causing to be made a  
4 telephone solicitation by calling certain telephone numbers under certain  
5 circumstances; prohibiting a person from making or causing to be made a mail  
6 solicitation to certain individuals under certain circumstances; requiring the  
7 Division of Consumer Protection of the Office of the Attorney General to keep  
8 certain lists that identify telephone numbers and names and addresses to which  
9 a solicitation may not be made under certain circumstances; specifying the  
10 circumstances under which the Division may remove a telephone number or a  
11 name and address from certain lists; requiring the Division to publish certain  
12 lists periodically; authorizing the Division to charge certain fees; requiring the  
13 Division to adopt certain regulations; establishing penalties for violations of this  
14 Act; requiring the Division to use certain funds collected for certain purposes;  
15 defining certain terms; and generally relating to telephone and mail solicitation  
16 privacy.

17 BY adding to  
18 Article - Commercial Law  
19 Section 14-2901 through 14-2906 to be under the new subtitle "Subtitle 29.  
20 Telephone and Mail Solicitation Privacy Act"  
21 Annotated Code of Maryland  
22 (1990 Replacement Volume and 1998 Supplement)

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

1

Article - Commercial Law

2

SUBTITLE 29. TELEPHONE AND MAIL SOLICITATION PRIVACY ACT.

3 14-2901.

4 IN THIS SUBTITLE, "DIVISION" MEANS THE DIVISION OF CONSUMER  
5 PROTECTION OF THE OFFICE OF THE ATTORNEY GENERAL.

6 14-2902.

7 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
8 INDICATED.

9 (2) "MAIL SOLICITATION" MEANS AN ATTEMPT TO SELL OR LEASE  
10 GOODS, SERVICES, OR REALTY TO AN INDIVIDUAL BY MAIL.

11 (3) "MAIL SOLICITATION PRIVACY LIST" MEANS THE CURRENT  
12 PUBLICATION OF THE LIST MAINTAINED BY THE DIVISION THAT COMPRISES THE  
13 NAMES AND ADDRESSES OF RESIDENTIAL ADDRESSEES WHO HAVE REQUESTED  
14 INCLUSION ON THE LIST.

15 (4) "RESIDENTIAL ADDRESSEE" MEANS AN INDIVIDUAL WHO RESIDES  
16 AT A RESIDENTIAL ADDRESS IN THE STATE.

17 (B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A PERSON MAY  
18 NOT MAKE OR CAUSE TO BE MADE A MAIL SOLICITATION TO A RESIDENTIAL  
19 ADDRESSEE WHOSE NAME AND ADDRESS APPEAR ON THE MAIL SOLICITATION  
20 PRIVACY LIST.

21 (2) A PERSON MAY MAKE OR CAUSE TO BE MADE A MAIL SOLICITATION:

22 (I) BASED ON:

23 1. PRIOR NEGOTIATIONS WITH THE POTENTIAL CUSTOMER;

24 OR

25 2. AN INQUIRY BY THE POTENTIAL CUSTOMER; OR

26 (II) IF THE PERSON:

27 1. HAS MADE A PREVIOUS SALE OR LEASE TO THE  
28 POTENTIAL CUSTOMER;

29 2. HAS A PREEXISTING BUSINESS RELATIONSHIP WITH THE  
30 POTENTIAL CUSTOMER; OR

31 3. IS A CHARITABLE ORGANIZATION AS DEFINED IN § 6-101  
32 OF THE BUSINESS REGULATION ARTICLE.

1 (C) THE DIVISION SHALL PLACE THE NAME AND ADDRESS OF A RESIDENTIAL  
2 ADDRESSEE ON THE MAIL SOLICITATION PRIVACY LIST ON RECEIPT OF A WRITTEN  
3 REQUEST FROM THE RESIDENTIAL ADDRESSEE.

4 (D) THE DIVISION SHALL MAINTAIN EACH NAME AND ADDRESS ON THE MAIL  
5 SOLICITATION PRIVACY LIST UNTIL THE DIVISION RECEIVES:

6 (1) A WRITTEN REQUEST FROM THE RESIDENTIAL ADDRESSEE FOR  
7 REMOVAL FROM THE MAIL SOLICITATION PRIVACY LIST; OR

8 (2) NOTICE THAT THE RESIDENTIAL ADDRESSEE NO LONGER RESIDES  
9 AT THE LISTED ADDRESS.

10 (E) THE DIVISION SHALL PUBLISH THE MAIL SOLICITATION PRIVACY LIST  
11 QUARTERLY.

12 (F) THE DIVISION MAY CHARGE A FEE TO A PERSON THAT REQUESTS A COPY  
13 OF THE MAIL SOLICITATION PRIVACY LIST TO COVER THE COSTS OF MAINTENANCE  
14 AND PUBLICATION OF THE MAIL SOLICITATION PRIVACY LIST.

15 14-2903.

16 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
17 INDICATED.

18 (2) "RESIDENTIAL TELEPHONE CUSTOMER" MEANS AN INDIVIDUAL  
19 WHO IS RESPONSIBLE FOR PAYMENT FOR TELEPHONE SERVICES ASSOCIATED WITH  
20 A TELEPHONE NUMBER AT A RESIDENCE IN THE STATE.

21 (3) "TELEPHONE SOLICITATION" MEANS AN ATTEMPT TO SELL OR LEASE  
22 GOODS, SERVICES, OR REALTY TO AN INDIVIDUAL BY TELEPHONE.

23 (4) "TELEPHONE SOLICITATION PRIVACY LIST" MEANS THE CURRENT  
24 PUBLICATION OF THE LIST MAINTAINED BY THE DIVISION THAT COMPRISES THE  
25 TELEPHONE NUMBERS OF RESIDENTIAL TELEPHONE CUSTOMERS WHO HAVE  
26 REQUESTED INCLUSION ON THE LIST.

27 (B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A PERSON MAY  
28 NOT MAKE OR CAUSE TO BE MADE A TELEPHONE SOLICITATION BY CALLING A  
29 TELEPHONE NUMBER THAT APPEARS ON THE TELEPHONE SOLICITATION PRIVACY  
30 LIST.

31 (2) A PERSON MAY MAKE OR CAUSE TO BE MADE A TELEPHONE  
32 SOLICITATION:

33 (I) BASED ON:

34 1. PRIOR NEGOTIATIONS WITH THE POTENTIAL CUSTOMER;  
35 OR

36 2. AN INQUIRY BY THE POTENTIAL CUSTOMER; OR

1 (II) IF THE PERSON:

2 1. HAS MADE A PREVIOUS SALE OR LEASE TO THE  
3 POTENTIAL CUSTOMER;

4 2. HAS A PREEXISTING BUSINESS RELATIONSHIP WITH THE  
5 POTENTIAL CUSTOMER; OR

6 3. IS A CHARITABLE ORGANIZATION AS DEFINED IN § 6-101  
7 OF THE BUSINESS REGULATION ARTICLE.

8 (C) THE DIVISION SHALL PLACE THE TELEPHONE NUMBER OF A RESIDENTIAL  
9 TELEPHONE CUSTOMER ON THE TELEPHONE SOLICITATION PRIVACY LIST ON  
10 RECEIPT OF A WRITTEN REQUEST FROM THE RESIDENTIAL TELEPHONE CUSTOMER.

11 (D) THE DIVISION SHALL MAINTAIN EACH TELEPHONE NUMBER ON THE  
12 TELEPHONE SOLICITATION PRIVACY LIST UNTIL THE DIVISION RECEIVES:

13 (1) A WRITTEN REQUEST FROM THE RESIDENTIAL TELEPHONE  
14 CUSTOMER FOR REMOVAL FROM THE TELEPHONE SOLICITATION PRIVACY LIST; OR

15 (2) NOTICE THAT THE RESIDENTIAL TELEPHONE CUSTOMER IS NO  
16 LONGER RESPONSIBLE FOR THE LISTED TELEPHONE NUMBER.

17 (E) THE DIVISION SHALL PUBLISH THE TELEPHONE SOLICITATION PRIVACY  
18 LIST QUARTERLY.

19 (F) THE DIVISION MAY CHARGE A FEE TO A PERSON THAT REQUESTS A COPY  
20 OF THE TELEPHONE SOLICITATION PRIVACY LIST TO RECOVER THE COSTS OF  
21 MAINTENANCE AND PUBLICATION OF THE TELEPHONE SOLICITATION PRIVACY LIST.  
22 14-2904.

23 A PERSON WHO VIOLATES THIS SUBTITLE IS SUBJECT TO A FINE NOT  
24 EXCEEDING \$50 FOR EACH VIOLATION.

25 14-2905.

26 THE DIVISION SHALL USE ALL FUNDS COLLECTED UNDER § 14-2904 OF THIS  
27 SUBTITLE TO:

28 (1) EDUCATE THE RESIDENTS OF THE STATE ABOUT THE PROTECTIONS  
29 CREATED UNDER THIS SUBTITLE; AND

30 (2) ENFORCE THIS SUBTITLE.

31 14-2906.

32 THE DIVISION SHALL ADOPT REGULATIONS NECESSARY TO IMPLEMENT THIS  
33 SUBTITLE.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
2 effect October 1, 1999.