
By: **Delegates Pendergrass and Mitchell**

Introduced and read first time: February 11, 1999

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Telephone Solicitations by Merchants - Restrictions**

3 FOR the purpose of prohibiting a merchant from making a telephone solicitation to a
4 residential telephone number in the State except during certain days and
5 between certain times of the day; limiting the number of telephone solicitations
6 that a merchant may make to a residential telephone number in this State
7 during a certain period of time on a single day; and generally relating to
8 telephone solicitations by merchants.

9 BY repealing and reenacting, without amendments,
10 Article - Commercial Law
11 Section 14-2201 through 14-2205, inclusive
12 Annotated Code of Maryland
13 (1990 Replacement Volume and 1998 Supplement)

14 BY adding to
15 Article - Commercial Law
16 Section 14-2202.1
17 Annotated Code of Maryland
18 (1990 Replacement Volume and 1998 Supplement)

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

21 **Article - Commercial Law**

22 14-2201.

23 (a) In this subtitle the following words have the meanings indicated.

24 (b) "Consumer" means an actual or prospective purchaser, lessee, or recipient
25 of consumer goods, consumer services, or consumer realty.

1 (c) (1) "Consumer goods", "consumer realty", and "consumer services" mean,
2 respectively, goods, real property, and services which are primarily for personal,
3 household, family, or agricultural purposes.

4 (2) (i) Subject to subparagraph (ii) of this paragraph, "consumer
5 services" does not include financial services or securities sales.

6 (ii) "Consumer services" includes any solicitation offering credit
7 services where:

8 1. The consumer is required to call a telephone number;

9 2. The consumer is charged a separate toll fee for the call;
10 and

11 3. The person making the solicitation receives any portion of
12 the separate telephone toll fee paid by the consumer.

13 (d) "Credit services" means providing or offering to provide any service in
14 return for the payment of money or other consideration, where the service is held out
15 to provide assistance to a consumer with regard to:

16 (1) Improving the consumer's credit history, credit rating, or credit
17 record; or

18 (2) Obtaining an extension of credit for the consumer.

19 (e) (1) "Merchant" means a person who, directly or indirectly, offers or
20 makes available to consumers any consumer goods, consumer services, or consumer
21 realty.

22 (2) "Merchant" does not include a person who is exempt under § 13-104
23 of this article.

24 (f) "Telephone solicitation" means the attempt by a merchant to sell or lease
25 consumer goods, services, or realty to a consumer located in this State that is:

26 (1) Made entirely by telephone; and

27 (2) Initiated by the merchant.

28 14-2202.

29 (a) The provisions of this subtitle do not apply to a transaction:

30 (1) Made in accordance with prior negotiations in the course of a visit by
31 the consumer to a merchant operating a retail business establishment which has a
32 fixed permanent location and where consumer goods are displayed or offered for sale
33 on a continuing basis;

1 (2) In which the person making the solicitation or the business
2 enterprise for which the person is calling:

3 (i) Has made a previous sale to the consumer; or

4 (ii) Has a preexisting business relationship with the consumer;

5 (3) Which is covered by the provisions of Subtitle 3 of this title;

6 (4) In which:

7 (i) The consumer may obtain a full refund for the return of
8 undamaged and unused goods to the seller within 7 days of receipt by the consumer;
9 and

10 (ii) The seller will process the refund within 30 days of receipt of
11 the returned merchandise by the consumer;

12 (5) In which the consumer purchases goods or services pursuant to an
13 examination of a television, radio, or print advertisement or a sample, brochure,
14 catalogue, or other mailing material of the merchant that contains:

15 (i) The name, address, and telephone number of the merchant;

16 (ii) A description of the goods or services being sold; and

17 (iii) Any limitations or restrictions that apply to the offer; or

18 (6) In which the merchant is a bona fide charitable organization as
19 defined in § 6-101 of the Business Regulation Article.

20 (b) Notwithstanding subsection (a) of this section, this subtitle applies to any
21 solicitation offering credit services where:

22 (1) The consumer is required to call a telephone number;

23 (2) The consumer is charged a separate toll fee for the call; and

24 (3) The person making the solicitation receives any portion of the
25 separate telephone toll fee paid by the consumer.

26 14-2202.1.

27 A MERCHANT MAY NOT:

28 (1) MAKE A TELEPHONE SOLICITATION TO A RESIDENTIAL TELEPHONE
29 NUMBER IN THE STATE EXCEPT DURING MONDAY THROUGH FRIDAY BETWEEN 8
30 A.M. AND 6 P.M. ACCORDING TO THE TIME IN THE STATE; AND

1 (2) COMPLETE MORE THAN ONE TELEPHONE SOLICITATION TO THE
2 SAME RESIDENTIAL TELEPHONE NUMBER IN THE STATE DURING EACH 10-HOUR
3 PERIOD ON A SINGLE DAY.

4 14-2203.

5 (a) A contract made pursuant to a telephone solicitation is not valid and
6 enforceable against a consumer unless made in compliance with this subtitle.

7 (b) A contract made pursuant to a telephone solicitation:

8 (1) Shall be reduced to writing and signed by the consumer;

9 (2) Shall comply with all other applicable laws and regulations;

10 (3) Shall match the description of goods or services as that principally
11 used in the telephone solicitation;

12 (4) Shall contain the name, address, and telephone number of the seller,
13 the total price of the contract, and a detailed description of the goods or services being
14 sold;

15 (5) Shall contain, in at least 12 point type, immediately preceding the
16 signature, the following statement:

17 "You are not obligated to pay any money unless you sign this contract and return
18 it to the seller."; and

19 (6) May not exclude from its terms any oral or written representations
20 made by the merchant to the consumer in connection with the transaction.

21 14-2204.

22 A merchant engaging in a telephone solicitation may not make or submit any
23 charge to the consumer's credit account until after the merchant receives from the
24 consumer a copy of the contract which complies with this subtitle.

25 14-2205.

26 In addition to any remedies otherwise available at law, a violation of this
27 subtitle shall be:

28 (1) An unfair and deceptive trade practice under Title 13, Subtitle 3 of
29 this article; and

30 (2) If the violation involves a solicitation offering credit services, a
31 violation of the Maryland Credit Services Businesses Act.

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