

SENATE BILL 505

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2000 Regular Session
0lr2610
CF 0lr1025

By: **Senators Dorman, Teitelbaum, DeGrange, and Astle**
Introduced and read first time: February 4, 2000
Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Internet Consumers' Bill of Rights**

3 FOR the purpose of requiring certain cable operators to provide certain access to
4 certain other persons on certain terms and conditions; prohibiting certain
5 restrictions on certain content by a cable operator; allowing certain persons to
6 enforce the provisions of this Act through a civil action seeking certain remedies;
7 allowing a local franchising authority to enforce the provisions of this Act in a
8 certain manner; allowing a local franchising authority to require certain persons
9 to submit to mediation or binding arbitration; defining certain terms; and
10 generally relating to broadband Internet access.

11 BY adding to
12 Article - Commercial Law
13 Section 11-1501 through 11-1504 to be under the new subtitle "Subtitle 15.
14 Internet Consumers' Bill of Rights"
15 Annotated Code of Maryland
16 (1990 Replacement Volume and 1999 Supplement)

17 **Preamble**

18 WHEREAS, Consumers benefit from a competitive marketplace; and

19 WHEREAS, Freedom of choice is what has made the Internet so successful; and

20 WHEREAS, The Internet is moving towards faster and more dynamic
21 connections, and broadband cable offers one of the most successful new ways to use
22 the Internet; and

23 WHEREAS, Maryland is the home of several small, locally based Internet
24 service providers; now, therefore,

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

1

Article - Commercial Law

2

SUBTITLE 15. INTERNET CONSUMERS' BILL OF RIGHTS.

3 11-1501.

4 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
5 INDICATED.

6 (B) "ACCESS" MEANS THE ABILITY TO MAKE A PHYSICAL CONNECTION TO A
7 CABLE OPERATOR'S FACILITIES, AT ANY PLACE WHERE THE CABLE OPERATOR MAY
8 EXCHANGE DATA WITH AN INTERNET SERVICE PROVIDER, TO ENABLE A CONSUMER
9 TO EXCHANGE DATA OVER THE FACILITIES OF THE CONSUMER'S CHOSEN INTERNET
10 SERVICE PROVIDER.

11 (C) "AFFILIATE" MEANS A PERSON WHO DIRECTLY OR INDIRECTLY:

12 (1) CONTROLS, IS CONTROLLED BY, OR IS UNDER COMMON CONTROL
13 WITH ANOTHER PERSON; OR

14 (2) OWNS, IS OWNED BY, OR IS UNDER COMMON OWNERSHIP WITH A
15 PERSON THROUGH AT LEAST 10% EQUITY OR OTHER FINANCIAL INTEREST, OR
16 THROUGH ANY MANAGEMENT INTEREST.

17 (D) "BROADBAND" MEANS HAVING A CAPACITY EXCEEDING 200 KILOBITS PER
18 SECOND.

19 (E) "BROADBAND INTERNET ACCESS TRANSPORT SERVICES" MEANS
20 BROADBAND DATA TRANSMISSION BETWEEN A USER AND THE POINT OF
21 INTERCONNECTION TO FACILITIES OF THE BROADBAND INTERNET ACCESS
22 TRANSPORT PROVIDER OF THE USER.

23 (F) "CABLE OPERATOR" MEANS A PERSON WHO:

24 (1) PROVIDES SERVICE OVER A CABLE SYSTEM AND DIRECTLY OR
25 THROUGH AN AFFILIATE OWNS A SIGNIFICANT INTEREST IN THE CABLE SYSTEM; OR

26 (2) OTHERWISE CONTROLS OR IS RESPONSIBLE FOR THE MANAGEMENT
27 AND OPERATION OF THE CABLE SYSTEM.

28 (G) "CABLE SERVICE" MEANS:

29 (1) THE ONE-WAY TRANSMISSION OF VIDEO PROGRAMMING OR OTHER
30 PROGRAMMING SERVICE TO SUBSCRIBERS; AND

31 (2) ANY SUBSCRIBER INTERACTION REQUIRED FOR THE USE OF THE
32 VIDEO PROGRAMMING OR OTHER PROGRAMMING SERVICE.

33 (H) (1) "CABLE SYSTEM" MEANS A FACILITY THAT CONSISTS OF A SET OF
34 CLOSED TRANSMISSION PATHS AND ASSOCIATED SIGNAL GENERATION, RECEPTION,

1 AND CONTROL EQUIPMENT DESIGNED TO PROVIDE CABLE SERVICE WHICH
2 INCLUDES VIDEO PROGRAMMING AND WHICH IS PROVIDED TO MULTIPLE
3 SUBSCRIBERS IN A COMMUNITY.

4 (2) "CABLE SYSTEM" INCLUDES A FACILITY OF A COMMON CARRIER
5 THAT IS SUBJECT TO 47 U.S.C. CHAPTER 5, SUBCHAPTER II TO THE EXTENT THAT THE
6 FACILITY IS USED IN THE TRANSMISSION OF VIDEO PROGRAMMING DIRECTLY TO
7 SUBSCRIBERS EXCEPT FOR USE SOLELY FOR INTERACTIVE ON-DEMAND SERVICES.

8 (3) "CABLE SYSTEM" DOES NOT INCLUDE:

9 (I) A FACILITY THAT ONLY RETRANSMITS THE TELEVISION
10 SIGNALS OF ONE OR MORE TELEVISION BROADCAST STATIONS;

11 (II) A FACILITY THAT SERVES SUBSCRIBERS WITHOUT USING A
12 PUBLIC RIGHT-OF-WAY;

13 (III) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
14 A FACILITY OF A COMMON CARRIER THAT IS SUBJECT TO 47 U.S.C. CHAPTER 5,
15 SUBCHAPTER II;

16 (IV) AN OPEN VIDEO SYSTEM THAT COMPLIES WITH 47 U.S.C. § 573;
17 OR

18 (V) A FACILITY OF AN ELECTRIC UTILITY THAT IS USED SOLELY
19 FOR OPERATING ITS ELECTRIC UTILITY SYSTEM.

20 (I) (1) "FRANCHISE" MEANS AN AUTHORIZATION OR RENEWAL OF
21 AUTHORIZATION TO CONSTRUCT OR OPERATE A CABLE SYSTEM THAT IS ISSUED BY A
22 FRANCHISING AUTHORITY.

23 (2) "FRANCHISE" INCLUDES A PERMIT, LICENSE, RESOLUTION,
24 CONTRACT, CERTIFICATE, AGREEMENT, OR OTHER DESIGNATION.

25 (J) "FRANCHISING AUTHORITY" MEANS A GOVERNMENTAL UNIT THAT
26 FEDERAL, STATE, OR LOCAL LAW AUTHORIZES TO GRANT A FRANCHISE.

27 (K) "INTERNET SERVICE PROVIDER" MEANS A PERSON WHO PROVIDES A
28 SERVICE THAT ENABLES A USER TO OBTAIN ACCESS TO CONTENT, INFORMATION,
29 ELECTRONIC MAIL, OR OTHER SERVICES OFFERED OVER THE INTERNET.

30 11-1502.

31 (A) UNLESS OTHERWISE DETERMINED BY THE FRANCHISING AUTHORITY, A
32 CABLE OPERATOR THAT HOLDS A FRANCHISE TO PROVIDE CABLE SERVICE SHALL
33 PROVIDE, TO ANY REQUESTING INTERNET SERVICE PROVIDER, ACCESS TO
34 BROADBAND INTERNET ACCESS TRANSPORT SERVICES OF THE CABLE OPERATOR:

35 (1) UNBUNDLED FROM THE PROVISION OF INFORMATION CONTENT;
36 AND

1 (2) ON RATES, TERMS, AND CONDITIONS THAT ARE AT LEAST AS
2 FAVORABLE AS THOSE ON WHICH THE CABLE OPERATOR PROVIDES ACCESS TO
3 ITSELF, ITS AFFILIATE, OR ANY OTHER PERSON.

4 (B) EXCEPT AS OTHERWISE PROVIDED BY LAW, A CABLE OPERATOR MAY NOT
5 RESTRICT THE CONTENT THAT A CONSUMER MAY RECEIVE OVER THE INTERNET.

6 11-1503.

7 (A) AN INTERNET SERVICE PROVIDER OR CONSUMER THAT HAS BEEN DENIED
8 ACCESS TO BROADBAND INTERNET ACCESS TRANSPORT SERVICES IN VIOLATION OF
9 THIS SUBTITLE MAY BRING A CIVIL ACTION TO ENFORCE ITS RIGHTS UNDER THIS
10 SUBTITLE AND TO SEEK OTHER APPROPRIATE RELIEF, INCLUDING MONETARY
11 DAMAGES AND INJUNCTION.

12 (B) IN A CIVIL ACTION UNDER THIS SECTION, THE COURT MAY AWARD COSTS
13 AND REASONABLE ATTORNEY'S FEES TO THE PREVAILING PARTY.

14 11-1504.

15 (A) IN ADDITION TO ANY OTHER AVAILABLE PENALTIES OR ENFORCEMENT, A
16 LOCAL FRANCHISING AUTHORITY MAY BRING AN ACTION TO ENFORCE THE
17 REQUIREMENTS OF THIS SUBTITLE AND TO SEEK APPROPRIATE RELIEF, INCLUDING
18 INJUNCTION.

19 (B) THE LOCAL FRANCHISING AUTHORITY MAY REQUIRE THE CABLE
20 OPERATOR AND THE REQUESTING INTERNET SERVICE PROVIDER TO SUBMIT TO
21 MEDIATION OR BINDING ARBITRATION OF A DISPUTE UNDER THIS SUBTITLE.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2000.