

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL NO. 715

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 5, after the first “devices” insert “and access codes”; in line 7, after the second “for” insert “certain damages for”; in line 8, strike “and” and substitute “, jurisdiction of certain courts, and”; in line 10, after “provisions;” insert “providing for the application of this Act;”; and after line 17, insert:

“BY adding to

Article - Courts and Judicial Proceedings

Section 4-301(b)(15)

Annotated Code of Maryland

(1998 Replacement Volume and 2000 Supplement)

BY repealing and reenacting, with amendments,

Article - Courts and Judicial Proceedings

Section 4-302(a) and (d)(1)

Annotated Code of Maryland

(1998 Replacement Volume and 2000 Supplement)

BY repealing

Article 27 - Crimes and Punishments

Section 557C through 557F and the subheading “Telecommunications Act”

Annotated Code of Maryland

(1996 Replacement Volume and 2000 Supplement)”.

AMENDMENT NO. 2

On page 1, after line 24, insert:

(Over)

“(2) “ANY PERSON AGGRIEVED” MEANS ANY PERSON WHO HAS SUFFERED A SPECIFIC AND DIRECT INJURY TO A RIGHT PROTECTED BY THIS SECTION.”; and in line 25, strike “(2)” and substitute “(3)”.

On page 2, in lines 11, 22, and 40, strike “(3)”, “(4)”, and “(5)”, respectively, and substitute “(4)”, “(5)”, and “(6)”, respectively; in lines 12, 14, 16, and 22, in each instance, after “DEVICE” insert “OR ACCESS CODE”; in line 32, strike “OR”; in line 39, after “SERVICES” insert “; OR

(III) AN ELECTRONIC SERIAL NUMBER, MOBILE IDENTIFICATION NUMBER, SERVICE ACCESS CARD, ACCOUNT NUMBER, OR PERSONAL IDENTIFICATION NUMBER USED TO ACQUIRE, RECEIVE, USE, OR TRANSMIT A TELECOMMUNICATION SERVICE”; and in line 40, after “MEANS” insert “A SERVICE PROVIDED FOR A CHARGE OR COMPENSATION”.

On page 3, in line 1, strike “SERVICE PROVIDED FOR A CHARGE OR COMPENSATION”; in line 5, after the semicolon insert “OR”; in line 6, strike “SERVICE PROVIDED”; in line 8, strike “FACILITY, OR TECHNOLOGY” and substitute “OR FACILITY”; in lines 11 and 12, strike “; AND (III)” and substitute “AND”; in lines 15, 27, and 38, strike “(6)”, “(7)”, and “(8)”, respectively, and substitute “(7)”, “(8)”, and “(9)”, respectively; strike beginning with “PROVIDES” in line 17 down through “2.” in line 19; strike beginning with “, OPERATES” in line 19 down through “USING” in line 20 and substitute “OR OPERATES”; in line 22, after “FACILITY” insert “; OR

2. PROVIDES A TELECOMMUNICATION SERVICE DIRECTLY OR INDIRECTLY USING ANY OF THE SYSTEMS, NETWORKS, OR FACILITIES DESCRIBED IN ITEM 1 OF THIS SUBPARAGRAPH”;

in line 27, after “DEVICE,” insert “ACCESS CODE.”; in line 34, strike “THE” and substitute “THAT”; and in line 38, after “DEVICE” insert “OR ACCESS CODE”.

On pages 3 and 4, strike beginning with the colon in line 38 on page 3 down through “3.” in line 15 on page 4.

AMENDMENT NO. 3

On page 4, in lines 15, 17, 22, and 31, in each instance, after “DEVICE” insert “OR ACCESS CODE”; in lines 15 and 16, strike “IS CAPABLE OF, OR”; in line 23, after “EQUIPMENT,” insert “ACCESS CODE,”; in lines 31 and 37, in each instance, strike “ACCESS”; in lines 37 and 39, in each instance, after “DEVICES” insert “OR ACCESS CODES”; in lines 38 and 40, in each instance, after “AGENCY” insert “OR TELECOMMUNICATION SERVICE PROVIDER”.

On page 5, strike beginning with the first “OR” in line 4 down through “(I)” in line 6 and substitute “OR ACCESS CODE;

(I)”;

in line 7, strike the first “OR” and substitute “; OR

(II)”;

strike beginning with “OR” in line 10 down through the second “OR” in line 13; in line 16, after “DEVICE” insert “; OR

(3) POSSESS, USE, PREPARE, DISTRIBUTE, SELL, GIVE, TRANSFER, OFFER, PROMOTE, OR ADVERTISE FOR SALE, USE, OR DISTRIBUTION EQUIPMENT, INCLUDING HARDWARE, CABLES, TOOLS, DATA, COMPUTER SOFTWARE, OR OTHER COMPONENTS WITH KNOWLEDGE THAT THE PURCHASER OR A THIRD PERSON INTENDS TO USE THEM TO MANUFACTURE OR ASSEMBLE AN UNLAWFUL TELECOMMUNICATION DEVICE OR ACCESS CODE FOR A PURPOSE PROHIBITED BY THIS SECTION”.

AMENDMENT NO. 4

On page 5, in line 22, strike “MISDEMEANOR” and substitute “FELONY”; in line 23, strike “5” and substitute “10”; in line 24, strike “50” and substitute “100”; in line 24, strike “OR” and substitute “DEVICES OR ACCESS CODES OR UNLAWFUL”; strike beginning with “FOR” in line 26 down through “(4)” in line 30; in line 33, strike “(5)” and substitute “(4)”; and in line 36, strike the first “OR” and substitute “DEVICES OR ACCESS CODES OR UNLAWFUL” .

(Over)

AMENDMENT NO. 5

On page 6, in line 16, after the semicolon, insert “OR”; and strike beginning with “IN” in line 17 down through “(V)” in line 20.

AMENDMENT NO. 6

On page 6, in line 1, strike the first “OR” and substitute “DEVICE OR ACCESS CODE OR UNLAWFUL”; in line 3, strike the first “OR” and substitute “DEVICE OR ACCESS CODE OR UNLAWFUL”; in line 13, strike the first “OR” and substitute “DEVICE OR ACCESS CODE OR UNLAWFUL”; in line 22, strike “OR” and substitute “DEVICE OR ACCESS CODE OR UNLAWFUL”; after line 25, insert:

“(3) THIS SUBSECTION MAY NOT BE CONSTRUED TO GRANT THE DISTRICT COURT AUTHORITY TO GRANT RELIEF UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION.”;

in line 26, strike “(3)” and substitute “(4)(I)”; and after line 30, insert:

“(II) IN DETERMINING THE PROFITS OF THE VIOLATOR UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH:

1. THE COMPLAINING PARTY MUST PROVE ONLY THE VIOLATOR’S GROSS REVENUE; AND

2. THE VIOLATOR MUST PROVE THE DEDUCTIBLE EXPENSES AND ELEMENTS OF PROFIT ATTRIBUTABLE TO FACTORS OTHER THAN THE VIOLATION.

Article - Courts and Judicial Proceedings

4-301.

(b) Except as provided in § 4-302 of this subtitle, the District Court also has exclusive original jurisdiction in a criminal case in which a person at least 18 years old or a corporation is charged with:

(15) VIOLATION OF ARTICLE 27, § 194A OF THE CODE, WHETHER A FELONY OR MISDEMEANOR.

4-302.

(a) Except as provided in § 4-301(b)(2), (6), (7), (8), (9), (10), (11), (12), (13), [and] (14), AND (15) of this subtitle, the District Court does not have jurisdiction to try a criminal case charging the commission of a felony.

(d) (1) Except as provided in paragraph (2) of this subsection, the jurisdiction of the District Court is concurrent with that of the circuit court in a criminal case:

(i) In which the penalty may be confinement for [three] 3 years or more or a fine of \$2,500 or more; or

(ii) Which is a felony, as provided in § 4-301(b)(2), (6), (7), (8), (9), (10), (11), (12), (13), [and] (14), AND (15) of this subtitle.”.

AMENDMENT NO. 7

On page 6, in line 31, strike “194B and”; in line 32, after “557F” insert “and the subheading “Telecommunications Act””; and after line 33, insert:

“SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be construed only prospectively to offenses and causes of action arising on or after the effective date of this Act and may not be applied or interpreted to have any effect on or application to any offenses or causes of action arising before the effective date of this Act.”;

and in line 34, strike “3.” and substitute “4.”.