

HOUSE BILL 715

Unofficial Copy  
E1

2001 Regular Session  
(11r2059)

*ENROLLED BILL*  
*-- Judiciary/Judicial Proceedings --*

Introduced by **Delegates Dembrow and Doory**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
Speaker.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Fraud - Telecommunication Service Providers**

3 FOR the purpose of prohibiting use, possession, manufacture, assembly, transfer,  
4 distribution, advertising, and related activities relating to certain unlawful  
5 telecommunication devices and access codes and unlawful access devices;  
6 providing criminal penalties, damages, injunction, impounding, forfeiture, and  
7 other enforcement measures for violations of this Act; authorizing a civil cause  
8 of action for certain damages for violations of this Act; providing certain rules of  
9 construction and jurisdiction of certain courts, and venue for prosecution of  
10 violations of this Act; providing certain exceptions; defining certain terms;  
11 repealing certain duplicative provisions; providing for the application of this Act;  
12 and generally relating to telecommunication services and unlawful access.

13 BY adding to

14 Article 27 - Crimes and Punishments

15 Section 194A to be under the new subheading "Fraud - Telecommunication  
16 Service Providers"

1 Annotated Code of Maryland  
2 (1996 Replacement Volume and 2000 Supplement)

3 BY adding to

4 Article - Courts and Judicial Proceedings  
5 Section 4-301(b)(15)  
6 Annotated Code of Maryland  
7 (1998 Replacement Volume and 2000 Supplement)

8 BY repealing and reenacting, with amendments,

9 Article - Courts and Judicial Proceedings  
10 Section 4-302(a) and (d)(1)  
11 Annotated Code of Maryland  
12 (1998 Replacement Volume and 2000 Supplement)

13 BY repealing

14 Article 27 - Crimes and Punishments  
15 Section 557C through 557F and the subheading "Telecommunications Act"  
16 Annotated Code of Maryland  
17 (1996 Replacement Volume and 2000 Supplement)

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

20 **Article 27 - Crimes and Punishments**

21 **FRAUD - TELECOMMUNICATION SERVICE PROVIDERS**

22 194A.

23 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
24 INDICATED.

25 (2) "ANY PERSON AGGRIEVED" MEANS ANY PERSON WHO HAS  
26 SUFFERED A SPECIFIC AND DIRECT INJURY TO A RIGHT PROTECTED BY THIS  
27 SECTION.

28 ~~(2)~~ (3) "MANUFACTURE" OR "ASSEMBLE", WITH RESPECT TO AN  
29 UNLAWFUL ACCESS DEVICE, MEANS:

30 (I) TO MAKE, PRODUCE, OR ASSEMBLE AN UNLAWFUL ACCESS  
31 DEVICE;

32 (II) TO MODIFY, ALTER, PROGRAM, OR REPROGRAM AN  
33 INSTRUMENT, DEVICE, MACHINE, EQUIPMENT, TECHNOLOGY, OR SOFTWARE, SO  
34 THAT IT IS CAPABLE OF DEFEATING OR CIRCUMVENTING TECHNOLOGY, SOFTWARE,  
35 OR A DEVICE THAT IS USED BY THE PROVIDER, OWNER, OR LICENSEE OF A

1 TELECOMMUNICATION SERVICE OR OF A DATA, AUDIO, OR VIDEO PROGRAM OR  
 2 TRANSMISSION, TO PROTECT THE TELECOMMUNICATION, DATA, AUDIO, OR VIDEO  
 3 SERVICE, PROGRAM, OR TRANSMISSION FROM UNAUTHORIZED RECEIPT,  
 4 ACQUISITION, ACCESS, DECRYPTION, DISCLOSURE, COMMUNICATION,  
 5 TRANSMISSION, OR RETRANSMISSION; OR

6 (III) KNOWINGLY TO ASSIST OTHERS IN THOSE ACTIVITIES.

7 ~~(3)~~ (4) "MANUFACTURE" OR "ASSEMBLE", WITH RESPECT TO AN  
 8 UNLAWFUL TELECOMMUNICATION DEVICE OR ACCESS CODE, MEANS:

9 (I) TO MAKE, PRODUCE, OR ASSEMBLE AN UNLAWFUL  
 10 TELECOMMUNICATION DEVICE OR ACCESS CODE;

11 (II) TO MODIFY, ALTER, PROGRAM, OR REPROGRAM A  
 12 TELECOMMUNICATION DEVICE OR ACCESS CODE TO BE CAPABLE OF ACQUIRING,  
 13 DISRUPTING, RECEIVING, TRANSMITTING, DECRYPTING, OR FACILITATING THE  
 14 ACQUISITION, DISRUPTION, RECEIPT, TRANSMISSION, OR DECRYPTION OF A  
 15 TELECOMMUNICATION SERVICE WITHOUT THE EXPRESS CONSENT OR EXPRESS  
 16 AUTHORIZATION OF THE TELECOMMUNICATION SERVICE PROVIDER; OR

17 (III) KNOWINGLY TO ASSIST OTHERS IN THOSE ACTIVITIES.

18 ~~(4)~~ (5) "TELECOMMUNICATION DEVICE OR ACCESS CODE" MEANS:

19 (I) AN INSTRUMENT, DEVICE, MACHINE, EQUIPMENT,  
 20 TECHNOLOGY, OR SOFTWARE WHICH IS CAPABLE OF TRANSMITTING, ACQUIRING,  
 21 DECRYPTING, OR RECEIVING ANY TELEPHONIC, ELECTRONIC, DATA, INTERNET  
 22 ACCESS, AUDIO, VIDEO, MICROWAVE OR RADIO TRANSMISSIONS, SIGNALS,  
 23 COMMUNICATIONS, OR SERVICES, INCLUDING THE RECEIPT, ACQUISITION,  
 24 TRANSMISSION, OR DECRYPTION OF THOSE COMMUNICATIONS, TRANSMISSIONS,  
 25 SIGNALS, OR SERVICES PROVIDED BY OR THROUGH ANY CABLE TELEVISION, FIBER  
 26 OPTIC, TELEPHONE, SATELLITE, MICROWAVE, DATA TRANSMISSION, RADIO,  
 27 INTERNET-BASED, OR WIRELESS DISTRIBUTION NETWORK, SYSTEM, OR FACILITY;  
 28 ~~OR~~

29 (II) A PART, ACCESSORY, OR COMPONENT OF AN ITEM LISTED IN  
 30 SUBPARAGRAPH (I) OF THIS PARAGRAPH, INCLUDING A COMPUTER CIRCUIT,  
 31 SECURITY MODULE, SMART CARD, SOFTWARE, COMPUTER CHIP, ELECTRONIC  
 32 MECHANISM, OR OTHER COMPONENT, ACCESSORY, OR PART OF ANY  
 33 TELECOMMUNICATION DEVICE THAT IS CAPABLE OF FACILITATING THE  
 34 TRANSMISSION, DECRYPTION, ACQUISITION, OR RECEPTION OF ANY OF THOSE  
 35 COMMUNICATIONS, TRANSMISSIONS, SIGNALS, OR SERVICES; OR

36 (III) AN ELECTRONIC SERIAL NUMBER, MOBILE IDENTIFICATION  
 37 NUMBER, SERVICE ACCESS CARD, ACCOUNT NUMBER, OR PERSONAL  
 38 IDENTIFICATION NUMBER USED TO ACQUIRE, RECEIVE, USE, OR TRANSMIT A  
 39 TELECOMMUNICATION SERVICE.

1           ~~(5)~~    (6)       "TELECOMMUNICATION SERVICE" MEANS A SERVICE PROVIDED  
2 FOR A CHARGE OR COMPENSATION:

3                   (I)       ~~SERVICE PROVIDED FOR A CHARGE OR COMPENSATION TO~~  
4 FACILITATE THE ORIGINATION, TRANSMISSION, EMISSION, OR RECEPTION OF SIGNS,  
5 SIGNALS, DATA, WRITINGS, IMAGES, AND SOUNDS OR INTELLIGENCE OF ANY  
6 NATURE BY TELEPHONE, INCLUDING CELLULAR TELEPHONES, WIRE, WIRELESS,  
7 RADIO, ELECTROMAGNETIC, PHOTOELECTRONIC, OR PHOTO-OPTICAL SYSTEMS; OR

8                   (II)       ~~SERVICE PROVIDED BY ANY RADIO, TELEPHONE, FIBER OPTIC,~~  
9 CABLE TELEVISION, SATELLITE, MICROWAVE, DATA TRANSMISSION, WIRELESS, OR  
10 INTERNET-BASED DISTRIBUTION SYSTEM, NETWORK, ~~FACILITY, OR TECHNOLOGY~~ OR  
11 FACILITY, INCLUDING ELECTRONIC, DATA, VIDEO, AUDIO, INTERNET ACCESS,  
12 TELEPHONIC, MICROWAVE AND RADIO COMMUNICATIONS, TRANSMISSIONS,  
13 SIGNALS, AND SERVICES; ~~AND~~

14                   ~~(III)~~    AND THOSE COMMUNICATIONS, TRANSMISSIONS, SIGNALS,  
15 AND SERVICES PROVIDED DIRECTLY OR INDIRECTLY, BY OR THROUGH, A SYSTEM,  
16 NETWORK, FACILITY, OR TECHNOLOGY LISTED IN THIS PARAGRAPH.

17           ~~(6)~~    (7)       (I)       "TELECOMMUNICATION SERVICE PROVIDER" MEANS A  
18 PERSON THAT:

19                               1.       ~~PROVIDES A TELECOMMUNICATION SERVICE, EITHER~~  
20 ~~DIRECTLY, OR INDIRECTLY AS A RESELLER; OR~~

21                               2.       ~~OWNS, OPERATES, OR PROVIDES A TELECOMMUNICATION~~  
22 ~~SERVICE DIRECTLY OR INDIRECTLY USING OR OPERATES A FIBER OPTIC, CABLE~~  
23 TELEVISION, SATELLITE, INTERNET-BASED, TELEPHONE, WIRELESS, MICROWAVE,  
24 DATA TRANSMISSION, OR RADIO DISTRIBUTION SYSTEM, NETWORK, OR FACILITY; OR

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

28                   (II)       "TELECOMMUNICATION SERVICE PROVIDER" INCLUDES A  
29 CELLULAR, PAGING, OR OTHER WIRELESS COMMUNICATIONS COMPANY OR OTHER  
30 PERSON THAT, FOR A FEE, SUPPLIES THE FACILITY, CELL SITE, MOBILE TELEPHONE  
31 SWITCHING OFFICE, OR OTHER EQUIPMENT OR TELECOMMUNICATION SERVICE.

32           ~~(7)~~    (8)       "UNLAWFUL ACCESS DEVICE" MEANS AN INSTRUMENT,  
33 DEVICE, ACCESS CODE, MACHINE, EQUIPMENT, TECHNOLOGY, OR SOFTWARE WHICH  
34 IS PRIMARILY DESIGNED, ASSEMBLED, MANUFACTURED, SOLD, DISTRIBUTED,  
35 POSSESSED, USED, OFFERED, PROMOTED, OR ADVERTISED FOR THE PURPOSE OF  
36 DEFEATING OR CIRCUMVENTING TECHNOLOGY, SOFTWARE, OR A DEVICE, OR A  
37 COMPONENT OR PART OF ANY OF THEM USED BY THE PROVIDER, OWNER, OR  
38 LICENSEE OF ANY TELECOMMUNICATION SERVICE OR OF A DATA, AUDIO, OR VIDEO  
39 PROGRAM OR TRANSMISSION, TO PROTECT ~~THE~~ THAT TELECOMMUNICATION, DATA,  
40 AUDIO, OR VIDEO SERVICE, PROGRAM, OR TRANSMISSION FROM UNAUTHORIZED

1 RECEIPT, ACQUISITION, ACCESS, DECRYPTION, DISCLOSURE, COMMUNICATION,  
2 TRANSMISSION, OR RETRANSMISSION.

3 ~~(8)~~ (9) (I) "UNLAWFUL TELECOMMUNICATION DEVICE OR ACCESS  
4 CODE" MEANS:

5 ~~1. AN ELECTRONIC SERIAL NUMBER, MOBILE~~  
6 ~~IDENTIFICATION NUMBER, PERSONAL IDENTIFICATION NUMBER, OR A~~  
7 ~~TELECOMMUNICATION DEVICE THAT IS CAPABLE OF ACQUIRING OR FACILITATING~~  
8 ~~THE ACQUISITION OF A TELECOMMUNICATION SERVICE WITHOUT THE EXPRESS~~  
9 ~~CONSENT OR EXPRESS AUTHORIZATION OF THE TELECOMMUNICATION SERVICE~~  
10 ~~PROVIDER, OR THAT HAS BEEN ALTERED, MODIFIED, PROGRAMMED, OR~~  
11 ~~REPROGRAMMED, ALONE OR IN CONJUNCTION WITH ANOTHER~~  
12 ~~TELECOMMUNICATION DEVICE OR OTHER EQUIPMENT, TO SO ACQUIRE OR~~  
13 ~~FACILITATE THE UNAUTHORIZED ACQUISITION OF A TELECOMMUNICATION~~  
14 ~~SERVICE;~~

15 ~~2. A TELEPHONE ALTERED TO OBTAIN SERVICE WITHOUT~~  
16 ~~THE EXPRESS CONSENT OR EXPRESS AUTHORIZATION OF THE~~  
17 ~~TELECOMMUNICATION SERVICE PROVIDER, TUMBLER PHONE, COUNTERFEIT OR~~  
18 ~~CLONE PHONE, TUMBLER MICROCHIP, COUNTERFEIT OR CLONE MICROCHIP, OR~~  
19 ~~OTHER INSTRUMENT CAPABLE OF DISGUIISING ITS IDENTITY OR LOCATION, OR OF~~  
20 ~~GAINING UNAUTHORIZED ACCESS TO A COMMUNICATIONS SYSTEM OPERATED BY A~~  
21 ~~TELECOMMUNICATION SERVICE PROVIDER; OR~~

22 ~~3. A TELECOMMUNICATION DEVICE OR ACCESS CODE THAT~~  
23 ~~IS CAPABLE OF, OR HAS BEEN ALTERED, DESIGNED, MODIFIED, PROGRAMMED, OR~~  
24 ~~REPROGRAMMED, ALONE OR IN CONJUNCTION WITH ANOTHER~~  
25 ~~TELECOMMUNICATION DEVICE OR ACCESS CODE, SO AS TO BE CAPABLE OF,~~  
26 ~~FACILITATING THE DISRUPTION, ACQUISITION, RECEIPT, TRANSMISSION, OR~~  
27 ~~DECRYPTION OF A TELECOMMUNICATION SERVICE WITHOUT THE EXPRESS~~  
28 ~~CONSENT OR EXPRESS AUTHORIZATION OF THE TELECOMMUNICATION SERVICE~~  
29 ~~PROVIDER.~~

30 (II) "UNLAWFUL TELECOMMUNICATION DEVICE OR ACCESS CODE"  
31 INCLUDES A DEVICE, TECHNOLOGY, PRODUCT, SERVICE, EQUIPMENT, ACCESS CODE,  
32 OR COMPUTER SOFTWARE, COMPONENT, OR PART, PRIMARILY DISTRIBUTED, SOLD,  
33 DESIGNED, ASSEMBLED, MANUFACTURED, MODIFIED, PROGRAMMED,  
34 REPROGRAMMED, OR USED TO PROVIDE THE UNAUTHORIZED RECEIPT OF,  
35 TRANSMISSION OF, DISRUPTION OF, DECRYPTION OF, ACCESS TO, OR ACQUISITION  
36 OF A TELECOMMUNICATION SERVICE PROVIDED BY A TELECOMMUNICATION  
37 SERVICE PROVIDER.

38 (B) THIS SECTION DOES NOT APPLY TO:

39 (1) A LAW ENFORCEMENT OFFICER WHO POSSESSES OR USES A  
40 TELECOMMUNICATION ~~ACCESS~~ DEVICE OR ACCESS CODE IN THE COURSE OF AN  
41 OFFICIAL POLICE INVESTIGATION;

1 (2) A TELECOMMUNICATION SERVICE PROVIDER WHILE LAWFULLY  
2 ACTING IN THAT CAPACITY ; OR

3 (3) A PERSON WHO IS EXPRESSLY AUTHORIZED BY A LAW  
4 ENFORCEMENT AGENCY OR OTHER LAWFUL AUTHORITY TO:

5 (I) MANUFACTURE TELECOMMUNICATION ~~ACCESS DEVICES~~ OR  
6 ACCESS CODES FOR DISTRIBUTION OR SALE TO A LAW ENFORCEMENT AGENCY OR  
7 TELECOMMUNICATION SERVICE PROVIDER; OR

8 (II) DISTRIBUTE OR SELL TELECOMMUNICATIONS DEVICES OR  
9 ACCESS CODES TO A LAW ENFORCEMENT AGENCY OR TELECOMMUNICATION  
10 SERVICE PROVIDER.

11 (C) A PERSON MAY NOT KNOWINGLY:

12 (1) POSSESS, USE, MANUFACTURE, DISTRIBUTE, TRANSFER, SELL,  
13 OFFER, PROMOTE, OR ADVERTISE FOR SALE, USE, OR DISTRIBUTION, AN UNLAWFUL  
14 TELECOMMUNICATION DEVICE ~~OR MODIFY, ALTER, PROGRAM, OR REPROGRAM A~~  
15 ~~TELECOMMUNICATION DEVICE~~:

16 ~~(A)~~ OR ACCESS CODE:

17 (I) FOR THE COMMISSION OF A THEFT OF TELECOMMUNICATION  
18 ~~SERVICE~~ OR;

19 (II) TO RECEIVE, DISRUPT, TRANSMIT, DECRYPT, ACQUIRE, OR  
20 FACILITATE THE RECEIPT, DISRUPTION, TRANSMISSION, DECRYPTION, OR  
21 ACQUISITION OF A TELECOMMUNICATION SERVICE WITHOUT THE EXPRESS  
22 CONSENT OR EXPRESS AUTHORIZATION OF THE TELECOMMUNICATION SERVICE  
23 PROVIDER; ~~OR~~

24 ~~(H)~~ ~~TO CONCEAL OR TO ASSIST ANOTHER TO CONCEAL FROM A~~  
25 ~~TELECOMMUNICATION SERVICE PROVIDER, OR FROM A LAWFUL AUTHORITY, THE~~  
26 ~~EXISTENCE, PLACE OF ORIGIN, OR DESTINATION OF A TELECOMMUNICATION; OR~~

27 (2) POSSESS, USE, MANUFACTURE, ASSEMBLE, DISTRIBUTE, TRANSFER,  
28 SELL, OFFER, PROMOTE, OR ADVERTISE FOR SALE, USE, OR DISTRIBUTION ANY  
29 UNLAWFUL ACCESS DEVICE; OR

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

37 (D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A  
38 PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON

1 CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE  
2 NOT EXCEEDING \$2,500 OR BOTH.

3 (2) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A  
4 ~~MISDEMEANOR FELONY~~ AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT  
5 EXCEEDING ~~5~~ 10 YEARS OR A FINE NOT EXCEEDING \$10,000 OR BOTH IF THE  
6 VIOLATION OF THIS SECTION INVOLVES MORE THAN ~~50~~ 100 UNLAWFUL  
7 TELECOMMUNICATION ~~OR DEVICES OR ACCESS CODES OR UNLAWFUL ACCESS~~  
8 DEVICES.

9 (3) ~~FOR PURPOSES OF ALL CRIMINAL PENALTIES OR FINES~~  
10 ~~ESTABLISHED FOR VIOLATIONS OF THIS SECTION, THE PROHIBITED ACTIVITY AS IT~~  
11 ~~APPLIES TO EACH UNLAWFUL TELECOMMUNICATION OR ACCESS DEVICE IS A~~  
12 ~~SEPARATE VIOLATION.~~

13 (4) IN ADDITION TO ANY OTHER SENTENCE AUTHORIZED BY LAW, THE  
14 COURT MAY REQUIRE A PERSON CONVICTED OF VIOLATING THIS SECTION TO MAKE  
15 RESTITUTION IN ACCORDANCE WITH THE CRIMINAL PROCEDURE ARTICLE.

16 (5) (4) ON CONVICTION OF A DEFENDANT UNDER THIS SECTION, THE  
17 COURT MAY, IN ADDITION TO ANY OTHER SENTENCE AUTHORIZED BY LAW, DIRECT  
18 THAT THE DEFENDANT FORFEIT TO THE STATE ANY UNLAWFUL  
19 TELECOMMUNICATION ~~OR DEVICES OR ACCESS CODES OR UNLAWFUL ACCESS~~  
20 DEVICES IN THE DEFENDANT'S POSSESSION OR CONTROL WHICH WERE INVOLVED  
21 IN THE VIOLATION FOR WHICH THE DEFENDANT WAS CONVICTED.

22 (E) (1) A CRIME UNDER THIS SECTION MAY BE CONSIDERED TO HAVE BEEN  
23 COMMITTED AT EITHER THE PLACE WHERE THE DEFENDANT MANUFACTURES OR  
24 ASSEMBLES AN UNLAWFUL TELECOMMUNICATION ~~OR DEVICE OR ACCESS CODE OR~~  
25 ~~UNLAWFUL ACCESS DEVICE OR ASSISTS OTHERS IN DOING SO, OR A PLACE WHERE~~  
26 ~~THE UNLAWFUL TELECOMMUNICATION OR DEVICE OR ACCESS CODE OR UNLAWFUL~~  
27 ~~ACCESS DEVICE IS SOLD OR DELIVERED TO A PURCHASER OR RECIPIENT.~~

28 (2) IT IS NOT A DEFENSE TO A VIOLATION OF THIS SECTION THAT SOME  
29 OF THE ACTS CONSTITUTING THE VIOLATION OCCURRED OUTSIDE OF THIS STATE.

30 (F) (1) ANY PERSON AGGRIEVED BY A VIOLATION OF THIS SECTION MAY  
31 BRING A CIVIL ACTION IN ANY COURT OF COMPETENT JURISDICTION.

32 (2) THE COURT MAY:

33 (I) IMPOSE PRELIMINARY AND FINAL INJUNCTIONS TO PREVENT  
34 OR RESTRAIN A VIOLATION OF THIS SECTION;

35 (II) AT ANY TIME WHILE AN ACTION IS PENDING, ORDER THE  
36 IMPOUNDING, ON TERMS THE COURT CONSIDERS TO BE REASONABLE, OF ANY  
37 UNLAWFUL TELECOMMUNICATION ~~OR DEVICE OR ACCESS CODE OR UNLAWFUL~~  
38 ~~ACCESS DEVICE THAT IS IN THE CUSTODY OR CONTROL OF THE VIOLATOR AND THAT~~  
39 ~~THE COURT HAS REASONABLE CAUSE TO BELIEVE WAS INVOLVED IN THE ALLEGED~~  
40 ~~VIOLATION OF THIS SECTION;~~

1 (III) AWARD DAMAGES UNDER PARAGRAPH ~~(3)~~ (4) OF THIS  
2 SUBSECTION; OR

3 (IV) ~~IN ITS DISCRETION, AWARD TO AN AGGRIEVED PARTY WHO~~  
4 ~~PREVAILS REASONABLE ATTORNEY FEES AND COSTS, INCLUDING COSTS FOR~~  
5 ~~INVESTIGATION, TESTING, AND EXPERT WITNESS FEES; AND~~

6 ~~(V)~~ AS PART OF A FINAL JUDGMENT OR DECREE FINDING A  
7 VIOLATION OF THIS SECTION, ORDER THE REMEDIAL MODIFICATION OR  
8 DESTRUCTION OF ANY UNLAWFUL TELECOMMUNICATION ~~OR~~ DEVICE OR ACCESS  
9 CODE OR UNLAWFUL ACCESS DEVICE INVOLVED IN THE VIOLATION THAT IS IN THE  
10 CUSTODY OR CONTROL OF THE VIOLATOR OR HAS BEEN IMPOUNDED UNDER  
11 SUBPARAGRAPH (II) OF THIS PARAGRAPH.

12 (3) THIS SUBSECTION MAY NOT BE CONSTRUED TO GRANT THE  
13 DISTRICT COURT AUTHORITY TO GRANT RELIEF UNDER PARAGRAPH (2)(I) OF THIS  
14 SUBSECTION.

15 ~~(3)~~ (4) (I) DAMAGES AWARDED BY A COURT UNDER THIS SECTION  
16 MAY BE COMPUTED AS ACTUAL DAMAGES SUFFERED BY THE COMPLAINING PARTY  
17 AS A RESULT OF THE VIOLATION OF THIS SECTION AND ANY PROFITS OF THE  
18 VIOLATOR THAT ARE ATTRIBUTABLE TO THE VIOLATION AND ARE NOT TAKEN INTO  
19 ACCOUNT IN COMPUTING THE ACTUAL DAMAGES.

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

22 1. THE COMPLAINING PARTY MUST PROVE ONLY THE  
23 VIOLATOR'S GROSS REVENUE; AND

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

27 **Article - Courts and Judicial Proceedings**

28 4-301.

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

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

34 4-302.

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

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

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

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

8 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) ~~194B and~~  
9 ~~557C through 557F~~ and the subheading "Telecommunications Act" of Article 27 -  
10 Crimes and Punishments of the Annotated Code of Maryland be repealed.

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

16 SECTION ~~3.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take  
17 effect October 1, 2001.