
By: **Senators Ferguson, Colburn, Collins, Harris, Jimeno, Kelley, Mitchell,
Sfikas, and Stoltzfus**

Introduced and read first time: January 24, 2001

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Internet Privacy Act**

3 FOR the purpose of prohibiting a merchant who engages in electronic commerce from
4 collecting through the Internet, using, or disclosing personal information about
5 a consumer for advertising, marketing, or research purposes unless the
6 merchant makes certain disclosures and offers a conspicuous and explicit
7 method for the consumer to prohibit the merchant from collecting, using, or
8 disclosing personal information about that consumer; prohibiting a merchant
9 who engages in electronic commerce from collecting, using, or disclosing
10 personal information about a consumer who has prohibited the merchant from
11 collecting, using, or disclosing personal information about the consumer;
12 creating certain exceptions to certain prohibitions; authorizing the Division of
13 Consumer Protection of the Office of the Attorney General to adopt certain
14 regulations; providing that a violation of this Act is an unfair or deceptive trade
15 practice; defining certain terms; and generally relating to the collection of
16 personal consumer information through the Internet by merchants who engage
17 in electronic commerce and the use and disclosure of such information.

18 BY repealing and reenacting, with amendments,
19 Article - Commercial Law
20 Section 13-301(14)
21 Annotated Code of Maryland
22 (2000 Replacement Volume and 2000 Supplement)

23 BY adding to
24 Article - Commercial Law
25 Section 14-2901 through 14-2904, inclusive, to be under the new subtitle
26 "Subtitle 29. Maryland Internet Privacy Act"
27 Annotated Code of Maryland
28 (2000 Replacement Volume and 2000 Supplement)

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

1

Article - Commercial Law

2 13-301.

3 Unfair or deceptive trade practices include any:

4 (14) Violation of a provision of:

5 (i) This title;

6 (ii) An order of the Attorney General or agreement of a party
7 relating to unit pricing under Title 14, Subtitle 1 of this article;8 (iii) Title 14, Subtitle 2 of this article, the Maryland Consumer Debt
9 Collection Act;10 (iv) Title 14, Subtitle 3 of this article, the Maryland Door-to-Door
11 Sales Act;

12 (v) Title 14, Subtitle 9 of this article, Kosher Products;

13 (vi) Title 14, Subtitle 10 of this article, Automotive Repair Facilities;

14 (vii) Section 14-1302 of this article;

15 (viii) Title 14, Subtitle 11 of this article, Maryland Layaway Sales
16 Act;

17 (ix) Section 22-415 of the Transportation Article;

18 (x) Title 14, Subtitle 20 of this article;

19 (xi) Title 14, Subtitle 15 of this article, the Automotive Warranty
20 Enforcement Act;

21 (xii) Title 14, Subtitle 21 of this article;

22 (xiii) Section 18-107 of the Transportation Article;

23 (xiv) Title 14, Subtitle 22 of this article, the Maryland Telephone
24 Solicitations Act;25 (xv) Title 14, Subtitle 23 of this article, the Automotive Crash Parts
26 Act;

27 (xvi) Title 10, Subtitle 6 of the Real Property Article;

28 (xvii) Title 10, Subtitle 8 of the Real Property Article;

29 (xviii) Title 14, Subtitle 25 of this article, the Hearing Aid Sales Act;

30 [or]

1 (xix) Title 14, Subtitle 26 of this article, the Maryland Door-to-Door
2 Solicitations Act; or

3 (XX) TITLE 14, SUBTITLE 29 OF THIS ARTICLE, THE MARYLAND
4 INTERNET PRIVACY ACT; OR

5 SUBTITLE 29. MARYLAND INTERNET PRIVACY ACT.

6 14-2901.

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

9 (B) "CONSUMER" MEANS AN ACTUAL OR PROSPECTIVE PURCHASER, LESSEE,
10 OR RECIPIENT OF CONSUMER GOODS, CONSUMER SERVICES, OR CONSUMER REALTY.

11 (C) (1) "CONSUMER GOODS", "CONSUMER REALTY", AND "CONSUMER
12 SERVICES" MEAN, RESPECTIVELY, GOODS, REAL PROPERTY, AND SERVICES WHICH
13 ARE PRIMARILY FOR PERSONAL, HOUSEHOLD, FAMILY, OR AGRICULTURAL
14 PURPOSES.

15 (2) "CONSUMER SERVICES" INCLUDES FINANCIAL SERVICES, CREDIT
16 SERVICES, AND THE SALE OF SECURITIES.

17 (D) "ELECTRONIC COMMERCE" MEANS THE SALE, LEASE, RENTAL, OR
18 TRANSFER OF CONSUMER GOODS, CONSUMER REALTY, OR CONSUMER SERVICES
19 THROUGH THE INTERNET.

20 (E) (1) "MERCHANT" MEANS A PERSON WHO, DIRECTLY OR INDIRECTLY,
21 OFFERS OR MAKES AVAILABLE TO CONSUMERS ANY CONSUMER GOODS, CONSUMER
22 REALTY, OR CONSUMER SERVICES.

23 (2) "MERCHANT" DOES NOT INCLUDE A PERSON WHO IS EXEMPT UNDER
24 § 13-104 OF THIS ARTICLE.

25 14-2902.

26 (A) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A MERCHANT
27 WHO ENGAGES IN ELECTRONIC COMMERCE MAY NOT COLLECT THROUGH THE
28 INTERNET, USE, OR DISCLOSE PERSONAL INFORMATION ABOUT A CONSUMER FOR
29 ADVERTISING, MARKETING, OR RESEARCH PURPOSES UNLESS THE MERCHANT:

30 (1) CONSPICUOUSLY DESCRIBES ON THE MERCHANT'S INTERNET SITE:

31 (I) WHAT PERSONAL INFORMATION THE MERCHANT WILL
32 COLLECT ABOUT THE CONSUMER;

33 (II) HOW THE MERCHANT WILL USE THE PERSONAL INFORMATION;
34 AND

1 (III) WHETHER THE MERCHANT WILL DISCLOSE THE PERSONAL
2 INFORMATION TO OTHER PARTIES; AND

3 (2) OFFERS A CONSPICUOUS AND EXPLICIT METHOD ON THE
4 MERCHANT'S INTERNET SITE THAT ALLOWS THE CONSUMER TO PROHIBIT THE
5 MERCHANT FROM COLLECTING, USING, OR DISCLOSING THE PERSONAL
6 INFORMATION.

7 (B) A MERCHANT MAY NOT COLLECT PERSONAL INFORMATION ABOUT A
8 CONSUMER THROUGH THE INTERNET, OR USE OR DISCLOSE THAT INFORMATION IF
9 THE CONSUMER HAS PROHIBITED THE MERCHANT FROM COLLECTING, USING, OR
10 DISCLOSING PERSONAL INFORMATION ABOUT THE CONSUMER.

11 (C) THE PROVISIONS OF SUBSECTIONS (A) AND (B) OF THIS SECTION DO NOT
12 APPLY TO THE COLLECTION, USE, OR DISCLOSURE OF PERSONAL CONSUMER
13 INFORMATION BY A MERCHANT WHO ENGAGES IN ELECTRONIC COMMERCE WHERE
14 THE COLLECTION, USE, OR DISCLOSURE IS NECESSARY TO:

15 (1) COMPLETE A COMMERCIAL TRANSACTION BETWEEN THE
16 MERCHANT AND THE CONSUMER;

17 (2) PROTECT THE INTEGRITY OF THE MERCHANT'S WEBSITE OR
18 ON-LINE SYSTEMS;

19 (3) PROTECT THE MERCHANT FROM LIABILITY;

20 (4) RESPOND TO THE JUDICIAL PROCESS; OR

21 (5) COMPLY WITH OTHER PROVISIONS OF LAW THAT REQUIRE THE
22 MERCHANT TO COLLECT, USE, OR DISCLOSE PERSONAL CONSUMER INFORMATION.

23 14-2903.

24 AT THE DIRECTION OF THE ATTORNEY GENERAL, THE DIVISION OF CONSUMER
25 PROTECTION OF THE OFFICE OF THE ATTORNEY GENERAL MAY ADOPT
26 REGULATIONS TO CARRY OUT THIS SUBTITLE.

27 14-2904.

28 A MERCHANT WHO VIOLATES ANY PROVISION OF THIS SUBTITLE IS GUILTY OF
29 AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF
30 THIS ARTICLE.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 October 1, 2001.