
By: **Delegates Cane, Benson, Burns, Jones, Nathan-Pulliam, Owings,
Rudolph, and Sophocleus**

Introduced and read first time: January 27, 2003

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law - Sending Blank Checks Through the Mail - Prohibition**

3 FOR the purpose of providing that the term "credit card" includes certain credit
4 devices for the purpose of a certain consideration; making certain stylistic
5 changes; prohibiting the sending of a blank check or other payment device
6 through the mail without prior request or application by the recipient; providing
7 that violation of the prohibition against sending a blank check or other payment
8 device through the mail is an unfair or deceptive trade practice subject to
9 certain enforcement and penalty provisions; and generally relating to sending a
10 blank check or other payment device through the mail.

11 BY repealing and reenacting, with amendments,
12 Article - Commercial Law
13 Section 13-301 and 14-1305
14 Annotated Code of Maryland
15 (2000 Replacement Volume and 2002 Supplement)

16 BY adding to
17 Article - Commercial Law
18 Section 14-1319
19 Annotated Code of Maryland
20 (2000 Replacement Volume and 2002 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
22 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 (1) False, falsely disparaging, or misleading oral or written statement,
5 visual description, or other representation of any kind which has the capacity,
6 tendency, or effect of deceiving or misleading consumers;

7 (2) Representation that:

8 (i) Consumer goods, consumer realty, or consumer services have a
9 sponsorship, approval, accessory, characteristic, ingredient, use, benefit, or quantity
10 which they do not have;11 (ii) A merchant has a sponsorship, approval, status, affiliation, or
12 connection which he does not have;13 (iii) Deteriorated, altered, reconditioned, reclaimed, or secondhand
14 consumer goods are original or new; or15 (iv) Consumer goods, consumer realty, or consumer services are of a
16 particular standard, quality, grade, style, or model which they are not;17 (3) Failure to state a material fact if the failure deceives or tends to
18 deceive;19 (4) Disparagement of the goods, realty, services, or business of another
20 by a false or misleading representation of a material fact;21 (5) Advertisement or offer of consumer goods, consumer realty, or
22 consumer services:23 (i) Without intent to sell, lease, or rent them as advertised or
24 offered; or25 (ii) With intent not to supply reasonably expected public demand,
26 unless the advertisement or offer discloses a limitation of quantity or other qualifying
27 condition;

28 (6) False or misleading representation of fact which concerns:

29 (i) The reason for or the existence or amount of a price reduction;
30 or31 (ii) A price in comparison to a price of a competitor or to one's own
32 price at a past or future time;33 (7) Knowingly false statement that a service, replacement, or repair is
34 needed;

- 1 (8) False statement which concerns the reason for offering or supplying
2 consumer goods, consumer realty, or consumer services at sale or discount prices;
- 3 (9) Deception, fraud, false pretense, false premise, misrepresentation, or
4 knowing concealment, suppression, or omission of any material fact with the intent
5 that a consumer rely on the same in connection with:
- 6 (i) The promotion or sale of any consumer goods, consumer realty,
7 or consumer service; [or]
- 8 (ii) A contract or other agreement for the evaluation, perfection,
9 marketing, brokering or promotion of an invention; or
- 10 (iii) The subsequent performance of a merchant with respect to an
11 agreement of sale, lease, or rental;
- 12 (10) Solicitations of sales or services over the telephone without first
13 clearly, affirmatively, and expressly stating:
- 14 (i) The solicitor's name and the trade name of a person represented
15 by the solicitor;
- 16 (ii) The purpose of telephone conversation; and
- 17 (iii) The kind of merchandise, real property, intangibles, or service
18 solicited;
- 19 (11) Use of any plan or scheme in soliciting sales or services over the
20 telephone that misrepresents the solicitor's true status or mission;
- 21 (12) Use of a contract related to a consumer transaction which contains a
22 confessed judgment clause that waives the consumer's right to assert a legal defense
23 to an action;
- 24 (13) Use by a seller, who is in the business of selling consumer realty, of a
25 contract related to the sale of single family residential consumer realty, including
26 condominiums and town houses, that contains a clause limiting or precluding the
27 buyer's right to obtain consequential damages as a result of the seller's breach or
28 cancellation of the contract;
- 29 (14) Violation of a provision of:
- 30 (i) This title;
- 31 (ii) An order of the Attorney General or agreement of a party
32 relating to unit pricing under Title 14, Subtitle 1 of this article;
- 33 (iii) Title 14, Subtitle 2 of this article, the Maryland Consumer Debt
34 Collection Act;

- 1 (iv) Title 14, Subtitle 3 of this article, the Maryland Door-to-Door
2 Sales Act;
- 3 (v) Title 14, Subtitle 9 of this article, Kosher Products;
- 4 (vi) Title 14, Subtitle 10 of this article, Automotive Repair Facilities;
- 5 (vii) Section 14-1302 of this article;
- 6 (viii) Title 14, Subtitle 11 of this article, Maryland Layaway Sales
7 Act;
- 8 (ix) Section 22-415 of the Transportation Article;
- 9 (x) Title 14, Subtitle 20 of this article;
- 10 (xi) Title 14, Subtitle 15 of this article, the Automotive Warranty
11 Enforcement Act;
- 12 (xii) Title 14, Subtitle 21 of this article;
- 13 (xiii) Section 18-107 of the Transportation Article;
- 14 (xiv) Title 14, Subtitle 22 of this article, the Maryland Telephone
15 Solicitations Act;
- 16 (xv) Title 14, Subtitle 23 of this article, the Automotive Crash Parts
17 Act;
- 18 (xvi) Title 10, Subtitle 6 of the Real Property Article;
- 19 (xvii) Title 10, Subtitle 8 of the Real Property Article;
- 20 (xviii) Title 14, Subtitle 25 of this article, the Hearing Aid Sales Act;
- 21 (xix) Title 14, Subtitle 26 of this article, the Maryland Door-to-Door
22 Solicitations Act;
- 23 (xx) Title 14, Subtitle 31 of this article, the Maryland Household
24 Goods Movers Act; or
- 25 (XXI) SECTION 14-1319 OF THIS ARTICLE; OR
- 26 (15) Act or omission that relates to a residential building and that is
27 chargeable as a misdemeanor under or otherwise violates a provision of the Energy
28 Conservation Building Standards Act, Title 7, Subtitle 4 of the Public Utility
29 Companies Article.

1 14-1305.

2 (A) IN THIS SECTION, "CREDIT CARD" INCLUDES ANY CARD, PLATE, COUPON
3 BOOK, OR OTHER SINGLE CREDIT DEVICE THAT MAY BE USED TO OBTAIN CREDIT.

4 [(a)] (B) Except as provided in subsection [(c)] (D) of this section, if a credit
5 card or card of identification for credit is issued to a person without [his] THE
6 PERSON'S prior request or application, the card is not considered accepted until [he]
7 THE PERSON signifies acceptance in writing or uses it to obtain credit.

8 [(b)] (C) Until an unrequested card is accepted, the issuer of the card:

9 (1) Assumes the risk of its loss, theft, or unauthorized use; and

10 (2) Is barred from any recovery against the person to whom the card is
11 issued for any damages occasioned by that loss, theft, or unauthorized use.

12 [(c)] (D) This section does not apply if the card is issued for the purpose of
13 renewal or replacement of an existing card originally applied for or accepted by the
14 cardholder.

15 14-1319.

16 (A) A PERSON MAY NOT SEND A BLANK CHECK OR OTHER PAYMENT DEVICE
17 THROUGH THE MAIL WITHOUT THE PRIOR REQUEST OR APPLICATION OF THE
18 RECIPIENT OF THE CHECK OR PAYMENT DEVICE.

19 (B) A VIOLATION OF THIS SECTION IS AN UNFAIR OR DECEPTIVE TRADE
20 PRACTICE WITHIN THE MEANING OF TITLE 13 OF THIS ARTICLE.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2003.