
By: **Delegates Lee, Stern, Goldwater, Barkley, Feldman, Gaines, Gutierrez,
Hennessy, Kaiser, Kelley, King, Madaleno, Mandel, McComas,
McDonough, Menes, Montgomery, Niemann, Pendergrass, Petzold,
Quinter, Shank, F. Turner, and V. Turner**

Introduced and read first time: January 21, 2004

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Computers - Internet Auction Fraud**

3 FOR the purpose of establishing the crime of using an Internet auction listing service
4 or an interactive computer service with the intent to defraud an individual of
5 property, services, or anything of value; providing a certain exception for the
6 person who provides the Internet auction listing service; providing jurisdiction
7 for prosecution of the crime; requiring a person who provides the Internet
8 auction listing service to collect certain identification information and make this
9 information available to a seller or bidder who alleges fraud or deception in an
10 auction transaction; defining certain terms; and generally relating to the use of
11 an Internet auction listing service to obtain property by theft or fraud.

12 BY adding to

13 Article - Criminal Law

14 Section 8-409

15 Annotated Code of Maryland

16 (2002 Volume and 2003 Supplement)

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

19 **Article - Criminal Law**

20 8-409.

21 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
22 INDICATED.

23 (2) "INTERNET AUCTION LISTING SERVICE" MEANS A WEBSITE ON THE
24 INTERNET OR OTHER INTERACTIVE COMPUTER SERVICE THAT IS DESIGNED TO
25 ALLOW OR ADVERTISED AS A MEANS OF ALLOWING USERS TO OFFER PERSONAL
26 PROPERTY OR SERVICES FOR SALE OR LEASE TO A PROSPECTIVE BUYER OR LESSEE

1 THROUGH AN ON-LINE BID SUBMISSION PROCESS USING THAT WEBSITE OR
2 INTERACTIVE COMPUTER SERVICE.

3 (3) (I) "INTERACTIVE COMPUTER SERVICE" MEANS AN INFORMATION
4 SERVICE, SYSTEM, OR ACCESS SOFTWARE PROVIDER THAT PROVIDES OR ENABLES
5 COMPUTER ACCESS BY MULTIPLE USERS TO A COMPUTER SERVER.

6 (II) "INTERACTIVE COMPUTER SERVICE" INCLUDES A SERVICE OR
7 SYSTEM THAT PROVIDES ACCESS TO THE INTERNET.

8 (B) A PERSON MAY NOT KNOWINGLY AND WILLFULLY USE ELECTRONIC
9 COMMUNICATION THROUGH AN INTERNET AUCTION LISTING SERVICE OR AN
10 INTERACTIVE COMPUTER SERVICE:

11 (1) WITH AN INTENT TO DEFRAUD AN INDIVIDUAL OF MONEY, GOODS,
12 SERVICES, OR ANYTHING OF VALUE; OR

13 (2) TO EXERT CONTROL OVER OR OBTAIN AN INDIVIDUAL'S MONEY,
14 GOODS, SERVICES, OR ANYTHING OF VALUE BY MEANS OF DECEPTION.

15 (C) (1) IF THE VALUE OF ALL MONEY, GOODS, SERVICES, AND OTHER
16 THINGS OF VALUE OBTAINED IN VIOLATION OF THIS SECTION EXCEEDS \$500, A
17 PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION
18 IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 15 YEARS OR A FINE NOT
19 EXCEEDING \$10,000 OR BOTH.

20 (2) IF THE VALUE OF ALL MONEY, GOODS, SERVICES, AND OTHER
21 THINGS OF VALUE OBTAINED IN VIOLATION OF THIS SECTION DOES NOT EXCEED
22 \$500, A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
23 ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 18 MONTHS OR A
24 FINE NOT EXCEEDING \$500 OR BOTH.

25 (D) A PERSON WHO VIOLATES THIS SECTION MAY BE PROSECUTED, INDICTED,
26 TRIED, AND CONVICTED IN ANY COUNTY OR STATE IN WHICH THE ELECTRONIC
27 COMMUNICATION ORIGINATED OR TERMINATED.

28 (E) EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION, THIS SECTION
29 DOES NOT APPLY TO THE PERSON WHO PROVIDES THE INTERNET AUCTION LISTING
30 SERVICE IF THE PERSON DOES NOT EXAMINE, SET THE PRICE, OR PREPARE THE
31 DESCRIPTION OF THE PERSONAL PROPERTY OR SERVICE TO BE OFFERED THROUGH
32 THE LISTING SERVICE.

33 (F) A PERSON WHO PROVIDES AN INTERNET AUCTION LISTING SERVICE
34 SHALL:

35 (1) REQUIRE A SELLER OR BIDDER TO REGISTER WITH THE WEBSITE
36 AND PROVIDE THE SELLER'S OR BIDDER'S NAME, ADDRESS, TELEPHONE NUMBER,
37 AND ELECTRONIC MAIL ADDRESS;

1 (2) RETAIN A SELLER'S OR BIDDER'S REGISTRATION INFORMATION FOR
2 A PERIOD OF AT LEAST 2 YEARS;

3 (3) HAVE A MECHANISM TO RECEIVE COMPLAINTS OR INQUIRIES FROM
4 A SELLER OR BIDDER; AND

5 (4) HAVE A MECHANISM TO MAKE A SELLER'S OR BIDDER'S
6 REGISTRATION INFORMATION AVAILABLE TO ANOTHER SELLER OR BIDDER WHO
7 ALLEGES FRAUD OR DECEPTION IN AN AUCTION TRANSACTION.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2004.