
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

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 9, 2004

CHAPTER _____

1 AN ACT concerning

2 **Crimes - Computers - Internet Auction Fraud Theft - Use of Interactive**
3 **Computer Service**

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

15 BY renumbering

16 Article - Criminal Law
17 Section 7-101(e) through (m), respectively
18 to be Section 7-101(f) through (n), respectively
19 Annotated Code of Maryland
20 (2002 Volume and 2003 Supplement)

21 BY adding to

22 Article - Criminal Law

1 Section ~~8-409~~ 7-101(e) and 7-104(j)
 2 Annotated Code of Maryland
 3 (2002 Volume and 2003 Supplement)

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 5 MARYLAND, That, Section(s) 7-101(e) through (m), respectively, of Article -
 6 Criminal Law of the Annotated Code of Maryland be renumbered to be Section(s)
 7 7-101(f) through (n), respectively.

8 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
 9 read as follows:

10 **Article - Criminal Law**

11 ~~8-409.~~

12 ~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS~~
 13 ~~INDICATED.~~

14 ~~(2) "INTERNET AUCTION LISTING SERVICE" MEANS A WEBSITE ON THE~~
 15 ~~INTERNET OR OTHER INTERACTIVE COMPUTER SERVICE THAT IS DESIGNED TO~~
 16 ~~ALLOW OR ADVERTISED AS A MEANS OF ALLOWING USERS TO OFFER PERSONAL~~
 17 ~~PROPERTY OR SERVICES FOR SALE OR LEASE TO A PROSPECTIVE BUYER OR LESSEE~~
 18 ~~THROUGH AN ON-LINE BID SUBMISSION PROCESS USING THAT WEBSITE OR~~
 19 ~~INTERACTIVE COMPUTER SERVICE.~~

20 7-101.

21 ~~(3) (4) (E) (1)~~ "INTERACTIVE COMPUTER SERVICE" MEANS AN
 22 INFORMATION SERVICE, SYSTEM, OR ACCESS SOFTWARE PROVIDER THAT PROVIDES
 23 OR ENABLES COMPUTER ACCESS BY MULTIPLE USERS TO A COMPUTER SERVER.

24 ~~(4) (2)~~ "INTERACTIVE COMPUTER SERVICE" INCLUDES A
 25 SERVICE OR SYSTEM THAT PROVIDES ACCESS TO THE INTERNET.

26 ~~(B) A PERSON MAY NOT KNOWINGLY AND WILLFULLY USE ELECTRONIC~~
 27 ~~COMMUNICATION THROUGH AN INTERNET AUCTION LISTING SERVICE OR AN~~
 28 ~~INTERACTIVE COMPUTER SERVICE:~~

29 ~~(1) WITH AN INTENT TO DEFRAUD AN INDIVIDUAL OF MONEY, GOODS,~~
 30 ~~SERVICES, OR ANYTHING OF VALUE; OR~~

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

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

1 (2) ~~IF THE VALUE OF ALL MONEY, GOODS, SERVICES, AND OTHER~~
2 ~~THINGS OF VALUE OBTAINED IN VIOLATION OF THIS SECTION DOES NOT EXCEED~~
3 ~~\$500, A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND~~
4 ~~ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 18 MONTHS OR A~~
5 ~~FINE NOT EXCEEDING \$500 OR BOTH.~~

6 7-104.

7 ~~(D)~~ (J) A PERSON WHO VIOLATES THIS SECTION BY USE OF AN INTERACTIVE
8 COMPUTER SERVICE MAY BE PROSECUTED, INDICTED, TRIED, AND CONVICTED IN
9 ANY COUNTY OR STATE IN WHICH THE VICTIM RESIDES OR THE ELECTRONIC
10 COMMUNICATION ORIGINATED OR TERMINATED.

11 ~~(E)~~ EXCEPT AS PROVIDED IN SUBSECTION ~~(F)~~ OF THIS SECTION, THIS SECTION
12 ~~DOES NOT APPLY TO THE PERSON WHO PROVIDES THE INTERNET AUCTION LISTING~~
13 ~~SERVICE IF THE PERSON DOES NOT EXAMINE, SET THE PRICE, OR PREPARE THE~~
14 ~~DESCRIPTION OF THE PERSONAL PROPERTY OR SERVICE TO BE OFFERED THROUGH~~
15 ~~THE LISTING SERVICE.~~

16 ~~(F)~~ A PERSON WHO PROVIDES AN INTERNET AUCTION LISTING SERVICE
17 ~~SHALL:~~

18 ~~(1)~~ ~~REQUIRE A SELLER OR BIDDER TO REGISTER WITH THE WEBSITE~~
19 ~~AND PROVIDE THE SELLER'S OR BIDDER'S NAME, ADDRESS, TELEPHONE NUMBER,~~
20 ~~AND ELECTRONIC MAIL ADDRESS;~~

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

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

25 ~~(4)~~ ~~HAVE A MECHANISM TO MAKE A SELLER'S OR BIDDER'S~~
26 ~~REGISTRATION INFORMATION AVAILABLE TO ANOTHER SELLER OR BIDDER WHO~~
27 ~~ALLEGES FRAUD OR DECEPTION IN AN AUCTION TRANSACTION.~~

28 SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
29 effect October 1, 2004.