
By: **Senator Pinsky**

Introduced and read first time: February 6, 2004

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws - Regulation of Charitable Organizations Accepting Donations**
3 **of Vehicles**

4 FOR the purpose of requiring certain charitable organizations that solicit charitable
5 donations of vehicles to comply with certain provisions of law; requiring a
6 certain religious, charitable, or volunteer organization that accepts a donation of
7 a vehicle to submit a certain report to the Motor Vehicle Administration in a
8 certain manner and within a certain time period; requiring the Administration
9 to maintain records of reports made under this Act; altering a certain definition
10 of "unfair or deceptive trade practices"; making violations of certain registration
11 requirements and licensing requirements by certain charitable organizations
12 unfair or deceptive trade practices, subject to certain enforcement and penalty
13 provisions; altering a certain definition of "dealer" with respect to certain
14 religious, charitable, or volunteer organizations accepting vehicle donations; and
15 generally relating to charitable organizations and vehicle donations.

16 BY repealing and reenacting, without amendments,
17 Article - Business Regulation
18 Section 6-101(d)
19 Annotated Code of Maryland
20 (1998 Replacement Volume and 2003 Supplement)

21 BY adding to
22 Article - Business Regulation
23 Section 6-418
24 Annotated Code of Maryland
25 (1998 Replacement Volume and 2003 Supplement)

26 BY repealing and reenacting, with amendments,
27 Article - Commercial Law
28 Section 13-301
29 Annotated Code of Maryland
30 (2000 Replacement Volume and 2003 Supplement)

1 BY adding to
2 Article - Transportation
3 Section 13-112.1 and 15-316
4 Annotated Code of Maryland
5 (2002 Replacement Volume and 2003 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article - Transportation
8 Section 15-101(b)
9 Annotated Code of Maryland
10 (2002 Replacement Volume and 2003 Supplement)

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

13 **Article - Business Regulation**

14 . 6-101.

15 (d) (1) "Charitable organization" means:

16 (i) a person that:

17 1. is or holds itself out to be a benevolent, educational,
18 eleemosynary, humane, patriotic, philanthropic, or religious organization; and

19 2. solicits or receives charitable contributions from the
20 public; or

21 (ii) an ambulance, fire fighting, fraternal, rescue, or police or other
22 law enforcement organization when it solicits charitable contributions from the
23 public.

24 (2) "Charitable organization" includes an area, branch, chapter, office, or
25 similar affiliate that solicits charitable contributions from the public within the State
26 for a charitable organization that is organized or has its principal place of business
27 outside the State.

28 (3) "Charitable organization" does not include:

29 (i) an agency of the State government or of a political subdivision;
30 or

31 (ii) a political club, committee, or party.

1 6-418.

2 (A) A CHARITABLE ORGANIZATION THAT SOLICITS CHARITABLE DONATIONS
3 OF VEHICLES SHALL COMPLY WITH THE APPLICABLE PROVISIONS OF TITLE 13,
4 SUBTITLE 1 OF THE TRANSPORTATION ARTICLE.

5 (B) A CHARITABLE ORGANIZATION THAT ACCEPTS MORE THAN 25 VEHICLE
6 DONATIONS DURING ANY 12-MONTH PERIOD, WITH THE INTENT OF SELLING THE
7 VEHICLES, SHALL COMPLY WITH THE PROVISIONS OF TITLE 15, SUBTITLE 3 OF THE
8 TRANSPORTATION ARTICLE.

9 (C) A VIOLATION OF THIS SECTION IS AN UNFAIR OR DECEPTIVE TRADE
10 PRACTICE WITHIN THE MEANING OF TITLE 13 OF THE COMMERCIAL LAW ARTICLE
11 AND IS SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS CONTAINED IN
12 TITLE 1 OF THE COMMERCIAL LAW ARTICLE.

13 **Article - Commercial Law**

14 13-301.

15 Unfair or deceptive trade practices include any:

16 (1) False, falsely disparaging, or misleading oral or written statement,
17 visual description, or other representation of any kind which has the capacity,
18 tendency, or effect of deceiving or misleading consumers;

19 (2) Representation that:

20 (i) Consumer goods, consumer realty, or consumer services have a
21 sponsorship, approval, accessory, characteristic, ingredient, use, benefit, or quantity
22 which they do not have;

23 (ii) A merchant has a sponsorship, approval, status, affiliation, or
24 connection which he does not have;

25 (iii) Deteriorated, altered, reconditioned, reclaimed, or secondhand
26 consumer goods are original or new; or

27 (iv) Consumer goods, consumer realty, or consumer services are of a
28 particular standard, quality, grade, style, or model which they are not;

29 (3) Failure to state a material fact if the failure deceives or tends to
30 deceive;

31 (4) Disparagement of the goods, realty, services, or business of another
32 by a false or misleading representation of a material fact;

33 (5) Advertisement or offer of consumer goods, consumer realty, or
34 consumer services:

- 1 (i) Without intent to sell, lease, or rent them as advertised or
2 offered; or
- 3 (ii) With intent not to supply reasonably expected public demand,
4 unless the advertisement or offer discloses a limitation of quantity or other qualifying
5 condition;
- 6 (6) False or misleading representation of fact which concerns:
- 7 (i) The reason for or the existence or amount of a price reduction;
8 or
- 9 (ii) A price in comparison to a price of a competitor or to one's own
10 price at a past or future time;
- 11 (7) Knowingly false statement that a service, replacement, or repair is
12 needed;
- 13 (8) False statement which concerns the reason for offering or supplying
14 consumer goods, consumer realty, or consumer services at sale or discount prices;
- 15 (9) Deception, fraud, false pretense, false premise, misrepresentation, or
16 knowing concealment, suppression, or omission of any material fact with the intent
17 that a consumer rely on the same in connection with:
- 18 (i) The promotion or sale of any consumer goods, consumer realty,
19 or consumer service; or
- 20 (ii) A contract or other agreement for the evaluation, perfection,
21 marketing, brokering or promotion of an invention; or
- 22 (iii) The subsequent performance of a merchant with respect to an
23 agreement of sale, lease, or rental;
- 24 (10) Solicitations of sales or services over the telephone without first
25 clearly, affirmatively, and expressly stating:
- 26 (i) The solicitor's name and the trade name of a person represented
27 by the solicitor;
- 28 (ii) The purpose of telephone conversation; and
- 29 (iii) The kind of merchandise, real property, intangibles, or service
30 solicited;
- 31 (11) Use of any plan or scheme in soliciting sales or services over the
32 telephone that misrepresents the solicitor's true status or mission;
- 33 (12) Use of a contract related to a consumer transaction which contains a
34 confessed judgment clause that waives the consumer's right to assert a legal defense
35 to an action;

- 1 (13) Use by a seller, who is in the business of selling consumer realty, of a
2 contract related to the sale of single family residential consumer realty, including
3 condominiums and town houses, that contains a clause limiting or precluding the
4 buyer's right to obtain consequential damages as a result of the seller's breach or
5 cancellation of the contract;
- 6 (14) Violation of a provision of:
- 7 (i) This title;
- 8 (ii) An order of the Attorney General or agreement of a party
9 relating to unit pricing under Title 14, Subtitle 1 of this article;
- 10 (iii) Title 14, Subtitle 2 of this article, the Maryland Consumer Debt
11 Collection Act;
- 12 (iv) Title 14, Subtitle 3 of this article, the Maryland Door-to-Door
13 Sales Act;
- 14 (v) Title 14, Subtitle 9 of this article, Kosher Products;
- 15 (vi) Title 14, Subtitle 10 of this article, Automotive Repair Facilities;
- 16 (vii) Section 14-1302 of this article;
- 17 (viii) Title 14, Subtitle 11 of this article, Maryland Layaway Sales
18 Act;
- 19 (ix) Section 22-415 of the Transportation Article;
- 20 (x) Title 14, Subtitle 20 of this article;
- 21 (xi) Title 14, Subtitle 15 of this article, the Automotive Warranty
22 Enforcement Act;
- 23 (xii) Title 14, Subtitle 21 of this article;
- 24 (xiii) Section 18-107 of the Transportation Article;
- 25 (xiv) Title 14, Subtitle 22 of this article, the Maryland Telephone
26 Solicitations Act;
- 27 (xv) Title 14, Subtitle 23 of this article, the Automotive Crash Parts
28 Act;
- 29 (xvi) Title 10, Subtitle 6 of the Real Property Article;
- 30 (xvii) Title 10, Subtitle 8 of the Real Property Article;
- 31 (xviii) Title 14, Subtitle 25 of this article, the Hearing Aid Sales Act;

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

3 (xx) Title 14, Subtitle 31 of this article, the Maryland Household
4 Goods Movers Act; or

5 (XXI) SECTION 6-418 OF THE BUSINESS REGULATION ARTICLE;

6 (15) Act or omission that relates to a residential building and that is
7 chargeable as a misdemeanor under or otherwise violates a provision of the Energy
8 Conservation Building Standards Act, Title 7, Subtitle 4 of the Public Utility
9 Companies Article; OR

10 (16) VIOLATION OF TITLE 15, SUBTITLE 3 OF THE TRANSPORTATION
11 ARTICLE BY A RELIGIOUS, CHARITABLE, OR VOLUNTEER ORGANIZATION EXEMPT
12 FROM TAXATION UNDER § 501(C) OF THE INTERNAL REVENUE CODE.

13 **Article - Transportation**

14 13-112.1.

15 (A) A RELIGIOUS, CHARITABLE, OR VOLUNTEER ORGANIZATION EXEMPT
16 FROM TAXATION UNDER § 501(C) OF THE INTERNAL REVENUE CODE THAT ACCEPTS A
17 DONATION OF A VEHICLE SHALL SUBMIT TO THE ADMINISTRATION, WITHIN 1 WEEK
18 OF ACCEPTING THE DONATION OF A VEHICLE, A REPORT THAT DESCRIBES THE
19 VEHICLE ACCEPTED IN THE MANNER AND WITH THE INFORMATION REQUIRED BY
20 THE ADMINISTRATION.

21 (B) THE ADMINISTRATION SHALL MAINTAIN RECORDS OF REPORTS
22 SUBMITTED UNDER SUBSECTION (A) OF THIS SECTION.

23 15-101.

24 (b) (1) "Dealer" means, except as provided in paragraph (3) of this
25 subsection, a dealer in vehicles of a type required to be registered under Title 13 of
26 this article.

27 (2) (i) "Dealer" includes:

28 1. A person who is in the business of buying, selling, or
29 exchanging vehicles, including a person who during any 12-month period offers to
30 sell three or more of these vehicles, the ownership of which was acquired for resale
31 purposes; [and]

32 2. For the purposes of §§ 15-301 through 15-315, inclusive,
33 of this title, any person who sells vehicles, whether or not that person acquired the
34 vehicles for personal or business use, if the vehicles are displayed at a fixed location
35 used principally for the purpose of selling vehicles on a regular basis; AND

1 3. A RELIGIOUS, CHARITABLE, OR VOLUNTEER
2 ORGANIZATION EXEMPT FROM TAXATION UNDER § 501(C) OF THE INTERNAL
3 REVENUE CODE THAT ACCEPTS MORE THAN 25 VEHICLE DONATIONS DURING ANY
4 12-MONTH PERIOD, THE OWNERSHIP OF WHICH WAS ACQUIRED FOR RESALE
5 PURPOSES.

6 (ii) 1. For the purposes of subparagraph (i)1 of this paragraph, a
7 person who offers to sell three or more vehicles during any 12-month period is
8 presumed to have acquired the vehicles for resale purposes.

9 2. The vehicle owner has the burden of rebutting the
10 presumption established under sub-subparagraph 1 of this subparagraph by a
11 preponderance of the evidence.

12 (3) "Dealer" does not include:

13 (i) A public official who sells or disposes of vehicles in the
14 performance of his official duties;

15 (ii) An insurance company, finance company, bank, or other lending
16 institution licensed or otherwise authorized to do business in this State that, to save
17 it from loss, sells or disposes of vehicles under a contractual right and in the regular
18 course of its business;

19 (iii) A licensed auctioneer acting on behalf of a seller, secured party
20 or owner and where title does not pass to the auctioneer and the auction is not for the
21 purpose of avoiding the provisions of this title;

22 (iv) A receiver, trustee, personal representative, or other person
23 appointed by or acting under the authority of any court;

24 (v) Either a manufacturer or distributor who sells or distributes
25 vehicles to licensed dealers or a person employed by a manufacturer or distributor to
26 promote the sale of the vehicles of the manufacturer or distributor, if that
27 manufacturer, distributor, or person does not sell vehicles to retail buyers;

28 (vi) A person who sells or disposes of vehicles acquired and used for
29 personal or business use and not for the purpose of avoiding the provisions of this
30 title, if that person is not engaged in buying, selling, or exchanging vehicles as a
31 business;

32 (vii) An automotive dismantler and recycler who during the normal
33 course of business acquires a salvage vehicle and transfers the vehicle on a salvage
34 certificate. However, if the automotive dismantler and recycler rebuilds and sells
35 more than 5 vehicles during a 12-month period to a person other than another
36 automotive dismantler and recycler or licensed dealer, the automotive dismantler and
37 recycler must be licensed as a dealer under § 15-302 of this subtitle;

38 (viii) A person engaged in the leasing of motor vehicles under leases
39 not intended as security; [or]

1 (ix) A religious, charitable, or volunteer organization exempt from
2 taxation under § 501(c) of the Internal Revenue Code, the Department of Human
3 Resources, or a local department of social services transferring a vehicle under §
4 13-810 of this article;

5 (X) A RELIGIOUS, CHARITABLE, OR VOLUNTEER ORGANIZATION
6 EXEMPT FROM TAXATION UNDER § 501(C) OF THE INTERNAL REVENUE CODE
7 ACCEPTING DONATIONS OF VEHICLES THAT WILL BE OWNED AND OPERATED BY THE
8 ORGANIZATION; OR

9 (XI) A RELIGIOUS, CHARITABLE, OR VOLUNTEER ORGANIZATION
10 EXEMPT FROM TAXATION UNDER § 501(C) OF THE INTERNAL REVENUE CODE
11 ACCEPTING DONATIONS OF 25 OR FEWER VEHICLES FOR ANY 12-MONTH PERIOD FOR
12 THE PURPOSE OF RESALE.

13 15-316.

14 A VIOLATION OF THIS SUBTITLE BY A RELIGIOUS, CHARITABLE, OR VOLUNTEER
15 ORGANIZATION EXEMPT FROM TAXATION UNDER § 501(C) OF THE INTERNAL
16 REVENUE CODE IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE
17 MEANING OF TITLE 13 OF THE COMMERCIAL LAW ARTICLE AND IS SUBJECT TO THE
18 ENFORCEMENT AND PENALTY PROVISIONS CONTAINED IN TITLE 1 OF THE
19 COMMERCIAL LAW ARTICLE.

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