
By: ~~Senator Pinsky~~ **Senators Pinsky, Forehand, and Haines**

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Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

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CHAPTER _____

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 or accept
5 charitable donations of vehicles to comply with certain provisions of law;
6 requiring a certain religious, charitable, or volunteer organization that accepts a
7 donation of a vehicle to submit a certain report to the Motor Vehicle
8 Administration in a certain manner and within a certain time period; requiring
9 the Administration to maintain records of reports made under this Act; altering
10 a certain definition of "unfair or deceptive trade practices"; making violations of
11 certain registration requirements and licensing requirements by certain
12 charitable organizations unfair or deceptive trade practices, subject to certain
13 enforcement and penalty provisions; exempting certain charitable organizations
14 that are licensed as wholesale vehicle dealers from the annual license fee;
15 requiring certain charitable organizations that are licensed as wholesale vehicle
16 dealers and accept more than a certain number of vehicle donations to pay a
17 certain license fee; altering a certain definition of "dealer" with respect to
18 certain religious, charitable, or volunteer organizations accepting a certain
19 number of vehicle donations; and generally relating to charitable organizations
20 and vehicle donations.

21 BY repealing and reenacting, without amendments,
22 Article - Business Regulation
23 Section 6-101(d)
24 Annotated Code of Maryland
25 (1998 Replacement Volume and 2003 Supplement)

26 BY adding to

1 Article - Business Regulation
 2 Section 6-418
 3 Annotated Code of Maryland
 4 (1998 Replacement Volume and 2003 Supplement)

5 BY repealing and reenacting, with amendments,
 6 Article - Commercial Law
 7 Section 13-301
 8 Annotated Code of Maryland
 9 (2000 Replacement Volume and 2003 Supplement)

10 BY adding to
 11 Article - Transportation
 12 Section 13-112.1 and 15-316
 13 Annotated Code of Maryland
 14 (2002 Replacement Volume and 2003 Supplement)

15 BY repealing and reenacting, with amendments,
 16 Article - Transportation
 17 Section 15-101(b) and 15-307
 18 Annotated Code of Maryland
 19 (2002 Replacement Volume and 2003 Supplement)

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

22 **Article - Business Regulation**

23 . 6-101.

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

25 (i) a person that:

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

28 2. solicits or receives charitable contributions from the
 29 public; or

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

33 (2) "Charitable organization" includes an area, branch, chapter, office, or
 34 similar affiliate that solicits charitable contributions from the public within the State

1 for a charitable organization that is organized or has its principal place of business
2 outside the State.

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

4 (i) an agency of the State government or of a political subdivision;
5 or

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

7 6-418.

8 (A) A CHARITABLE ORGANIZATION THAT SOLICITS CHARITABLE DONATIONS
9 OF VEHICLES SHALL COMPLY WITH ~~THE APPLICABLE PROVISIONS OF~~ TITLE 13,
10 SUBTITLE 1 OF THE TRANSPORTATION ARTICLE.

11 (B) A CHARITABLE ORGANIZATION THAT, DURING ANY 12-MONTH PERIOD,
12 ACCEPTS THREE OR MORE THAN 25 VEHICLE DONATIONS DURING ANY 12 MONTH
13 PERIOD, WITH THE INTENT OF SELLING THE VEHICLES, FOR RESALE PURPOSES
14 SHALL COMPLY WITH THE PROVISIONS OF TITLE 15, SUBTITLE 3 OF THE
15 TRANSPORTATION ARTICLE.

16 (C) A VIOLATION OF THIS SECTION IS AN UNFAIR OR DECEPTIVE TRADE
17 PRACTICE WITHIN THE MEANING OF TITLE 13 OF THE COMMERCIAL LAW ARTICLE
18 AND IS SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS CONTAINED IN
19 TITLE ~~+~~ 13 OF THE COMMERCIAL LAW ARTICLE.

20

Article - Commercial Law

21 13-301.

22 Unfair or deceptive trade practices include any:

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

26 (2) Representation that:

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

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

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

- 1 (iv) Consumer goods, consumer realty, or consumer services are of a
2 particular standard, quality, grade, style, or model which they are not;
- 3 (3) Failure to state a material fact if the failure deceives or tends to
4 deceive;
- 5 (4) Disparagement of the goods, realty, services, or business of another
6 by a false or misleading representation of a material fact;
- 7 (5) Advertisement or offer of consumer goods, consumer realty, or
8 consumer services:
- 9 (i) Without intent to sell, lease, or rent them as advertised or
10 offered; or
- 11 (ii) With intent not to supply reasonably expected public demand,
12 unless the advertisement or offer discloses a limitation of quantity or other qualifying
13 condition;
- 14 (6) False or misleading representation of fact which concerns:
- 15 (i) The reason for or the existence or amount of a price reduction;
16 or
- 17 (ii) A price in comparison to a price of a competitor or to one's own
18 price at a past or future time;
- 19 (7) Knowingly false statement that a service, replacement, or repair is
20 needed;
- 21 (8) False statement which concerns the reason for offering or supplying
22 consumer goods, consumer realty, or consumer services at sale or discount prices;
- 23 (9) Deception, fraud, false pretense, false premise, misrepresentation, or
24 knowing concealment, suppression, or omission of any material fact with the intent
25 that a consumer rely on the same in connection with:
- 26 (i) The promotion or sale of any consumer goods, consumer realty,
27 or consumer service; or
- 28 (ii) A contract or other agreement for the evaluation, perfection,
29 marketing, brokering or promotion of an invention; or
- 30 (iii) The subsequent performance of a merchant with respect to an
31 agreement of sale, lease, or rental;
- 32 (10) Solicitations of sales or services over the telephone without first
33 clearly, affirmatively, and expressly stating:
- 34 (i) The solicitor's name and the trade name of a person represented
35 by the solicitor;

- 1 (ii) The purpose of telephone conversation; and
- 2 (iii) The kind of merchandise, real property, intangibles, or service
3 solicited;
- 4 (11) Use of any plan or scheme in soliciting sales or services over the
5 telephone that misrepresents the solicitor's true status or mission;
- 6 (12) Use of a contract related to a consumer transaction which contains a
7 confessed judgment clause that waives the consumer's right to assert a legal defense
8 to an action;
- 9 (13) Use by a seller, who is in the business of selling consumer realty, of a
10 contract related to the sale of single family residential consumer realty, including
11 condominiums and town houses, that contains a clause limiting or precluding the
12 buyer's right to obtain consequential damages as a result of the seller's breach or
13 cancellation of the contract;
- 14 (14) Violation of a provision of:
- 15 (i) This title;
- 16 (ii) An order of the Attorney General or agreement of a party
17 relating to unit pricing under Title 14, Subtitle 1 of this article;
- 18 (iii) Title 14, Subtitle 2 of this article, the Maryland Consumer Debt
19 Collection Act;
- 20 (iv) Title 14, Subtitle 3 of this article, the Maryland Door-to-Door
21 Sales Act;
- 22 (v) Title 14, Subtitle 9 of this article, Kosher Products;
- 23 (vi) Title 14, Subtitle 10 of this article, Automotive Repair Facilities;
- 24 (vii) Section 14-1302 of this article;
- 25 (viii) Title 14, Subtitle 11 of this article, Maryland Layaway Sales
26 Act;
- 27 (ix) Section 22-415 of the Transportation Article;
- 28 (x) Title 14, Subtitle 20 of this article;
- 29 (xi) Title 14, Subtitle 15 of this article, the Automotive Warranty
30 Enforcement Act;
- 31 (xii) Title 14, Subtitle 21 of this article;
- 32 (xiii) Section 18-107 of the Transportation Article;

- 1 (xiv) Title 14, Subtitle 22 of this article, the Maryland Telephone
2 Solicitations Act;
- 3 (xv) Title 14, Subtitle 23 of this article, the Automotive Crash Parts
4 Act;
- 5 (xvi) Title 10, Subtitle 6 of the Real Property Article;
- 6 (xvii) Title 10, Subtitle 8 of the Real Property Article;
- 7 (xviii) Title 14, Subtitle 25 of this article, the Hearing Aid Sales Act;
- 8 (xix) Title 14, Subtitle 26 of this article, the Maryland Door-to-Door
9 Solicitations Act;
- 10 (xx) Title 14, Subtitle 31 of this article, the Maryland Household
11 Goods Movers Act; or
- 12 (XXI) SECTION 6-418 OF THE BUSINESS REGULATION ARTICLE;
- 13 (15) Act or omission that relates to a residential building and that is
14 chargeable as a misdemeanor under or otherwise violates a provision of the Energy
15 Conservation Building Standards Act, Title 7, Subtitle 4 of the Public Utility
16 Companies Article; OR
- 17 (16) VIOLATION OF TITLE 15, SUBTITLE 3 OF THE TRANSPORTATION
18 ARTICLE BY A RELIGIOUS, CHARITABLE, OR VOLUNTEER ORGANIZATION EXEMPT
19 FROM TAXATION UNDER § 501(C) OF THE INTERNAL REVENUE CODE.

20 **Article - Transportation**

21 13-112.1.

22 (A) A RELIGIOUS, CHARITABLE, OR VOLUNTEER ORGANIZATION EXEMPT
23 FROM TAXATION UNDER § 501(C) OF THE INTERNAL REVENUE CODE THAT ACCEPTS A
24 DONATION OF A VEHICLE SHALL SUBMIT TO THE ADMINISTRATION, WITHIN 1 WEEK
25 OF ACCEPTING THE DONATION OF A VEHICLE, A REPORT THAT DESCRIBES THE
26 VEHICLE ACCEPTED IN THE MANNER AND WITH THE INFORMATION REQUIRED BY
27 THE ADMINISTRATION.

28 (B) THE ADMINISTRATION SHALL MAINTAIN RECORDS OF REPORTS
29 SUBMITTED UNDER ~~SUBSECTION (A)~~ OF THIS SECTION.

30 15-101.

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

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

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

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

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

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

17 2. The vehicle owner has the burden of rebutting the
18 presumption established under sub-subparagraph 1 of this subparagraph by a
19 preponderance of the evidence.

20 (3) "Dealer" does not include:

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

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

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

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

32 (v) Either a manufacturer or distributor who sells or distributes
33 vehicles to licensed dealers or a person employed by a manufacturer or distributor to
34 promote the sale of the vehicles of the manufacturer or distributor, if that
35 manufacturer, distributor, or person does not sell vehicles to retail buyers;

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

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

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

9 (ix) A religious, charitable, or volunteer organization exempt from
 10 taxation under § 501(c) of the Internal Revenue Code, the Department of Human
 11 Resources, or a local department of social services transferring a vehicle under §
 12 13-810 of this article; OR

13 (X) A RELIGIOUS, CHARITABLE, OR VOLUNTEER ORGANIZATION
 14 EXEMPT FROM TAXATION UNDER § 501(C) OF THE INTERNAL REVENUE CODE
 15 ACCEPTING DONATIONS OF VEHICLES THAT WILL BE OWNED AND OPERATED BY THE
 16 ORGANIZATION; ~~OR~~

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

21 15-307.

22 (a) Each licensed dealer shall pay to the Administration an annual license fee
 23 established by the Administration for each license year or part of a license year for
 24 which the license is issued.

25 (b) A licensed dealer need not pay more than one annual fee, regardless of the
 26 number of its business locations.

27 (c) On payment of the fee required by this section and issuance of a dealer's
 28 license, the Administration also shall issue one vehicle salesman's license without
 29 further charge.

30 (D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A RELIGIOUS,
 31 CHARITABLE, OR VOLUNTEER ORGANIZATION EXEMPT FROM TAXATION UNDER §
 32 501(C) OF THE INTERNAL REVENUE CODE THAT IS LICENSED UNDER § 15-305.1 OF
 33 THIS SUBTITLE AND ACCEPTS 25 OR FEWER VEHICLE DONATIONS WITHIN A LICENSE
 34 YEAR IS EXEMPT FROM THE ANNUAL LICENSE FEE.

35 (2) IF A RELIGIOUS, CHARITABLE, OR VOLUNTEER ORGANIZATION
 36 DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION ACCEPTS MORE THAN 25
 37 VEHICLE DONATIONS IN ANY LICENSE YEAR OF A 2-YEAR LICENSE PERIOD, THE
 38 ORGANIZATION SHALL PAY THE FEE REQUIRED BY THE ADMINISTRATION FOR A
 39 2-YEAR LICENSE.

1 15-316.

2 A VIOLATION OF THIS SUBTITLE BY A RELIGIOUS, CHARITABLE, OR VOLUNTEER
3 ORGANIZATION EXEMPT FROM TAXATION UNDER § 501(C) OF THE INTERNAL
4 REVENUE CODE IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE
5 MEANING OF TITLE 13 OF THE COMMERCIAL LAW ARTICLE AND IS SUBJECT TO THE
6 ENFORCEMENT AND PENALTY PROVISIONS CONTAINED IN TITLE + 13 OF THE
7 COMMERCIAL LAW ARTICLE.

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