

UNOFFICIAL COPY OF SENATE BILL 280
~~EMERGENCY BILL~~

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(51r1666)

ENROLLED BILL
-- Finance/Economic Matters --

Introduced by **Senator Dyson**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Consumer Protection - Privacy of Social Security Numbers**

3 FOR the purpose of prohibiting the public posting or displaying of an individual's
4 Social Security number under certain circumstances; prohibiting the printing of
5 an individual's Social Security number on certain cards under certain
6 circumstances; prohibiting a person from requiring an individual to transmit
7 the individual's Social Security number over the Internet under certain
8 circumstances; prohibiting a person from initiating the transmission of an
9 individual's Social Security number over the Internet under certain
10 circumstances; prohibiting a person from requiring an individual to use the
11 individual's Social Security number to access an Internet website under certain
12 circumstances; prohibiting the printing of an individual's Social Security
13 number on materials mailed; to the individual or the inclusion of an individual's
14 Social Security number in materials electronically transmitted; or transmitted
15 by facsimile to the individual under certain circumstances; providing for certain
16 exceptions to the prohibitions relating to an individual's Social Security number;
17 providing that certain provisions of this Act do not impose certain duties on an

1 interactive computer service provider or a telecommunications provider;
 2 providing that a violation of this Act is an unfair or deceptive trade practice
 3 under the Maryland Consumer Protection Act; authorizing a person that, ~~before~~
 4 prior to a certain date, used an individual's Social Security number in a manner
 5 prohibited under this Act to continue to use the individual's Social Security
 6 number under certain circumstances; defining certain terms; providing for the
 7 termination of certain provisions of this Act; providing for the application of this
 8 Act; providing for a delayed effective date; ~~making this Act an emergency~~
 9 ~~measure;~~ and generally relating to the privacy of Social Security numbers.

10 BY repealing and reenacting, with amendments,
 11 Article - Commercial Law
 12 Section 13-301(14)
 13 Annotated Code of Maryland
 14 (2000 Replacement Volume and 2004 Supplement)

15 BY adding to
 16 Article - Commercial Law
 17 Section 14-3301 through 14-3303, inclusive, to be under the new subtitle
 18 "Subtitle 33. The Social Security Number Privacy Act"
 19 Annotated Code of Maryland
 20 (2000 Replacement Volume and 2004 Supplement)

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

23 **Article - Commercial Law**

24 13-301.

25 Unfair or deceptive trade practices include any:

26 (14) Violation of a provision of:

27 (i) This title;

28 (ii) An order of the Attorney General or agreement of a party
 29 relating to unit pricing under Title 14, Subtitle 1 of this article;

30 (iii) Title 14, Subtitle 2 of this article, the Maryland Consumer Debt
 31 Collection Act;

32 (iv) Title 14, Subtitle 3 of this article, the Maryland Door-to-Door
 33 Sales Act;

34 (v) Title 14, Subtitle 9 of this article, Kosher Products;

35 (vi) Title 14, Subtitle 10 of this article, Automotive Repair Facilities;

- 1 (vii) Section 14-1302 of this article;
- 2 (viii) Title 14, Subtitle 11 of this article, Maryland Layaway Sales
- 3 Act;
- 4 (ix) Section 22-415 of the Transportation Article;
- 5 (x) Title 14, Subtitle 20 of this article;
- 6 (xi) Title 14, Subtitle 15 of this article, the Automotive Warranty
- 7 Enforcement Act;
- 8 (xii) Title 14, Subtitle 21 of this article;
- 9 (xiii) Section 18-107 of the Transportation Article;
- 10 (xiv) Title 14, Subtitle 22 of this article, the Maryland Telephone
- 11 Solicitations Act;
- 12 (xv) Title 14, Subtitle 23 of this article, the Automotive Crash Parts
- 13 Act;
- 14 (xvi) Title 10, Subtitle 6 of the Real Property Article;
- 15 (xvii) Title 10, Subtitle 8 of the Real Property Article;
- 16 (xviii) Title 14, Subtitle 25 of this article, the Hearing Aid Sales Act;
- 17 (xix) Title 14, Subtitle 26 of this article, the Maryland Door-to-Door
- 18 Solicitations Act;
- 19 (xx) Title 14, Subtitle 31 of this article, the Maryland Household
- 20 Goods Movers Act; [or]
- 21 (xxi) Title 14, Subtitle 32 of this article, the Maryland Telephone
- 22 Consumer Protection Act; or

23 (XXII) TITLE 14, SUBTITLE 33 OF THIS ARTICLE, THE SOCIAL
 24 SECURITY NUMBER PRIVACY ACT; OR

25 SUBTITLE 33. THE SOCIAL SECURITY NUMBER PRIVACY ACT.

26 14-3301.

27 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
 28 INDICATED.

29 (B) "INTERACTIVE COMPUTER SERVICE PROVIDER" MEANS AN ENTITY THAT
 30 PROVIDES A SERVICE THAT PROVIDES OR ENABLES COMPUTER ACCESS VIA THE
 31 INTERNET BY MULTIPLE USERS TO A COMPUTER SERVER OR SIMILAR DEVICE USED
 32 FOR THE STORAGE OF IMAGES, INFORMATION, OR DATA.

1 ~~(C)~~ (1) "PERSON" INCLUDES AN INDIVIDUAL, CORPORATION, BUSINESS
 2 TRUST, ESTATE TRUST, PARTNERSHIP, ASSOCIATION, TWO OR MORE PERSONS
 3 HAVING A JOINT OR COMMON INTEREST, OR ANY OTHER COMMERCIAL ENTITY.

4 (2) "PERSON" DOES NOT INCLUDE A UNIT OF STATE OR LOCAL
 5 GOVERNMENT.

6 ~~(E)~~ (D) "PUBLICLY POST OR DISPLAY" MEANS TO INTENTIONALLY
 7 COMMUNICATE OR OTHERWISE MAKE AVAILABLE TO THE GENERAL PUBLIC.

8 14-3302.

9 (A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A PERSON MAY NOT:

10 (1) PUBLICLY POST OR DISPLAY AN INDIVIDUAL'S SOCIAL SECURITY
 11 NUMBER;

12 (2) PRINT AN INDIVIDUAL'S SOCIAL SECURITY NUMBER ON A CARD
 13 REQUIRED FOR THE INDIVIDUAL TO ACCESS PRODUCTS OR SERVICES PROVIDED BY
 14 THE PERSON;

15 (3) REQUIRE AN INDIVIDUAL TO TRANSMIT THE INDIVIDUAL'S SOCIAL
 16 SECURITY NUMBER OVER THE INTERNET UNLESS THE CONNECTION IS SECURE OR
 17 THE INDIVIDUAL'S SOCIAL SECURITY NUMBER IS ENCRYPTED;

18 (4) INITIATE THE TRANSMISSION OF AN INDIVIDUAL'S SOCIAL
 19 SECURITY NUMBER OVER THE INTERNET UNLESS THE CONNECTION IS SECURE OR
 20 THE SOCIAL SECURITY NUMBER IS ENCRYPTED;

21 (5) REQUIRE AN INDIVIDUAL TO USE THE INDIVIDUAL'S SOCIAL
 22 SECURITY NUMBER TO ACCESS AN INTERNET WEBSITE UNLESS A PASSWORD ~~OR,~~
 23 UNIQUE PERSONAL IDENTIFICATION NUMBER, OR OTHER AUTHENTICATION DEVICE
 24 ALSO IS REQUIRED TO ACCESS THE WEBSITE; OR

25 ~~(5)~~ (6) UNLESS REQUIRED BY STATE OR FEDERAL LAW, ~~PRINT AN~~
 26 ~~INDIVIDUAL'S SOCIAL SECURITY NUMBER ON ANY MATERIAL THAT IS:~~

27 (I) PRINT AN INDIVIDUAL'S SOCIAL SECURITY NUMBER ON ANY
 28 MATERIAL THAT IS MAILED TO THE INDIVIDUAL;

29 (II) INCLUDE AN INDIVIDUAL'S SOCIAL SECURITY NUMBER IN ANY
 30 MATERIAL THAT IS ELECTRONICALLY TRANSMITTED TO THE INDIVIDUAL, UNLESS
 31 THE CONNECTION IS SECURE OR THE INDIVIDUAL'S SOCIAL SECURITY NUMBER IS
 32 ENCRYPTED; OR

33 (III) INCLUDE AN INDIVIDUAL'S SOCIAL SECURITY NUMBER IN ANY
 34 MATERIAL THAT IS TRANSMITTED BY FACSIMILE TO THE INDIVIDUAL.

35 (B) THIS SECTION DOES NOT APPLY TO:

1 (1) THE COLLECTION, RELEASE, OR USE OF AN INDIVIDUAL'S SOCIAL
2 SECURITY NUMBER AS REQUIRED BY STATE OR FEDERAL LAW;

3 (2) THE INCLUSION OF AN INDIVIDUAL'S SOCIAL SECURITY NUMBER IN
4 AN APPLICATION, FORM, OR DOCUMENT SENT BY MAIL, ELECTRONICALLY
5 TRANSMITTED, OR TRANSMITTED BY FACSIMILE:

6 (I) AS PART OF AN APPLICATION OR ENROLLMENT PROCESS;

7 (II) TO ESTABLISH, AMEND, OR TERMINATE AN ACCOUNT,
8 CONTRACT, OR POLICY; OR

9 (III) TO CONFIRM THE ACCURACY OF THE INDIVIDUAL'S SOCIAL
10 SECURITY NUMBER; ~~OR~~

11 (3) THE USE OF AN INDIVIDUAL'S SOCIAL SECURITY NUMBER FOR
12 INTERNAL VERIFICATION OR ADMINISTRATIVE PURPOSES; OR

13 (4) AN INTERACTIVE COMPUTER SERVICE PROVIDER'S OR A
14 TELECOMMUNICATIONS PROVIDER'S TRANSMISSION OR ROUTING OF, OR
15 INTERMEDIATE TEMPORARY STORAGE OR CACHING OF, AN INDIVIDUAL'S SOCIAL
16 SECURITY NUMBER.

17 (C) THIS SECTION DOES NOT IMPOSE A DUTY ON AN INTERACTIVE COMPUTER
18 SERVICE PROVIDER OR A TELECOMMUNICATIONS PROVIDER ACTIVELY TO MONITOR
19 ITS SERVICE OR AFFIRMATIVELY TO SEEK ~~EVIDENT~~ EVIDENCE OF THE
20 TRANSMISSION OF SOCIAL SECURITY NUMBERS ON ITS SERVICE.

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

23 **Article - Commercial Law**

24 14-3303.

25 (A) A PERSON THAT USED AN INDIVIDUAL'S SOCIAL SECURITY NUMBER
26 BEFORE JANUARY 1, ~~2005~~ 2006, IN A MANNER PROHIBITED UNDER § 14-3302(A) OF
27 THIS SUBTITLE MAY CONTINUE TO USE THE INDIVIDUAL'S SOCIAL SECURITY
28 NUMBER IN THAT MANNER IF:

29 (1) THE USE OF THE INDIVIDUAL'S SOCIAL SECURITY NUMBER IS
30 CONTINUOUS; AND

31 (2) BEGINNING ON ~~JULY~~ JANUARY 1, ~~2005~~ 2006, THE PERSON PROVIDES
32 THE INDIVIDUAL WITH AN ANNUAL DISCLOSURE FORM STATING THE INDIVIDUAL'S
33 RIGHT TO STOP THE USE OF THE INDIVIDUAL'S SOCIAL SECURITY NUMBER IN THE
34 MANNER PROHIBITED UNDER § 14-3302(A) OF THIS SUBTITLE.

35 (B) A WRITTEN REQUEST BY AN INDIVIDUAL TO STOP THE USE OF THE
36 INDIVIDUAL'S SOCIAL SECURITY NUMBER IN A MANNER PROHIBITED UNDER §

1 14-3302(A) OF THIS SUBTITLE SHALL BE IMPLEMENTED WITHIN 30 DAYS AFTER
2 RECEIPT OF THE REQUEST.

3 (C) A PERSON MAY NOT DENY PRODUCTS OR SERVICES TO AN INDIVIDUAL
4 BECAUSE THE INDIVIDUAL MAKES A WRITTEN REQUEST UNDER THIS SECTION.

5 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall apply to all
6 health insurance policies and contracts issued, delivered, or renewed in the State on
7 or after ~~the effective date of this Act July 1, 2005~~ January 1, 2006. Any health
8 insurance policy or contract in effect before ~~the effective date of this Act January 1,~~
9 2006 shall comply with the provisions of this Act ~~on or before 1 year after the effective~~
10 ~~date of this Act no later than July 1, 2006~~ on or before January 1, 2007.

11 SECTION 4. AND BE IT FURTHER ENACTED, That this Act ~~is an emergency~~
12 ~~measure, is necessary for the immediate preservation of the public health or safety,~~
13 ~~has been passed by a yea and nay vote supported by three fifths of all the members~~
14 ~~elected to each of the two Houses of the General Assembly, and shall take effect from~~
15 ~~the date it is enacted. Section 2 of this Act shall remain effective through May 31,~~
16 ~~2008, and, at the end of May 31, 2008, with no further action required by the General~~
17 ~~Assembly, Section 2 of this Act shall be abrogated and of no further force and effect~~
18 shall take effect July 1, 2005 January 1, 2006. Section 2 of this Act shall remain in
19 effect for a period of 3 years and, at the end of December 31, 2008, with no further
20 action required by the General Assembly. Section 2 of this Act shall be abrogated and
21 of no further force and effect.