

BY: Economic Matters Committee and House Judiciary Committee

AMENDMENTS TO HOUSE BILL NO. 1301
(First Reading File Bill)

AMENDMENT NO. 1

In line 2, strike “Cell Phone” and substitute “Telephone”; strike beginning with “buying,” in line 3 down through “order;” in line 5 and substitute “knowingly obtaining, attempting to obtain, or soliciting or conspiring with another to obtain a certain telephone record without certain authorization or by fraudulent, deceptive, or false means; prohibiting a person from knowingly selling or attempting to sell a certain telephone record without certain authorization; prohibiting a person from receiving a certain telephone record knowing that the record has been obtained without certain authorization or by fraudulent, deceptive, or false means; providing that a prosecution for a violation of this Act may be commenced in a certain county;”; in line 5, after “penalties;” insert “making a violation of this Act an unfair or deceptive trade practice under the Maryland Consumer Protection Act; defining certain terms; providing for the application and construction of this Act;”; in line 6, strike “cellular”; and after line 6, insert:

“BY repealing and reenacting, with amendments,

Article - Commercial Law

Section 13-301(14)(xxi)

Annotated Code of Maryland

(2005 Replacement Volume)

(As enacted by Chapter 456 of the Acts of the General Assembly of 2005)

BY adding to

Article - Commercial Law

Section 13-301(14)(xxiii)

Annotated Code of Maryland

(2005 Replacement Volume)

(As enacted by Chapter 456 of the Acts of the General Assembly of 2005’.

(Over)

AMENDMENT NO. 2

After line 13, insert:

“Article - Commercial Law

13-301.

Unfair or deceptive trade practices include any:

(14) Violation of a provision of:

(xxi) Title 14, Subtitle 33 of this article, the Social Security Number Privacy Act; [or]

(XXIII) SECTION 7-304 OF THE CRIMINAL LAW ARTICLE; OR”.

AMENDMENT NO. 3

Strike in their entirety lines 16 through 20, inclusive, and substitute:

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

(2) “CUSTOMER” MEANS A PERSON WHO SUBSCRIBES TO, OR IS FINANCIALLY RESPONSIBLE FOR A SUBSCRIPTION TO, TELEPHONE SERVICE FROM A TELEPHONE COMPANY.

(3) “TELEPHONE” MEANS A DEVICE USED BY A PERSON FOR VOICE COMMUNICATIONS TRANSMITTED IN ANALOG, DATA, OR ANY OTHER FORM.

(4) “TELEPHONE COMPANY” MEANS A PERSON THAT PROVIDES COMMERCIAL TELEPHONE SERVICE TO A CUSTOMER, REGARDLESS OF THE COMMUNICATION TECHNOLOGY USED, INCLUDING:

(I) TRADITIONAL WIRELINE OR CABLE TELEPHONE SERVICE;

(II) CELLULAR, BROADBAND PCS, OR OTHER COMMERCIAL MOBILE RADIOTELEPHONE SERVICE;

(III) MICROWAVE, SATELLITE, OR OTHER TERRESTRIAL TELEPHONE SERVICE; AND

(IV) VOICE OVER INTERNET TELEPHONE SERVICE.

(5) (I) "TELEPHONE RECORD" MEANS INFORMATION RETAINED BY A TELEPHONE COMPANY THAT RELATES TO:

1. THE TELEPHONE NUMBER DIALED BY A CUSTOMER OR OTHER PERSON USING THE CUSTOMER'S TELEPHONE;

2. THE INCOMING NUMBER OF A CALL DIRECTED TO A CUSTOMER OR OTHER PERSON USING THE CUSTOMER'S TELEPHONE; OR

3. OTHER DATA RELATED TO CALLS TYPICALLY CONTAINED ON A CUSTOMER'S TELEPHONE BILL, SUCH AS THE TIME THE CALL STARTED AND ENDED, THE DURATION OF THE CALL, AND ANY CHARGES APPLIED.

(II) "TELEPHONE RECORD" DOES NOT INCLUDE INFORMATION COLLECTED OR RETAINED BY CUSTOMERS USING CALLER I.D. OR SIMILAR TECHNOLOGY.

(B) THIS SECTION DOES NOT APPLY TO:

(1) A PERSON ACTING UNDER A VALID COURT ORDER, WARRANT, OR SUBPOENA; OR

(2) A LAW ENFORCEMENT OFFICER ACTING IN THE PERFORMANCE OF OFFICIAL DUTY.

(C) A PERSON MAY NOT:

(1) KNOWINGLY OBTAIN, ATTEMPT TO OBTAIN, OR SOLICIT OR CONSPIRE WITH ANOTHER TO OBTAIN, A TELEPHONE RECORD:

(Over)

(I) WITHOUT THE AUTHORIZATION OF THE CUSTOMER TO WHOM THE RECORD PERTAINS; OR

(II) BY FRAUDULENT, DECEPTIVE, OR FALSE MEANS;

(2) KNOWINGLY SELL OR ATTEMPT TO SELL A TELEPHONE RECORD WITHOUT THE AUTHORIZATION OF THE CUSTOMER TO WHOM THE RECORD PERTAINS; OR

(3) RECEIVE A TELEPHONE RECORD:

(I) KNOWING THAT THE RECORD HAS BEEN OBTAINED WITHOUT THE AUTHORIZATION OF THE CUSTOMER TO WHOM THE RECORD PERTAINS; OR

(II) BY FRAUDULENT, DECEPTIVE, OR FALSE MEANS.”.

AMENDMENT NO. 4

In line 21, strike “(B)” and substitute “(D) (1) A VIOLATION OF THIS SECTION IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE UNDER TITLE 13 OF THE COMMERCIAL LAW ARTICLE.

(2)”;

and after line 23, insert:

“(E) NOTWITHSTANDING ANY OTHER LAW, THE PROSECUTION FOR A VIOLATION OF THIS SECTION MAY BE COMMENCED IN ANY COUNTY IN WHICH:

(1) AN ELEMENT OF THE CRIME OCCURRED; OR

(2) THE VICTIM RESIDES.

(F) THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT A TELEPHONE

COMPANY FROM OBTAINING, USING, DISCLOSING, OR ALLOWING ACCESS TO A CUSTOMER'S TELEPHONE RECORD:

- (1) AS OTHERWISE AUTHORIZED BY LAW;
- (2) WITH THE CONSENT OF THE CUSTOMER;
- (3) IN CONNECTION WITH SERVICE PROVIDED TO THE CUSTOMER;
- (4) FOR PURPOSES OF BILLING OR COLLECTION FROM THE CUSTOMER;
- (5) AS NECESSARY TO PREVENT FRAUD OR ABUSIVE PRACTICES;
- (6) TO A GOVERNMENTAL ENTITY, IF THE TELEPHONE COMPANY REASONABLY BELIEVES THAT AN EMERGENCY INVOLVING IMMEDIATE DANGER OF DEATH OR SERIOUS PHYSICAL INJURY TO ANY PERSON JUSTIFIES DISCLOSURE OF THE TELEPHONE RECORD; OR
- (7) TO THE NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN, IN CONNECTION WITH A REPORT SUBMITTED UNDER § 227 OF THE FEDERAL VICTIMS OF CHILD ABUSE ACT OF 1990.”