
By: **Delegates Vallario and Simmons**

Introduced and read first time: February 10, 2006

Assigned to: Economic Matters and Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 23, 2006

CHAPTER _____

1 AN ACT concerning

2 **Cell Phone Telephone Privacy Act of 2006**

3 FOR the purpose of prohibiting a person from ~~buying, selling, or otherwise obtaining~~
 4 ~~or distributing the call records of a subscriber of cellular telephone service~~
 5 ~~without certain permission or a court order; knowingly obtaining, attempting to~~
 6 ~~obtain, or soliciting or conspiring with another to obtain a certain telephone~~
 7 ~~record without certain authorization or by fraudulent, deceptive, or false means;~~
 8 ~~prohibiting a person from knowingly selling or attempting to sell a certain~~
 9 ~~telephone record without certain authorization; prohibiting a person from~~
 10 ~~receiving a certain telephone record knowing that the record has been obtained~~
 11 ~~without certain authorization or by fraudulent, deceptive, or false means;~~
 12 ~~providing that a prosecution for a violation of this Act may be commenced in a~~
 13 ~~certain county; establishing certain penalties; making a violation of this Act an~~
 14 ~~unfair or deceptive trade practice under the Maryland Consumer Protection Act;~~
 15 ~~defining certain terms; providing for the application and construction of this Act;~~
 16 and generally relating to the privacy of ~~cellular~~ telephone records.

17 BY repealing and reenacting, with amendments,

18 Article - Commercial Law

19 Section 13-301(14)(xxi)

20 Annotated Code of Maryland

21 (2005 Replacement Volume)

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

23 BY adding to

24 Article - Commercial Law

25 Section 13-301(14)(xxiii)

1 Annotated Code of Maryland
 2 (2005 Replacement Volume)
 3 (As enacted by Chapter 456 of the Acts of the General Assembly of 2005)

4 BY adding to
 5 Article - Criminal Law
 6 Section 7-304
 7 Annotated Code of Maryland
 8 (2002 Volume and 2005 Supplement)

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

11 **Article - Commercial Law**

12 13-301.

13 Unfair or deceptive trade practices include any:

14 (14) Violation of a provision of:

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

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

18 **Article - Criminal Law**

19 7-304.

20 ~~(A) A PERSON MAY NOT BUY, SELL, OR OTHERWISE OBTAIN OR DISTRIBUTE~~
 21 ~~THE CALL RECORDS OF A SUBSCRIBER OF CELLULAR TELEPHONE SERVICE,~~
 22 ~~WITHOUT:~~

23 ~~(1) THE WRITTEN PERMISSION OF THE SUBSCRIBER; OR~~

24 ~~(2) A COURT ORDER.~~

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

27 (2) "CUSTOMER" MEANS A PERSON WHO SUBSCRIBES TO, OR IS
 28 FINANCIALLY RESPONSIBLE FOR A SUBSCRIPTION TO, TELEPHONE SERVICE FROM A
 29 TELEPHONE COMPANY.

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

1 (4) "TELEPHONE COMPANY" MEANS A PERSON THAT PROVIDES
2 COMMERCIAL TELEPHONE SERVICE TO A CUSTOMER, REGARDLESS OF THE
3 COMMUNICATION TECHNOLOGY USED, INCLUDING:

4 (I) TRADITIONAL WIRELINE OR CABLE TELEPHONE SERVICE;

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

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

9 (IV) VOICE OVER INTERNET TELEPHONE SERVICE.

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

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

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

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

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

22 (B) THIS SECTION DOES NOT APPLY TO:

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

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

27 (C) A PERSON MAY NOT:

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

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

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

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

4 (3) RECEIVE A TELEPHONE RECORD:

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

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

8 ~~(B)~~ (D) (1) A VIOLATION OF THIS SECTION IS AN UNFAIR OR DECEPTIVE
9 TRADE PRACTICE UNDER TITLE 13 OF THE COMMERCIAL LAW ARTICLE.

10 (2) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A
11 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT
12 EXCEEDING 2 YEARS OR A FINE NOT EXCEEDING \$2,000 OR BOTH.

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

15 (1) AN ELEMENT OF THE CRIME OCCURRED; OR

16 (2) THE VICTIM RESIDES.

17 (F) THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT A TELEPHONE
18 COMPANY FROM OBTAINING, USING, DISCLOSING, OR ALLOWING ACCESS TO A
19 CUSTOMER'S TELEPHONE RECORD:

20 (1) AS OTHERWISE AUTHORIZED BY LAW;

21 (2) WITH THE CONSENT OF THE CUSTOMER;

22 (3) IN CONNECTION WITH SERVICE PROVIDED TO THE CUSTOMER;

23 (4) FOR PURPOSES OF BILLING OR COLLECTION FROM THE CUSTOMER;

24 (5) AS NECESSARY TO PREVENT FRAUD OR ABUSIVE PRACTICES;

25 (6) TO A GOVERNMENTAL ENTITY, IF THE TELEPHONE COMPANY
26 REASONABLY BELIEVES THAT AN EMERGENCY INVOLVING IMMEDIATE DANGER OF
27 DEATH OR SERIOUS PHYSICAL INJURY TO ANY PERSON JUSTIFIES DISCLOSURE OF
28 THE TELEPHONE RECORD; OR

29 (7) TO THE NATIONAL CENTER FOR MISSING AND EXPLOITED
30 CHILDREN, IN CONNECTION WITH A REPORT SUBMITTED UNDER § 227 OF THE
31 FEDERAL VICTIMS OF CHILD ABUSE ACT OF 1990.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 2006.

