

HOUSE BILL 211

I3
HB 766/06 – ECM

71r0536

By: **Delegates Howard, Benson, Braveboy, Healey, Holmes, Niemann, and Vaughn**

Introduced and read first time: January 26, 2007

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Protection – Unsolicited Transmissions to a Facsimile Device –**
3 **Private Actions**

4 FOR the purpose of authorizing a person that receives an electronic or telephonic
5 transmission made to the person’s facsimile device in violation of certain
6 provisions of law to bring a certain action against a person that commits the
7 violation; authorizing the recovery of reasonable attorney’s fees and damages in
8 a certain amount; making a stylistic change; and generally relating to
9 unsolicited electronic or telephonic transmissions to a facsimile device.

10 BY repealing and reenacting, with amendments,
11 Article – Commercial Law
12 Section 14–1313
13 Annotated Code of Maryland
14 (2005 Replacement Volume and 2006 Supplement)

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

17 **Article – Commercial Law**

18 14–1313.

19 (a) (1) In this section the following words have the meanings indicated.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) “Facsimile device” means a machine that receives and copies
2 reproductions or facsimiles of documents or photographs that have been transmitted
3 electronically or telephonically over telecommunications lines.

4 (3) (i) “Commercial solicitation” means the unsolicited electronic or
5 telephonic transmission in the State to a facsimile device to encourage a person to
6 purchase goods, realty, or services.

7 (ii) “Commercial solicitation” does not include:

8 1. An electronic or telephonic transmission made in the
9 course of prior negotiations; or

10 2. An electronic or telephonic transmission made in the
11 course of a preexisting business relationship with the person receiving the
12 transmission.

13 (b) A person may not make intentionally an electronic or telephonic
14 transmission to a facsimile device for the purpose of commercial solicitation.

15 (c) (1) The Attorney General may initiate a civil action against any
16 person who violates this section to recover for the State a penalty not to exceed \$1,000
17 for each violation.

18 **(2) A PERSON THAT RECEIVES AN ELECTRONIC OR TELEPHONIC**
19 **TRANSMISSION MADE TO THE PERSON’S FACSIMILE DEVICE IN VIOLATION OF**
20 **THIS SECTION MAY BRING AN ACTION AGAINST A PERSON THAT COMMITS THE**
21 **VIOLATION TO RECOVER:**

22 **(I) REASONABLE ATTORNEY’S FEES; AND**

23 **(II) DAMAGES IN THE AMOUNT OF THE GREATER OF:**

24 **1. \$500 FOR EACH VIOLATION; OR**

25 **2. ACTUAL DAMAGES SUSTAINED AS A RESULT OF**
26 **THE VIOLATION.**

27 **[(2)] (3)** For the purposes of this [section] **SUBSECTION**, each
28 prohibited commercial solicitation is a separate violation.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2007.