

HOUSE BILL 658

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By: **Delegates Waldstreicher and Braveboy**
Introduced and read first time: February 1, 2008
Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law – Consumer Protection – Services Provided at No Cost**

3 FOR the purpose of prohibiting a person from engaging in any unfair or deceptive
4 trade practice in the provision of consumer services, including consumer
5 services provided without remuneration; and generally relating to unfair or
6 deceptive trade practices under the Maryland Consumer Protection Act.

7 BY repealing and reenacting, without amendments,
8 Article – Commercial Law
9 Section 13–301
10 Annotated Code of Maryland
11 (2005 Replacement Volume and 2007 Supplement)

12 BY repealing and reenacting, with amendments,
13 Article – Commercial Law
14 Section 13–303
15 Annotated Code of Maryland
16 (2005 Replacement Volume and 2007 Supplement)

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

19 **Article – Commercial Law**

20 13–301.

21 Unfair or deceptive trade practices include any:

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) Representation that:

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

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

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

9 (iv) Consumer goods, consumer realty, or consumer services are
10 of a particular standard, quality, grade, style, or model which they are not;

11 (3) Failure to state a material fact if the failure deceives or tends to
12 deceive;

13 (4) Disparagement of the goods, realty, services, or business of another
14 by a false or misleading representation of a material fact;

15 (5) Advertisement or offer of consumer goods, consumer realty, or
16 consumer services:

17 (i) Without intent to sell, lease, or rent them as advertised or
18 offered; or

19 (ii) With intent not to supply reasonably expected public
20 demand, unless the advertisement or offer discloses a limitation of quantity or other
21 qualifying condition;

22 (6) False or misleading representation of fact which concerns:

23 (i) The reason for or the existence or amount of a price
24 reduction; or

25 (ii) A price in comparison to a price of a competitor or to one's
26 own price at a past or future time;

27 (7) Knowingly false statement that a service, replacement, or repair is
28 needed;

29 (8) False statement which concerns the reason for offering or
30 supplying consumer goods, consumer realty, or consumer services at sale or discount
31 prices;

1 (9) Deception, fraud, false pretense, false premise, misrepresentation,
2 or knowing concealment, suppression, or omission of any material fact with the intent
3 that a consumer rely on the same in connection with:

4 (i) The promotion or sale of any consumer goods, consumer
5 realty, or consumer service;

6 (ii) A contract or other agreement for the evaluation, perfection,
7 marketing, brokering or promotion of an invention; or

8 (iii) The subsequent performance of a merchant with respect to
9 an agreement of sale, lease, or rental;

10 (10) Solicitations of sales or services over the telephone without first
11 clearly, affirmatively, and expressly stating:

12 (i) The solicitor's name and the trade name of a person
13 represented by the solicitor;

14 (ii) The purpose of telephone conversation; and

15 (iii) The kind of merchandise, real property, intangibles, or
16 service solicited;

17 (11) Use of any plan or scheme in soliciting sales or services over the
18 telephone that misrepresents the solicitor's true status or mission;

19 (12) Use of a contract related to a consumer transaction which contains
20 a confessed judgment clause that waives the consumer's right to assert a legal defense
21 to an action;

22 (13) Use by a seller, who is in the business of selling consumer realty, of
23 a contract related to the sale of single family residential consumer realty, including
24 condominiums and town houses, that contains a clause limiting or precluding the
25 buyer's right to obtain consequential damages as a result of the seller's breach or
26 cancellation of the contract;

27 (14) Violation of a provision of:

28 (i) This title;

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

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

- 1 (iv) Title 14, Subtitle 3 of this article, the Maryland
2 Door-to-Door Sales Act;
- 3 (v) Title 14, Subtitle 9 of this article, Kosher Products;
- 4 (vi) Title 14, Subtitle 10 of this article, Automotive Repair
5 Facilities;
- 6 (vii) Section 14-1302 of this article;
- 7 (viii) Title 14, Subtitle 11 of this article, Maryland Layaway Sales
8 Act;
- 9 (ix) Section 22-415 of the Transportation Article;
- 10 (x) Title 14, Subtitle 20 of this article;
- 11 (xi) Title 14, Subtitle 15 of this article, the Automotive Warranty
12 Enforcement Act;
- 13 (xii) Title 14, Subtitle 21 of this article;
- 14 (xiii) Section 18-107 of the Transportation Article;
- 15 (xiv) Title 14, Subtitle 22 of this article, the Maryland Telephone
16 Solicitations Act;
- 17 (xv) Title 14, Subtitle 23 of this article, the Automotive Crash
18 Parts Act;
- 19 (xvi) Title 10, Subtitle 6 of the Real Property Article;
- 20 (xvii) Title 14, Subtitle 25 of this article, the Hearing Aid Sales
21 Act;
- 22 (xviii) Title 14, Subtitle 26 of this article, the Maryland
23 Door-to-Door Solicitations Act;
- 24 (xix) Title 14, Subtitle 31 of this article, the Maryland Household
25 Goods Movers Act;
- 26 (xx) Title 14, Subtitle 32 of this article, the Maryland Telephone
27 Consumer Protection Act;
- 28 (xxi) Title 14, Subtitle 33 of this article, the Social Security
29 Number Privacy Act;
- 30 (xxii) Section 14-1319 or § 14-1320 of this article; or

1 (xxiii) Section 7-304 of the Criminal Law Article; or

2 (15) Act or omission that relates to a residential building and that is
3 chargeable as a misdemeanor under or otherwise violates a provision of the Energy
4 Conservation Building Standards Act, Title 7, Subtitle 4 of the Public Utility
5 Companies Article.

6 13-303.

7 A person may not engage in any unfair or deceptive trade practice, as defined in
8 this subtitle or as further defined by the Division, in:

9 (1) The sale, lease, rental, loan, or bailment of any consumer goods,
10 consumer realty, or consumer services;

11 (2) The offer for sale, lease, rental, loan, or bailment of consumer
12 goods, consumer realty, or consumer services;

13 (3) **THE PROVISION OF CONSUMER SERVICES, INCLUDING**
14 **CONSUMER SERVICES PROVIDED WITHOUT REMUNERATION;**

15 (4) The extension of consumer credit; or

16 [(4)] (5) The collection of consumer debts.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2008.