

HOUSE BILL 1000

C2

8lr0839

By: **Delegates Barnes, Frush, and Pena-Melnyk**

Introduced and read first time: February 7, 2008

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Charitable Solicitations – Commercial Resellers**

3 FOR the purpose of prohibiting a person from acting as a commercial reseller unless
4 the person has applied to register with the Secretary of State; requiring an
5 applicant for registration as a commercial reseller to submit a certain
6 application to the Secretary of State; requiring an applicant for registration as a
7 commercial reseller to consent to the jurisdiction and venue of a certain court in
8 certain actions; requiring an applicant for registration as a commercial reseller
9 to pay a certain application fee; requiring an applicant for registration as a
10 commercial reseller to make certain certifications; requiring the Secretary of
11 State to approve certain applications under certain circumstances; requiring the
12 Secretary of State to give certain notice to certain applicants; providing for the
13 expiration of a commercial reseller registration; requiring a commercial reseller
14 to submit to the Secretary of State a certain annual financial report at a certain
15 time; requiring a commercial reseller to display a certain notice at certain
16 locations in the commercial reseller's place of business; and generally relating to
17 the regulation of commercial resellers.

18 BY adding to

19 Article – Business Regulation

20 Section 6–5B–01 through 6–5B–07 to be under the new subtitle “Subtitle 5B.
21 Commercial Resellers”

22 Annotated Code of Maryland

23 (2004 Replacement Volume and 2007 Supplement)

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

26 **Article – Business Regulation**

27 **SUBTITLE 5B. COMMERCIAL RESELLERS.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **6-5B-01.**

2 (A) IN THIS SUBTITLE, "COMMERCIAL RESELLER" MEANS A PERSON
3 THAT, FOR PROFIT, OFFERS FOR SALE TO THE GENERAL PUBLIC USED
4 PERSONAL PROPERTY, INCLUDING HOUSEHOLD GOODS, FURNITURE,
5 APPLIANCES, OR CLOTHING IF:

6 (1) THE PERSON OBTAINS A MAJORITY OF ITS INVENTORY BY THE
7 PURCHASE, RECEIPT, OR CONTROL FOR RESALE OF USED PERSONAL PROPERTY
8 SOLICITED BY OR ON BEHALF OF A CHARITABLE ORGANIZATION; AND

9 (2) THE NAME OF A CHARITABLE ORGANIZATION IS USED
10 EXPRESSLY OR IMPLICITLY TO INDUCE THE PURCHASE OF THE USED PERSONAL
11 PROPERTY.

12 (B) "COMMERCIAL RESELLER" DOES NOT INCLUDE A CHARITABLE
13 ORGANIZATION.

14 **6-5B-02.**

15 A PERSON IS PROHIBITED FROM ACTING AS A COMMERCIAL RESELLER
16 UNLESS THE PERSON HAS APPLIED TO REGISTER WITH THE SECRETARY OF
17 STATE.

18 **6-5B-03.**

19 AN APPLICANT FOR REGISTRATION AS A COMMERCIAL RESELLER SHALL:

20 (1) SUBMIT TO THE SECRETARY OF STATE AN APPLICATION
21 UNDER OATH ON THE FORM THE SECRETARY OF STATE PROVIDES;

22 (2) CONSENT IN WRITING TO THE JURISDICTION AND VENUE OF
23 THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY IN ACTIONS BROUGHT
24 UNDER THIS TITLE;

25 (3) PAY TO THE SECRETARY OF STATE AN APPLICATION FEE OF
26 \$100 FOR REGISTRATION AS A COMMERCIAL RESELLER;

27 (4) (I) CERTIFY THAT ALL TAXES DUE FROM THE APPLICANT
28 TO THE STATE OR A COUNTY DURING THE PRECEDING FISCAL YEAR HAVE BEEN
29 PAID, AND ALL TAXES THE APPLICANT WAS REQUIRED TO COLLECT AND PAY
30 OVER TO THE STATE OR A COUNTY DURING THE PRECEDING FISCAL YEAR HAVE
31 BEEN COLLECTED AND PAID OVER; OR

1 **(II) CERTIFY THAT THE TAXES DUE FROM THE APPLICANT**
2 **TO THE STATE OR A COUNTY ARE UNDER DISPUTE AND THE DISPUTE HAS NOT**
3 **BEEN FINALLY RESOLVED; AND**

4 **(5) PROVIDE ANY OTHER NONPROPRIETARY INFORMATION THAT**
5 **THE SECRETARY OF STATE REQUIRES BY REGULATION.**

6 **6-5B-04.**

7 **(A) IF THE SECRETARY OF STATE FINDS THAT AN APPLICANT FOR**
8 **REGISTRATION HAS COMPLIED WITH THIS SUBTITLE AND THE REGULATIONS**
9 **ADOPTED UNDER IT, THE SECRETARY OF STATE SHALL APPROVE THE**
10 **APPLICATION.**

11 **(B) IF THE SECRETARY OF STATE FINDS THAT AN APPLICANT FOR**
12 **REGISTRATION HAS NOT COMPLIED WITH THIS SUBTITLE AND THE**
13 **REGULATIONS ADOPTED UNDER IT APPLICABLE TO REGISTRATION, THE**
14 **SECRETARY OF STATE SHALL NOTIFY THE APPLICANT OF THE REASONS THE**
15 **APPLICANT IS NOT IN COMPLIANCE.**

16 **6-5A-05.**

17 **EACH REGISTRATION EXPIRES ON THE FIRST ANNIVERSARY OF ITS**
18 **APPROVAL DATE.**

19 **6-5A-06.**

20 **(A) A COMMERCIAL RESELLER SHALL SUBMIT AN ANNUAL FINANCIAL**
21 **REPORT TO THE SECRETARY OF STATE:**

22 **(1) WITHIN 6 MONTHS AFTER THE END OF THE COMMERCIAL**
23 **RESELLER'S FISCAL YEAR; OR**

24 **(2) BY ANY LATER DATE THAT THE SECRETARY OF STATE SETS.**

25 **(B) THE ANNUAL FINANCIAL REPORT SHALL CONTAIN:**

26 **(1) THE COMMERCIAL RESELLER'S REVENUES FROM THE SALE OF**
27 **USED PERSONAL PROPERTY DURING THE PRECEDING FISCAL YEAR;**

28 **(2) THE TOTAL VALUE OF DISTRIBUTIONS TO CHARITABLE**
29 **ORGANIZATIONS DURING THE PRECEDING FISCAL YEAR, INCLUDING ALL**

1 AMOUNTS PAID TO ACQUIRE FOR RESALE USED PERSONAL PROPERTY
2 SOLICITED BY OR ON BEHALF OF A CHARITABLE ORGANIZATION;

3 (3) OTHER FINANCIAL INFORMATION THAT THE SECRETARY OF
4 STATE REQUIRES; AND

5 (4) AN AFFIDAVIT SIGNED BY THE INDIVIDUAL SUBMITTING THE
6 REPORT ATTESTING TO THE TRUTH OF THE ANNUAL FINANCIAL REPORT AND
7 ALL SUPPORTING DOCUMENTS.

8 **6-5B-07.**

9 (A) A COMMERCIAL RESELLER SHALL DISPLAY PROMINENTLY IN ITS
10 PLACE OF BUSINESS A NOTICE ADVISING CUSTOMERS OF:

11 (1) THE COMMERCIAL RESELLER'S TOTAL REVENUES FROM THE
12 SALE OF USED PERSONAL PROPERTY DURING THE PRECEDING FISCAL YEAR;
13 AND

14 (2) THE TOTAL VALUE OF DISTRIBUTIONS MADE BY THE
15 COMMERCIAL RESELLER TO CHARITABLE ORGANIZATIONS DURING THE
16 PRECEDING FISCAL YEAR, INCLUDING ALL AMOUNTS PAID TO ACQUIRE FOR
17 RESALE USED PERSONAL PROPERTY SOLICITED BY OR ON BEHALF OF A
18 CHARITABLE ORGANIZATION.

19 (B) IF THE COMMERCIAL RESELLER DID NOT OPERATE AS A
20 COMMERCIAL RESELLER DURING THE PRECEDING FISCAL YEAR, THE
21 INFORMATION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE
22 BASED ON THE COMMERCIAL RESELLER'S BEST ESTIMATES FOR THE CURRENT
23 FISCAL YEAR.

24 (C) THE NOTICE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION
25 SHALL BE PLACED:

26 (1) AT EACH POINT OF SALE; AND

27 (2) AT EACH ENTRANCE TO THE COMMERCIAL RESELLER'S PLACE
28 OF BUSINESS.

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