

HB0880/533996/1

BY: Economic Matters Committee

AMENDMENTS TO HOUSE BILL 880
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Smigiel” and substitute “Smigiel, Hecht, Manno, Mathias, and Taylor”; in line 2, strike “Companies and Resellers” and substitute “Bills”; strike beginning with “telephone” in line 3 down through “billing” in line 4 and substitute “third-party vendor or billing agent from submitting charges to a certain telephone company or reseller for third-party vendor billing”; in line 4, strike “a” and substitute “an ordering”; in lines 6 and 7, strike “telephone company or reseller” and substitute “third-party vendor or billing agent”; strike beginning with “requiring” in line 8 down through “circumstances;” in line 17 and substitute “providing that a certain customer is not liable for third-party vendor billing charges unless certain notice has been given to the customer and the customer is provided access to certain information; providing that unless a third-party vendor or billing agent provides a copy of a certain authorization to a certain customer and a certain telephone company or reseller, the customer is not liable for third-party vendor billing charges to the customer, if the customer, in good faith and in a reasonably timely manner, disputes that the charges were authorized; providing that a certain agreement for third-party vendor billing is void and unenforceable under certain circumstances; providing that a certain violation is an unfair or deceptive trade practice under the Maryland Consumer Protection Act and is subject to certain enforcement and penalty provisions;”; and strike in their entirety lines 19 through 24, inclusive, and substitute:

“BY repealing and reenacting, with amendments,

Article - Commercial Law

Section 13-301(14)(xxiii)

Annotated Code of Maryland

(2005 Replacement Volume and 2009 Supplement)

(Over)

BY adding to

Article - Commercial Law
Section 14-1322
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)".

AMENDMENT NO. 2

On pages 1 and 2, strike in their entirety the lines beginning with line 27 on page 1 through line 2 on page 2, inclusive, and substitute:

"Article – Commercial Law

13–301.

Unfair or deceptive trade practices include any:

(14) Violation of a provision of:

(xxiii) Section [14–1319 or] 14-1319, § 14–1320, OR § 14-1322 of
this article;

14-1322."

AMENDMENT NO. 3

On page 2, in line 3, after "(A)" insert "**(1)**"; in the same line, strike "SUBTITLE" and substitute "SECTION"; after line 4, insert:

"(2) "BILLING AGENT" MEANS A PERSON THAT SUBMITS CHARGES
FOR PRODUCTS OR SERVICES TO A TELEPHONE COMPANY OR RESELLER ON

BEHALF OF THE PERSON SUBMITTING THE CHARGES OR ON BEHALF OF A THIRD-PARTY VENDOR.”;

in lines 5, 7, 9, 10, 12, 14, 16, 17, 19, and 27, strike “(B)”, “(C)”, “(1)”, “(2)”, “(3)”, “(E)”, “(1)”, “(2)”, “(F)”, and “(B)”, respectively, and substitute “(3)”, “(4)”, “(I)”, “(II)”, “(III)”, “(8)”, “(I)”, “(II)”, “(9) (I)”, and “(C)”, respectively; in line 8, strike “A” and substitute “AN ORDERING”; in lines 9 and 12, in each instance, strike “A” and substitute “A”; in line 10, strike “AN” and substitute “AN”; strike line 13 in its entirety and substitute:

“(5) “ORDERING CUSTOMER” MEANS A CUSTOMER OR ANOTHER PERSON ORDERING SERVICES THAT WILL APPEAR ON THE CUSTOMER’S TELEPHONE BILL.

“(6) “RESELLER” MEANS A PERSON THAT PROVIDES WIRELINE TELEPHONE VOICE SERVICE BY USING THE TRANSMISSION FACILITIES OF ANOTHER PERSON.

“(7) “TELEPHONE COMPANY” MEANS A PERSON THAT PROVIDES WIRELINE TELEPHONE VOICE SERVICES.”;

in line 14, strike “SEPARATE FROM” and substitute “NOT AFFILIATED WITH”; in line 16, strike “PROVIDES” and substitute “PROVIDES”; in line 17, strike “SEEKS” and substitute “SEEKS”; in line 20, strike “COMPANY” and substitute “COMPANY’S”; in the same line, after “SYSTEM” insert “, EITHER DIRECTLY OR THROUGH A BILLING AGENT,”; after line 22, insert:

“(II) “THIRD-PARTY VENDOR BILLING” DOES NOT INCLUDE BILLING FOR:

1. PRODUCTS OR SERVICES OFFERED BY, OR BUNDLED WITH THE PRODUCTS OR SERVICES OF, A TELEPHONE COMPANY, A RESELLER, OR AN AFFILIATE OF A TELEPHONE COMPANY OR RESELLER;

2. LONG DISTANCE SERVICES THAT A CUSTOMER INITIATES BY DIALING 1+, 0+, 0-, OR 1010XXX; OR

3. COMMERCIAL MOBILE RADIO SERVICES.”;

strike in their entirety lines 23 through 26, inclusive, and substitute:

“(B) UNLESS THE THIRD-PARTY VENDOR OR BILLING AGENT FIRST OBTAINS AN ORDERING CUSTOMER’S EXPRESS AUTHORIZATION, A THIRD-PARTY VENDOR OR BILLING AGENT MAY NOT SUBMIT CHARGES TO A TELEPHONE COMPANY OR RESELLER.”;

and in line 27, strike “(A)” and substitute “(B)”.

AMENDMENT NO. 4

On page 3, in line 1, strike “BE” and substitute “BE”; in line 3, strike “INCLUDE” and substitute “INCLUDE”; in lines 4, 6, 8, and 11, in each instance, strike “THE” and substitute “THE”; in lines 5, 10, and 11, in each instance, before “CUSTOMER” insert “ORDERING”; in lines 7 and 10, in each instance, strike “AN” and substitute “AN”; in line 9, strike “ALL” and substitute “ALL”; in line 12, strike “QUALIFIED TO AUTHORIZE THIRD-PARTY VENDOR BILLING” and substitute “AUTHORIZED TO ORDER SERVICES THAT WILL APPEAR ON THE CUSTOMER’S TELEPHONE BILL”; in line 13, after “2.” insert “THIRD-PARTY VENDOR BILLING”; in line 15, strike “(C) A TELEPHONE COMPANY OR RESELLER” and substitute “(D) A THIRD-PARTY VENDOR OR BILLING AGENT”; and in line 16, strike “(A)” and substitute “(B)”.

AMENDMENT NO. 5

On pages 3 and 4, strike in their entirety the lines beginning with line 18 on page 3 through line 17 on page 4, inclusive.

On page 4, in line 18, strike “(IV) THE” and substitute “**(E) A CUSTOMER IS NOT LIABLE FOR THIRD-PARTY VENDOR BILLING CHARGES UNLESS:**”

(1) THE CUSTOMER HAS BEEN GIVEN NOTICE THAT THE TELEPHONE COMPANY OR RESELLER MAY ALLOW THIRD-PARTY VENDOR BILLING AND THAT FREE BLOCKING OF CERTAIN THIRD-PARTY VENDOR BILLING MAY BE AVAILABLE TO THE CUSTOMER; AND

(2) THE CUSTOMER IS PROVIDED ACCESS TO:

(I) AN ITEMIZATION OF THE THIRD-PARTY VENDOR BILLING CHARGES IDENTIFYING THEM SEPARATELY FROM OTHER CHARGES; AND

(II) THE”;

and in line 19, strike “; AND” and substitute “**OR ITS BILLING AGENT.**”.

AMENDMENT NO. 6

On pages 4 and 5, strike in their entirety the lines beginning with line 20 on page 4 through line 21 on page 5, inclusive, and substitute:

“(F) UNLESS THE THIRD-PARTY VENDOR OR BILLING AGENT PROVIDES A COPY OF THE AUTHORIZATION REQUIRED UNDER SUBSECTION (B) OF THIS SECTION TO THE CUSTOMER AND TO THE TELEPHONE COMPANY OR RESELLER,

A CUSTOMER IS NOT LIABLE FOR THIRD-PARTY VENDOR BILLING CHARGES IF THE CUSTOMER, IN GOOD FAITH AND IN A REASONABLY TIMELY MANNER, BUT NOT OUTSIDE THE TIME PERIOD SPECIFIED IN SUBSECTION (D) OF THIS SECTION, DISPUTES THAT THE CHARGES WERE AUTHORIZED.

(G) AN AGREEMENT FOR THIRD-PARTY VENDOR BILLING ENTERED INTO BY A TELEPHONE COMPANY OR RESELLER AND A THIRD-PARTY VENDOR OR BILLING AGENT ON OR AFTER OCTOBER 1, 2010, IS VOID AND UNENFORCEABLE TO THE EXTENT THAT IT DOES NOT REQUIRE THE THIRD-PARTY VENDOR TO COMPLY WITH SUBSECTION (B) OF THIS SECTION.

(H) A VIOLATION OF THIS SECTION BY A THIRD-PARTY VENDOR OR BILLING AGENT:

(1) IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE UNDER TITLE 13 OF THIS ARTICLE; AND

(2) EXCEPT FOR THE PROVISIONS OF § 13-411 OF THIS ARTICLE, IS SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS CONTAINED IN TITLE 13 OF THIS ARTICLE.”.