

# HOUSE BILL 788

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By: **Delegates Stein, Barkley, Cardin, Conaway, Cullison, Frick, Hucker, Lafferty, Morhaim, Pena-Melnyk, B. Robinson, Sophocleus, and Stocksdale**

Introduced and read first time: February 3, 2014

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Mobile Phone Companies – Third-Party Vendor Billing – Restrictions**

3 FOR the purpose of prohibiting a commercial mobile radio service provider from  
4 including third-party vendor billing charges on certain customer bills except  
5 under certain circumstances; providing that a customer is not liable for  
6 third-party vendor billing charges unless the customer has expressly  
7 authorized third-party vendor billing and the customer is provided access to  
8 certain information; providing that a violation of this Act by a commercial  
9 mobile radio service provider is an unfair or deceptive trade practice and is  
10 subject to certain penalty and enforcement provisions; defining certain terms;  
11 and generally relating to third-party vendor billing and commercial mobile  
12 radio service.

13 BY adding to

14 Article – Commercial Law  
15 Section 14-1322.1  
16 Annotated Code of Maryland  
17 (2013 Replacement Volume)

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

20 **Article – Commercial Law**

21 **14-1322.1.**

22 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**  
23 **MEANINGS INDICATED.**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           (2) “BILLING AGENT” MEANS A PERSON THAT SUBMITS CHARGES  
2 FOR PRODUCTS OR SERVICES TO A CMRS PROVIDER ON BEHALF OF THE  
3 PERSON SUBMITTING THE CHARGES OR ON BEHALF OF A THIRD-PARTY  
4 VENDOR.

5           (3) “COMMERCIAL MOBILE RADIO SERVICE” OR “CMRS” MEANS  
6 MOBILE TELECOMMUNICATIONS SERVICE THAT IS:

7                   (I) PROVIDED FOR PROFIT WITH THE INTENT OF  
8 RECEIVING COMPENSATION OR MONETARY GAIN;

9                   (II) AN INTERCONNECTED, TWO-WAY SERVICE; AND

10                  (III) AVAILABLE TO THE PUBLIC.

11           (4) “COMMERCIAL MOBILE RADIO SERVICE PROVIDER” OR  
12 “CMRS PROVIDER” MEANS A PERSON AUTHORIZED BY THE FEDERAL  
13 COMMUNICATIONS COMMISSION TO PROVIDE CMRS IN THE STATE.

14           (5) “CUSTOMER” MEANS A PERSON THAT CONTRACTS WITH A  
15 CMRS PROVIDER FOR CMRS IN THE STATE.

16           (6) “THIRD-PARTY VENDOR” MEANS AN ENTITY THAT:

17                   (I) IS NOT AFFILIATED WITH A CMRS PROVIDER;

18                   (II) PROVIDES PRODUCTS OR SERVICES TO A CUSTOMER;

19 AND

20                   (III) SEEKS TO CHARGE THE CUSTOMER THROUGH  
21 THIRD-PARTY VENDOR BILLING.

22           (7) (I) “THIRD-PARTY VENDOR BILLING” MEANS THE USE OF A  
23 CMRS PROVIDER’S BILLING SYSTEM, EITHER DIRECTLY OR THROUGH A  
24 BILLING AGENT, TO CHARGE A CUSTOMER FOR PRODUCTS OR SERVICES  
25 PROVIDED BY A THIRD-PARTY VENDOR.

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

1                   **1. PRODUCTS OR SERVICES OFFERED BY, OR**  
2 **BUNDLED WITH, THE PRODUCTS OR SERVICES OF A CMRS PROVIDER OR AN**  
3 **AFFILIATE OF A CMRS PROVIDER;**

4                   **2. PAY-PER-CALL SERVICES THAT A CUSTOMER**  
5 **INITIATES BY DIALING 900+ OR 976+; OR**

6                   **3. CONTRIBUTIONS TO ANY CHARITABLE**  
7 **ORGANIZATION SUBJECT TO § 501(C)(3) OF THE INTERNAL REVENUE CODE.**

8           **(B) A CMRS PROVIDER MAY NOT INCLUDE A THIRD-PARTY VENDOR**  
9 **BILLING CHARGE ON A CUSTOMER'S CMRS BILL UNLESS THE CUSTOMER HAS**  
10 **EXPRESSLY AUTHORIZED THE CMRS PROVIDER TO ACCEPT CHARGES FROM**  
11 **THIRD-PARTY VENDORS.**

12           **(C) THE AUTHORIZATION REQUIRED UNDER SUBSECTION (B) OF THIS**  
13 **SECTION SHALL:**

14                   **(1) AFFIRM THAT THE CUSTOMER UNDERSTANDS THAT A**  
15 **THIRD-PARTY VENDOR BILLING CHARGE MAY BE BILLED USING THE**  
16 **CUSTOMER'S CMRS BILL; AND**

17                   **(2) BE IN THE FORM OF:**

18                           **(I) A WRITTEN AUTHORIZATION;**

19                           **(II) AN ORAL AUTHORIZATION VERIFIED AND RECORDED BY**  
20 **A THIRD PARTY; OR**

21                           **(III) A RECORDED ELECTRONIC AUTHORIZATION.**

22           **(D) A CUSTOMER IS NOT LIABLE FOR A THIRD-PARTY VENDOR BILLING**  
23 **CHARGE UNLESS:**

24                   **(1) THE CUSTOMER HAS EXPRESSLY AUTHORIZED THIRD-PARTY**  
25 **VENDOR BILLING IN ACCORDANCE WITH THIS SECTION; AND**

26                   **(2) THE CUSTOMER IS PROVIDED ACCESS TO:**

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

1                   **(II) THE NAME AND TELEPHONE NUMBER OF THE**  
2 **THIRD-PARTY VENDOR OR ITS BILLING AGENT.**

3           **(E) A VIOLATION OF THIS SECTION BY A CMRS PROVIDER:**

4                   **(1) IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE UNDER TITLE**  
5 **13 OF THIS ARTICLE; AND**

6                   **(2) IS SUBJECT TO THE ENFORCEMENT AND PENALTY**  
7 **PROVISIONS CONTAINED IN TITLE 13 OF THIS ARTICLE.**

8           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
9 October 1, 2014.