

# HOUSE BILL 37

C5, I3

(PRE-FILED)

3lr0700  
CF SB 90

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By: **Delegate Stewart**

Requested: November 4, 2022

Introduced and read first time: January 11, 2023

Assigned to: Economic Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 3, 2023

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Commercial Law – Consumer Protection – Telephone Solicitation**  
3 **(Stop the Spam Calls Act of 2023)**

4 FOR the purpose of prohibiting a person from making certain telephone solicitations to a  
5 certain called party in a certain manner by restricting the methods, times, and  
6 identifying information that the person making the call may utilize; making a  
7 violation of this Act an unfair, abusive, or deceptive trade practice that is subject to  
8 enforcement and penalties under the Maryland Consumer Protection Act; and  
9 generally relating to the regulation of telephone solicitation in the State.

10 BY repealing and reenacting, with amendments,  
11 Article – Commercial Law  
12 Section 13–301(14)(xxxv)  
13 Annotated Code of Maryland  
14 (2013 Replacement Volume and 2022 Supplement)

15 BY repealing and reenacting, without amendments,  
16 Article – Commercial Law  
17 Section 13–301(14)(xxxvi)  
18 Annotated Code of Maryland  
19 (2013 Replacement Volume and 2022 Supplement)

20 BY adding to  
21 Article – Commercial Law

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section 13-301(14)(xxxvii); and 14-4501 through ~~14-4504~~ 14-4503 to be under the  
2 new subtitle “Subtitle 45. Telephone Solicitations”  
3 Annotated Code of Maryland  
4 (2013 Replacement Volume and 2022 Supplement)

5 BY repealing and reenacting, without amendments,  
6 Article – Public Utilities  
7 Section 8-205(a)  
8 Annotated Code of Maryland  
9 (2020 Replacement Volume and 2022 Supplement)

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

12 **Article – Commercial Law**

13 13-301.

14 Unfair, abusive, or deceptive trade practices include any:

15 (14) Violation of a provision of:

16 (xxxv) Section 11-210 of the Education Article; [or]

17 (xxxvi) Title 14, Subtitle 44 of this article; or

18 **(XXXVII) TITLE 14, SUBTITLE 45 OF THIS ARTICLE; OR**

19 **SUBTITLE 45. TELEPHONE SOLICITATIONS.**

20 14-4501.

21 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**  
22 **INDICATED.**

23 **(B) “CALLED PARTY” MEANS A PERSON WHO IS A REGULAR USER OF A**  
24 **TELEPHONE NUMBER THAT RECEIVES A TELEPHONE SOLICITATION.**

25 **(C) “CALLER IDENTIFICATION SERVICE” MEANS A SERVICE THAT ALLOWS A**  
26 **TELEPHONE SUBSCRIBER TO HAVE THE TELEPHONE NUMBER AND, WHERE**  
27 **AVAILABLE, THE NAME OF THE CALLING PARTY TRANSMITTED SIMULTANEOUSLY**  
28 **WITH THE TELEPHONE CALL AND DISPLAYED ON A DEVICE CONNECTED TO THE**  
29 **SUBSCRIBER’S TELEPHONE.**

30 **(D) “PRIOR EXPRESS WRITTEN CONSENT” MEANS A WRITTEN AGREEMENT**  
31 **THAT:**

1           **(1) BEARS THE SIGNATURE OF THE CALLED PARTY;**

2           **(2) CLEARLY AUTHORIZES THE PERSON MAKING OR ALLOWING THE**  
3 **PLACEMENT OF A TELEPHONE SOLICITATION BY TELEPHONE CALL, TEXT MESSAGE,**  
4 **OR VOICEMAIL TO DELIVER OR CAUSE TO BE DELIVERED TO THE CALLED PARTY:**

5                   **(I) A TELEPHONE SOLICITATION USING AN AUTOMATED**  
6 **SYSTEM FOR THE SELECTION OR DIALING OF TELEPHONE NUMBERS;**

7                   **(II) THE PLAYING OF A RECORDED OR ARTIFICIAL VOICE**  
8 **MESSAGE WHEN A CONNECTION IS COMPLETED TO A NUMBER CALLED; OR**

9                   **(III) THE TRANSMISSION OF A PRERECORDED VOICEMAIL; AND**

10           **(3) INCLUDES:**

11                   **(I) THE TELEPHONE NUMBER TO WHICH THE SIGNATORY**  
12 **AUTHORIZES A TELEPHONE SOLICITATION TO BE DELIVERED; AND**

13                   **(II) A CLEAR AND CONSPICUOUS DISCLOSURE INFORMING THE**  
14 **CALLED PARTY THAT:**

15                           **1. BY EXECUTING THE AGREEMENT, THE CALLED PARTY**  
16 **AUTHORIZES THE PERSON MAKING OR ALLOWING THE PLACEMENT OF A**  
17 **TELEPHONE SOLICITATION TO DELIVER OR CAUSE TO BE DELIVERED A TELEPHONE**  
18 **SOLICITATION TO THE CALLED PARTY USING:**

19                                   **A. AN AUTOMATED SYSTEM FOR THE SELECTION OR**  
20 **DIALING OF TELEPHONE NUMBERS; OR**

21                                   **B. THE PLAYING OF A RECORDED MESSAGE WHEN A**  
22 **CONNECTION IS COMPLETED TO A NUMBER CALLED; AND**

23                           **2. THE CALLED PARTY IS NOT REQUIRED TO DIRECTLY**  
24 **OR INDIRECTLY:**

25                                   **A. SIGN THE WRITTEN AGREEMENT; OR**

26                                   **B. AGREE TO ENTER INTO THE AGREEMENT AS A**  
27 **CONDITION OF PURCHASING ANY PROPERTY, GOODS, OR SERVICES.**

1 (E) "SIGNATURE" INCLUDES AN ELECTRONIC OR DIGITAL SIGNATURE TO  
2 THE EXTENT THAT THE FORM OF SIGNATURE IS RECOGNIZED AS A VALID SIGNATURE  
3 UNDER APPLICABLE FEDERAL LAW OR STATE CONTRACT LAW.

4 (F) "TELEPHONE SOLICITATION" HAS THE MEANING STATED IN § 8-205 OF  
5 THE PUBLIC UTILITIES ARTICLE.

6 14-4502.

7 (A) (1) THIS SUBSECTION DOES NOT APPLY TO:

8 (I) A TELEPHONE SOLICITATION THAT IS AN ISOLATED  
9 TRANSACTION AND NOT PERFORMED IN THE COURSE OF A PATTERN OF REPEATED  
10 TRANSACTIONS OF A SIMILAR NATURE;

11 (II) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A  
12 NONCOMMERCIAL TELEPHONE SOLICITATION FOR RELIGIOUS, CHARITABLE,  
13 POLITICAL, OR EDUCATIONAL PURPOSES;

14 (III) A BUSINESS-TO-BUSINESS SALE WHERE THE TELEPHONE  
15 SOLICITOR HAS BEEN LAWFULLY OPERATING CONTINUOUSLY FOR AT LEAST 3  
16 YEARS UNDER THE SAME BUSINESS NAME;

17 (IV) A PERSON WHO SOLICITS CONTRACTS FOR THE  
18 MAINTENANCE OR REPAIR OF GOODS PREVIOUSLY PURCHASED FROM THE PERSON  
19 MAKING THE SOLICITATION OR ON WHOSE BEHALF THE SOLICITATION IS MADE;

20 (V) A SINGLE TELEPHONE SOLICITATION MADE TO A  
21 CUSTOMER OR CLIENT IN RESPONSE TO AN INQUIRY OR REQUEST FROM THE  
22 CUSTOMER OR CLIENT; OR

23 (VI) A COMMUNICATION BETWEEN A BUSINESS AND A  
24 CUSTOMER THAT HAVE AN EXISTING BUSINESS CONTRACT OR RELATIONSHIP WITH  
25 EACH OTHER IF:

26 1. THE COMMUNICATION IS INITIALLY INTENDED FOR  
27 INFORMATIONAL PURPOSES ONLY; AND

28 2. BASED ON FURTHER INQUIRY FROM THE CUSTOMER,  
29 THE COMMUNICATION BECOMES A TELEPHONE SOLICITATION.

30 (2) A PERSON SOLICITING FOR NONCOMMERCIAL PURPOSES UNDER  
31 PARAGRAPH (1)(II) OF THIS SUBSECTION IS EXEMPT ONLY IF:

1           **(I) THE PERSON IS SOLICITING FOR A NONPROFIT ENTITY; AND**

2           **(II) THE ENTITY IS:**

3                   **1. REGISTERED WITH THE SECRETARY OF STATE IN**  
4 **ACCORDANCE WITH TITLE 6 OF THE BUSINESS REGULATION ARTICLE; AND**

5                   **2. EXEMPT FROM TAXATION UNDER § 501(C)(3), (4), OR**  
6 **(6) OF THE INTERNAL REVENUE CODE.**

7           **(3) WITHOUT THE PRIOR EXPRESS WRITTEN CONSENT OF THE**  
8 **CALLED PARTY, A PERSON MAY NOT MAKE OR CAUSE TO BE MADE A TELEPHONE**  
9 **SOLICITATION THAT INVOLVES:**

10                   **(1) AN AUTOMATED SYSTEM FOR THE SELECTION OR DIALING**  
11 **OF TELEPHONE NUMBERS; OR**

12                   **(2) THE PLAYING OF A RECORDED MESSAGE WHEN A**  
13 **CONNECTION IS COMPLETED TO THE NUMBER CALLED.**

14           **(B) (1) A PERSON WHO MAKES OR CAUSES TO BE MADE A TELEPHONE**  
15 **SOLICITATION MAY NOT ~~FAIL~~:**

16                   **(I) FAIL TO TRANSMIT OR CAUSE NOT TO BE TRANSMITTED:**

17                   **(1) THE ORIGINATING TELEPHONE NUMBER; AND**

18                   **(2) WHEN MADE AVAILABLE BY THE CALLER'S CARRIER,**  
19 **THE NAME OF THE CALLER TO ANY CALLER IDENTIFICATION SERVICE IN USE BY A**  
20 **CALLED PARTY;**

21                   **(II) INTENTIONALLY ACT TO PREVENT THE TRANSMISSION OF**  
22 **THE TELEPHONE SOLICITOR'S NAME OR TELEPHONE NUMBER TO THE CALLED**  
23 **PARTY WHEN THE EQUIPMENT OR SERVICE USED BY THE TELEPHONE SOLICITOR IS**  
24 **CAPABLE OF CREATING AND TRANSMITTING THE TELEPHONE SOLICITOR'S NAME**  
25 **AND TELEPHONE NUMBER; OR**

26                   **(III) IN ORDER TO CONCEAL THE TRUE IDENTITY OF THE**  
27 **CALLER, USE TECHNOLOGY THAT DELIBERATELY DISPLAYS A DIFFERENT CALLER**  
28 **IDENTIFICATION NUMBER THAN THE NUMBER THE CALL IS ORIGINATING FROM.**

29           **(2) IT IS NOT A VIOLATION OF THIS SUBSECTION TO SUBSTITUTE FOR**  
30 **THE NAME AND TELEPHONE NUMBER USED IN OR BILLED FOR MAKING THE CALL:**

1 (I) THE NAME OF THE SELLER OR OTHER ENTITY FOR WHOM  
2 THE TELEPHONE SOLICITATION IS PLACED; AND

3 (II) THE CUSTOMER SERVICE TELEPHONE NUMBER OF THE  
4 SELLER OR OTHER ENTITY.

5 (C) A PERSON MAY NOT MAKE OR CAUSE TO BE MADE A TELEPHONE  
6 SOLICITATION ~~BY~~, INCLUDING A CALL MADE THROUGH AUTOMATED DIALING OR A  
7 RECORDED MESSAGE:

8 (1) TO A CALLED PARTY DURING THE HOURS BETWEEN 8 P.M. AND 8  
9 A.M. IN THE CALLED PARTY'S TIME ZONE;

10 (2) MORE THAN THREE TIMES TO THE SAME CALLED PARTY DURING  
11 A 24-HOUR PERIOD ON THE SAME SUBJECT MATTER OR ISSUE, REGARDLESS OF THE  
12 TELEPHONE NUMBERS USED TO MAKE THE CALL; OR

13 (3) BY INTENTIONALLY ALTERING THE VOICE OF THE CALLER IN AN  
14 ATTEMPT TO DISGUISE OR CONCEAL THE IDENTITY OF THE CALLER IN ORDER TO:

15 ~~(1)~~ (I) DEFRAUD, CONFUSE, OR FINANCIALLY OR OTHERWISE  
16 INJURE THE CALLED PARTY; OR

17 ~~(2)~~ (II) OBTAIN PERSONAL INFORMATION FROM THE CALLED  
18 PARTY THAT MAY BE USED IN A FRAUDULENT OR UNLAWFUL MANNER.

19 14-4503.

20 ~~(A) (1) THIS SECTION DOES NOT APPLY TO:~~

21 ~~(I) A TELEPHONE SOLICITATION THAT IS AN ISOLATED~~  
22 ~~TRANSACTION AND NOT PERFORMED IN THE COURSE OF A PATTERN OF REPEATED~~  
23 ~~TRANSACTIONS OF A SIMILAR NATURE;~~

24 ~~(II) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A~~  
25 ~~NONCOMMERCIAL TELEPHONE SOLICITATION FOR RELIGIOUS, CHARITABLE,~~  
26 ~~POLITICAL, OR EDUCATIONAL PURPOSES;~~

27 ~~(III) A BUSINESS TO BUSINESS SALE WHERE:~~

28 ~~1. THE TELEPHONE SOLICITOR HAS BEEN LAWFULLY~~  
29 ~~OPERATING CONTINUOUSLY FOR AT LEAST 3 YEARS UNDER THE SAME BUSINESS~~  
30 ~~NAME AND HAS AT LEAST 50% OF ITS DOLLAR VOLUME CONSISTING OF REPEAT~~  
31 ~~SALES TO EXISTING BUSINESSES; OR~~

1                   ~~2. A PURCHASER BUSINESS INTENDS TO:~~

2                   ~~A. RESELL OR OFFER THE PROPERTY OR GOODS~~  
3 ~~PURCHASED FOR PURPOSES OF ADVERTISEMENT OR AS A PROMOTIONAL ITEM; OR~~

4                   ~~B. USE THE PROPERTY OR GOODS PURCHASED IN A~~  
5 ~~RECYCLING, REUSE, MANUFACTURING, OR MANUFACTURING PROCESS; OR~~

6                   ~~(IV) A PERSON WHO SOLICITS CONTRACTS FOR THE~~  
7 ~~MAINTENANCE OR REPAIR OF GOODS PREVIOUSLY PURCHASED FROM THE PERSON~~  
8 ~~MAKING THE SOLICITATION OR ON WHOSE BEHALF THE SOLICITATION IS MADE.~~

9                   ~~(2) A PERSON SOLICITING FOR NONCOMMERCIAL PURPOSES UNDER~~  
10 ~~PARAGRAPH (1)(II) OF THIS SUBSECTION IS EXEMPT ONLY IF:~~

11                   ~~(I) THE PERSON IS SOLICITING FOR A NONPROFIT ENTITY; AND~~

12                   ~~(II) THE ENTITY IS:~~

13                   ~~1. REGISTERED WITH THE SECRETARY OF STATE IN~~  
14 ~~ACCORDANCE WITH TITLE 6 OF THE BUSINESS REGULATION ARTICLE; AND~~

15                   ~~2. EXEMPT FROM TAXATION UNDER § 501(C)(3), (4), OR~~  
16 ~~(6) OF THE INTERNAL REVENUE CODE.~~

17                   ~~(B) A PERSON MAY NOT MAKE OR CAUSE TO BE MADE A TELEPHONE~~  
18 ~~SOLICITATION, INCLUDING A CALL MADE THROUGH AUTOMATED DIALING OR A~~  
19 ~~RECORDED MESSAGE:~~

20                   ~~(1) TO A CALLED PARTY DURING THE HOURS BETWEEN 8 P.M. AND 8~~  
21 ~~A.M. IN THE CALLED PARTY'S TIME ZONE; OR~~

22                   ~~(2) MORE THAN THREE TIMES TO THE SAME CALLED PARTY DURING~~  
23 ~~A 24-HOUR PERIOD ON THE SAME SUBJECT MATTER OR ISSUE, REGARDLESS OF THE~~  
24 ~~TELEPHONE NUMBERS USED TO MAKE THE CALL.~~

25                   ~~(C) A PERSON WHO MAKES OR CAUSES TO BE MADE A TELEPHONE~~  
26 ~~SOLICITATION MAY NOT:~~

27                   ~~(1) INTENTIONALLY ACT TO PREVENT THE TRANSMISSION OF THE~~  
28 ~~TELEPHONE SOLICITOR'S NAME OR TELEPHONE NUMBER TO THE CALLED PARTY~~  
29 ~~WHEN THE EQUIPMENT OR SERVICE USED BY THE TELEPHONE SOLICITOR IS~~

1 ~~CAPABLE OF CREATING AND TRANSMITTING THE TELEPHONE SOLICITOR'S NAME~~  
 2 ~~AND TELEPHONE NUMBER; OR~~

3 ~~(2) TO CONCEAL THE TRUE IDENTITY OF THE CALLER, USE~~  
 4 ~~TECHNOLOGY THAT DELIBERATELY DISPLAYS A DIFFERENT CALLER~~  
 5 ~~IDENTIFICATION NUMBER THAN THE NUMBER THE CALL IS ORIGINATING FROM.~~

6 ~~14-4504.~~

7 (A) A VIOLATION OF THIS SUBTITLE IS:

8 (1) AN UNFAIR, ABUSIVE, OR DECEPTIVE TRADE PRACTICE WITHIN  
 9 THE MEANING OF TITLE 13 OF THIS ARTICLE; AND

10 (2) SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS  
 11 CONTAINED IN TITLE 13 OF THIS ARTICLE.

12 (B) THERE IS A REBUTTABLE PRESUMPTION THAT A TELEPHONE  
 13 SOLICITATION MADE TO ANY AREA CODE IN THE STATE IS MADE TO A RESIDENT OR  
 14 A PERSON WHO IS REASONABLY PRESUMED TO RESIDE OR HAVE A PLACE OF  
 15 BUSINESS IN THE STATE AT THE TIME THE CALL IS MADE.

16 (C) THIS SUBTITLE DOES NOT PRECLUDE THE APPLICABILITY OF §§ 8-204  
 17 AND 8-205 AND TITLE 13 OF THE PUBLIC UTILITIES ARTICLE TO A TELEPHONE  
 18 SOLICITATION SUBJECT TO THIS SUBTITLE.

19 **Article – Public Utilities**

20 8-205.

21 (a) (1) In this section, “telephone solicitation” means an organized activity,  
 22 program, or campaign to communicate by telephone with residents of Maryland in order to:

23 (i) sell, lease, or rent goods or services;

24 (ii) attempt to sell, lease, or rent goods or services;

25 (iii) offer or attempt to offer a gift or prize;

26 (iv) conduct or attempt to conduct a poll; or

27 (v) request or attempt to request survey information, if the results  
 28 of the survey will be used directly to solicit persons to purchase, lease, or rent goods or  
 29 services.



1                   (2) “Telephone solicitation” includes the act of managing, directing, or  
2 supervising an individual engaged in telephone solicitation under paragraph (1) of this  
3 subsection.

4                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
5 ~~October 1, 2023~~ January 1, 2024.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.