

BY: Economic Matters Committee

AMENDMENTS TO HOUSE BILL NO. 2

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Vaughn” and substitute “Vaughn, and Hammen”.

AMENDMENT NO. 2

On page 1, in line 2, before “Maryland” insert “Commercial Law -”; and in the same line, strike “Do Not Call Registry” and substitute “Telephone Consumer Protection”.

On pages 1 and 2, strike beginning with “providing” in line 3 on page 1 down through the second “Act” in line 1 on page 2 and substitute “prohibiting a person from violating the federal Telemarketing and Consumer Fraud and Abuse Prevention Act or the federal Telephone Consumer Protection Act; providing that a violation of this Act is an unfair or deceptive trade practice and is subject to certain enforcement actions and penalties; authorizing an individual who is affected by a violation of this Act to bring an action against a violator to recover reasonable attorney's fees and damages in a certain amount; providing that each prohibited telephone solicitation and each prohibited practice during a telephone solicitation is a separate violation of this Act; providing that this Act does not apply to certain telephone calls initiated for a charitable organization by certain persons”.

On page 2, in line 2, strike “and redefining a certain term”; in lines 4 and 5, strike “telephone solicitations in the State” and substitute “telephones and consumer protection”; in line 8, strike “14-2201, 14-2202, and 14-2205” and substitute “13-301(14)”; strike in their entirety lines 11 through 15, inclusive; and in line 18, strike “14-2205” and substitute “14-3201 through 14-3203, inclusive, to be under the new subtitle “Subtitle 32. Maryland Telephone Consumer Protection Act””.

AMENDMENT NO. 3

On page 2, strike in their entirety lines 24 and 25 and substitute:

(Over)

“13-301.

Unfair or deceptive trade practices include any:

(14) Violation of a provision of:

(i) This title;

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

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

(iv) Title 14, Subtitle 3 of this article, the Maryland Door-to-Door Sales Act;

(v) Title 14, Subtitle 9 of this article, Kosher Products;

(vi) Title 14, Subtitle 10 of this article, Automotive Repair Facilities;

(vii) Section 14-1302 of this article;

(viii) Title 14, Subtitle 11 of this article, Maryland Layaway Sales Act;

(ix) Section 22-415 of the Transportation Article;

(x) Title 14, Subtitle 20 of this article;

(xi) Title 14, Subtitle 15 of this article, the Automotive Warranty Enforcement Act;

(xii) Title 14, Subtitle 21 of this article;

(xiii) Section 18-107 of the Transportation Article;

(xiv) Title 14, Subtitle 22 of this article, the Maryland Telephone Solicitations Act;

(xv) Title 14, Subtitle 23 of this article, the Automotive Crash Parts Act;

(xvi) Title 10, Subtitle 6 of the Real Property Article;

(xvii) Title 10, Subtitle 8 of the Real Property Article;

(xviii) Title 14, Subtitle 25 of this article, the Hearing Aid Sales Act;

(xix) Title 14, Subtitle 26 of this article, the Maryland Door-to-Door Solicitations Act;

(xx) Title 14, Subtitle 31 of this article, the Maryland Household Goods Movers Act; or

(XXI) TITLE 14, SUBTITLE 32 OF THIS ARTICLE, THE MARYLAND TELEPHONE CONSUMER PROTECTION ACT; OR

SUBTITLE 32. MARYLAND TELEPHONE CONSUMER PROTECTION ACT.

14-3201.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.”.

On pages 2 through 10, strike in their entirety the lines beginning with line 28 on page 2 through line 12 on page 10, inclusive, and substitute:

“(C) “CONSUMER” HAS THE MEANING STATED IN § 13-101 OF THIS ARTICLE.

(D) “CONSUMER CREDIT”, “CONSUMER GOODS”, “CONSUMER REALTY”, AND “CONSUMER SERVICES” HAVE THE MEANINGS STATED IN § 13-101 OF THIS ARTICLE.

(Over)

(E) “DIVISION” MEANS THE DIVISION OF CONSUMER PROTECTION OF THE OFFICE OF THE ATTORNEY GENERAL.

(F) “PROFESSIONAL SOLICITOR” HAS THE MEANING STATED IN § 6-101 OF THE BUSINESS REGULATION ARTICLE.

(G) “TELEPHONE SOLICITATION” MEANS A TELEPHONE CALL INITIATED FOR THE PURPOSE OF ENCOURAGING THE SALE, LEASE, RENTAL, LOAN, OR BAILMENT OF CONSUMER CREDIT, CONSUMER GOODS, CONSUMER REALTY, OR CONSUMER SERVICES.

14-3202.

A PERSON MAY NOT VIOLATE:

(1) THE TELEMARKETING AND CONSUMER FRAUD AND ABUSE PREVENTION ACT, 15 U.S.C. §§ 6101 THROUGH 6108, AS IMPLEMENTED BY THE FEDERAL TRADE COMMISSION IN THE TELEMARKETING SALES RULE (16 C.F.R. PART 310); OR

(2) THE TELEPHONE CONSUMER PROTECTION ACT, 47 U.S.C. § 227, AS IMPLEMENTED BY THE FEDERAL COMMUNICATIONS COMMISSION IN THE RESTRICTIONS ON TELEMARKETING AND TELEPHONE SOLICITATIONS RULE (64 C.F.R. SUBPART L).

14-3203.

(A) A VIOLATION OF THIS SUBTITLE IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF THIS ARTICLE AND IS SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS CONTAINED IN TITLE 13 OF THIS ARTICLE.

(B) IN ADDITION TO THE REMEDIES PROVIDED IN § 13-408 OF THIS ARTICLE, AN INDIVIDUAL WHO IS AFFECTED BY A VIOLATION OF THIS SUBTITLE MAY BRING

AN ACTION AGAINST A PERSON THAT VIOLATES THIS SUBTITLE TO RECOVER:

(1) REASONABLE ATTORNEY'S FEES; AND

(2) DAMAGES IN THE AMOUNT OF THE GREATER OF:

(I) \$500 FOR EACH VIOLATION; OR

(II) ACTUAL DAMAGES SUSTAINED AS A RESULT OF THE VIOLATION.

(C) FOR PURPOSES OF THIS SECTION, EACH PROHIBITED TELEPHONE SOLICITATION AND EACH PROHIBITED PRACTICE DURING A TELEPHONE SOLICITATION IS A SEPARATE VIOLATION.”.

On page 10, in line 18, strike “July” and substitute “June”.