

SENATE BILL 1200

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EMERGENCY BILL

7lr3821
CF 7lr3819

By: **Senators Rosapepe, Lee, Astle, Benson, Conway, Currie, Feldman, Ferguson, Guzzone, Kagan, Kasemeyer, Kelley, King, Madaleno, Manno, Mathias, McFadden, Middleton, Muse, Nathan-Pulliam, Oaks, Peters, Pinsky, Ramirez, Robinson, Smith, Young, and Zucker**

Constitutional Requirements Complied with for Introduction in the last 35 Days of Session
Introduced and read first time: March 29, 2017

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Internet Consumer Privacy Rights Act of 2017**

3 FOR the purpose of making it an unfair or deceptive trade practice under the Maryland
4 Consumer Protection Act for an Internet service provider to sell or transfer a
5 consumer's personally identifying information under certain circumstances; making
6 it an unfair or deceptive trade practice under the Maryland Consumer Protection Act
7 for an Internet service provider to display or send certain advertisements to a
8 consumer; making it an unfair or deceptive trade practice under the Maryland
9 Consumer Protection Act for an Internet service provider to refuse to provide services
10 to a consumer because the consumer refuses to take a certain action; providing
11 certain exceptions to certain provisions of this Act; defining certain terms; making
12 this Act an emergency measure; and generally relating to limitations on the use of
13 personally identifying information and browser history.

14 BY repealing and reenacting, without amendments,
15 Article – Commercial Law
16 Section 13–101(b) and (c) and 13–301(14)(i)
17 Annotated Code of Maryland
18 (2013 Replacement Volume and 2016 Supplement)

19 BY adding to
20 Article – Commercial Law
21 Section 13–321
22 Annotated Code of Maryland
23 (2013 Replacement Volume and 2016 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Commercial Law**

4 13–101.

5 (b) (1) “Advertisement” means the publication, dissemination, or circulation of
6 any oral or written matter, including labeling, which directly or indirectly tends to induce
7 a person to enter into an obligation, sign a contract, or acquire title or interest in any
8 merchandise, real property, intangibles, or service.

9 (2) “Advertisement” includes every device to disguise any form of business
10 solicitation by using:

11 (i) A word such as “renewal”, “invoice”, “bill”, “statement”, or
12 “reminder” to create an impression of an existing obligation if there is none; or

13 (ii) Other language to mislead a person in relation to a proposed
14 commercial transaction.

15 (c) (1) “Consumer” means an actual or prospective purchaser, lessee, or
16 recipient of consumer goods, consumer services, consumer realty, or consumer credit.

17 (2) “Consumer” includes:

18 (i) A co-obligor or surety for a consumer;

19 (ii) A licensee or recipient of computer information or computer
20 programs under a consumer contract as defined in § 22–102 of this article;

21 (iii) An individual who sells or offers for sale to a merchant consumer
22 goods or consumer realty that the individual acquired primarily for personal, household,
23 family, or agricultural purposes; or

24 (iv) A fraternal, religious, civic, patriotic, educational, or charitable
25 organization that purchases, rents, or leases goods or services for the benefit of the
26 members of the organization.

27 13–301.

28 Unfair or deceptive trade practices include any:

29 (14) Violation of a provision of:

30 (i) This title;

31 **13–321.**

1 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
2 INDICATED.

3 (2) “BROWSING HISTORY” MEANS INFORMATION THAT SHOWS THAT
4 A CONSUMER HAS ACCESSED A SPECIFIC WEB SITE.

5 (3) “INTERNET SERVICE PROVIDER” MEANS A PERSON THAT
6 PROVIDES ACCESS TO THE INTERNET.

7 (4) “PERSONALLY IDENTIFYING INFORMATION” MEANS THE
8 FOLLOWING INFORMATION RELATING TO A CONSUMER USING AN INTERNET
9 SERVICE PROVIDER TO ACCESS THE INTERNET:

10 (I) THE CONSUMER’S NAME;

11 (II) THE CONSUMER’S SOCIAL SECURITY NUMBER;

12 (III) THE CONSUMER’S ADDRESS;

13 (IV) THE INTERNET PROTOCOL ADDRESS ASSOCIATED WITH AN
14 ELECTRONIC DEVICE THAT BELONGS TO THE CONSUMER; OR

15 (V) THE CONSUMER’S BROWSING HISTORY.

16 (B) (1) AN INTERNET SERVICE PROVIDER MAY NOT SELL OR TRANSFER A
17 CONSUMER’S PERSONALLY IDENTIFYING INFORMATION TO A PERSON WITHOUT THE
18 CONSUMER’S EXPRESS AND AFFIRMATIVE PERMISSION.

19 (2) AN INTERNET SERVICE PROVIDER MAY NOT SEND OR DISPLAY TO
20 A CONSUMER AN ADVERTISEMENT THAT HAS BEEN SELECTED TO BE SENT OR
21 DISPLAYED BECAUSE OF THE CONSUMER’S BROWSING HISTORY WITHOUT THE
22 CONSUMER’S EXPRESS AND AFFIRMATIVE PERMISSION.

23 (3) AN INTERNET SERVICE PROVIDER MAY NOT REFUSE TO PROVIDE
24 ITS SERVICES TO A CONSUMER BECAUSE OF THE CONSUMER’S REFUSAL TO PROVIDE
25 EXPRESS AND AFFIRMATIVE PERMISSION TO THE INTERNET SERVICE PROVIDER
26 UNDER PARAGRAPHS (1) AND (2) OF THIS SUBSECTION.

27 (C) THIS SECTION DOES NOT APPLY TO AN INTERNET SERVICE PROVIDER
28 THAT TRANSMITS A CONSUMER’S PERSONALLY IDENTIFYING INFORMATION:

1 **(1) IN RESPONSE TO A SUBPOENA, SUMMONS, WARRANT, OR COURT**
2 **ORDER THAT APPEARS ON ITS FACE TO HAVE BEEN ISSUED IN ACCORDANCE WITH**
3 **LAWFUL AUTHORITY; OR**

4 **(2) TO THE CONSUMER TO WHOM THE PERSONALLY IDENTIFYING**
5 **INFORMATION PERTAINS.**

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
7 measure, is necessary for the immediate preservation of the public health or safety, has
8 been passed by a yea and nay vote supported by three-fifths of all the members elected to
9 each of the two Houses of the General Assembly, and shall take effect from the date it is
10 enacted.