

HOUSE BILL 1299

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4lr2953

By: **Chair, Economic Matters Committee (By Request – Office of the Attorney General)**

Introduced and read first time: February 9, 2024

Assigned to: Economic Matters

Committee Report: Favorable

House action: Adopted

Read second time: March 8, 2024

CHAPTER _____

1 AN ACT concerning

2 **Consumer Protection – Maryland Consumer Protection Act – Trade or**
3 **Commerce Violations**

4 FOR the purpose of altering the applicability of the Maryland Consumer Protection Act to
5 include certain unfair, abusive, or deceptive trade practices in trade or commerce,
6 including any economic activity within the State that involves or relates to any
7 commodity or service; and generally relating to the applicability and enforcement of
8 the Maryland Consumer Protection Act.

9 BY repealing and reenacting, with amendments,
10 Article – Commercial Law
11 Section 13–101, 13–301(1), (2), (5), (8), and (9), 13–303(5) and (6), and 13–401(a) and
12 (e)
13 Annotated Code of Maryland
14 (2013 Replacement Volume and 2023 Supplement)

15 BY adding to
16 Article – Commercial Law
17 Section 13–303(7)
18 Annotated Code of Maryland
19 (2013 Replacement Volume and 2023 Supplement)

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

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.



Article – Commercial Law

13–101.

(a) In this title the following words have the meanings indicated.

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

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

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

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

(C) “COMMODITY” MEANS GOODS, WARES, MERCHANDISE, MACHINERY, SUPPLIES, OR ANY OTHER ARTICLES IN TRADE OR COMMERCE.

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

(2) “Consumer” includes:

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

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

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

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

[(d)] (E) (1) “Consumer credit”, “consumer debts”, “consumer goods”, “consumer realty”, and “consumer services” mean, respectively, credit, debts or obligations, goods, real property, and services which are primarily for personal, household, family, or agricultural purposes.

1 (2) “Consumer goods” and “consumer services” include, respectively, goods
2 and services which are purchased, rented, or leased by a fraternal, religious, civic, patriotic,
3 educational, or charitable organization for the benefit of the members of the organization.

4 [(e)] (F) “Division” means the Division of Consumer Protection of the Office of
5 the Attorney General.

6 [(f)] (G) “Merchandise” means any commodity, object, wares, or goods.

7 [(g)] (H) (1) “Merchant” means a person who directly or indirectly either
8 offers or makes available [to consumers] any [consumer] goods, [consumer] services,
9 [consumer] realty, or [consumer] credit.

10 (2) “Merchant” includes a person:

11 (i) Who directly or indirectly purchases or offers to purchase any
12 consumer goods or consumer realty from a consumer; and

13 (ii) Whose business includes paying off consumer debt in connection
14 with the purchase of any consumer goods or consumer realty from a consumer.

15 [(h)] (I) “Person” includes an individual, corporation, business trust, statutory
16 trust, estate, trust, partnership, association, two or more persons having a joint or common
17 interest, or any other legal or commercial entity.

18 [(i)] (J) “Sale” includes any:

19 (1) Sale of or offer or attempt to sell merchandise, real property, or
20 intangibles [for]:

21 (I) **FOR** cash or credit; or

22 (II) **IN EXCHANGE FOR A CONSUMER BEING SUBJECTED TO**
23 **ADVERTISING OR THE COLLECTION OF INFORMATION; OR**

24 (2) Service or offer for service which relates to any person, building, or
25 equipment.

26 [(j)] “Service” means any:

27 (1) Building repair or improvement service;

28 (2) Subprofessional service;

29 (3) Repair of a motor vehicle, home appliance, or other similar commodity;

30 or

1 (4) Repair, installation, or other servicing of any plumbing, heating,
2 electrical, or mechanical device.]

3 **(K) "TRADE OR COMMERCE" INCLUDES ANY ECONOMIC ACTIVITY WITHIN**
4 **THE STATE THAT INVOLVES OR RELATES TO ANY COMMODITY OR SERVICE.**

5 **[(k)] (L)** "Unfair, abusive, or deceptive trade practice" has the meaning stated in
6 Subtitle 3 of this title.

7 13-301.

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

9 (1) False, falsely disparaging, or misleading oral or written statement,
10 visual description, or other representation of any kind which has the capacity, tendency, or
11 effect of deceiving or misleading [consumers];

12 (2) Representation that:

13 (i) [Consumer goods] **GOODS**, [consumer] realty, or [consumer]
14 services have a sponsorship, approval, accessory, characteristic, ingredient, use, benefit, or
15 quantity which they do not have;

16 (ii) A merchant has a sponsorship, approval, status, affiliation, or
17 connection which [he] **THE MERCHANT** does not have;

18 (iii) Deteriorated, altered, reconditioned, reclaimed, or secondhand
19 consumer goods are original or new; or

20 (iv) [Consumer goods] **GOODS**, [consumer] realty, or [consumer]
21 services are of a particular standard, quality, grade, style, or model which they are not;

22 (5) Advertisement or offer of [consumer] goods, [consumer] realty, or
23 [consumer] services:

24 (i) Without intent to sell, lease, or rent them as advertised or
25 offered; or

26 (ii) With intent not to supply reasonably expected public demand,
27 unless the advertisement or offer discloses a limitation of quantity or other qualifying
28 condition;

29 (8) False statement which concerns the reason for offering or supplying
30 [consumer] goods, [consumer] realty, or [consumer] services at sale or discount prices;

1 (9) Deception, fraud, false pretense, false premise, misrepresentation, or
2 knowing concealment, suppression, or omission of any material fact with the intent that a
3 [consumer] PERSON rely on the same in connection with:

4 (i) The promotion or sale of any [consumer] goods, [consumer]
5 realty, or [consumer] service;

6 (ii) A contract or other agreement for the evaluation, perfection,
7 marketing, brokering or promotion of an invention; or

8 (iii) The subsequent performance of a merchant with respect to an
9 agreement of sale, lease, or rental;

10 13-303.

11 A person may not engage in any unfair, abusive, or deceptive trade practice, as
12 defined in this subtitle or as further defined by the Division, in:

13 (5) The collection of consumer debts; [or]

14 (6) The purchase or offer for purchase of consumer goods or consumer
15 realty from a consumer by a merchant whose business includes paying off consumer debt
16 in connection with the purchase of any consumer goods or consumer realty from a
17 consumer; OR

18 (7) TRADE OR COMMERCE.

19 13-401.

20 (a) A [consumer] PERSON who is subjected to a violation of this title may file with
21 the Division a written complaint which states:

22 (1) The name and address of the person alleged to have committed the
23 violation complained of;

24 (2) The particulars of the violation; and

25 (3) Any other information required by the Division.

26 (e) This section does not prevent a [consumer] PERSON from:

27 (1) Exercising any right or seeking any remedy to which he might
28 otherwise be entitled; or

29 (2) Filing a complaint with any other agency or court.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2024.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.