

# HOUSE BILL 1228

I3, C5

EMERGENCY BILL

4lr2516

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By: **Delegate Stewart**

Introduced and read first time: February 8, 2024

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Protection – Telephone Solicitation – Exemptions and Waiver of**  
3 **Remedies**

4 FOR the purpose of establishing that certain provisions of law that prohibit a person from  
5 making or causing to make a certain telephone solicitation that involves using a  
6 certain automated system or playing a recorded message do not apply to a  
7 noncommercial telephone solicitation for public opinion research; prohibiting the  
8 waiver of requirements and remedies relating to telephone solicitations under  
9 certain circumstances; and generally relating to the regulation of telephone  
10 solicitation in the State.

11 BY repealing and reenacting, without amendments,  
12 Article – Commercial Law  
13 Section 14–4501(a) and (f)  
14 Annotated Code of Maryland  
15 (2013 Replacement Volume and 2023 Supplement)

16 BY repealing and reenacting, with amendments,  
17 Article – Commercial Law  
18 Section 14–4502(a) and 14–4503  
19 Annotated Code of Maryland  
20 (2013 Replacement Volume and 2023 Supplement)

21 BY repealing and reenacting, without amendments,  
22 Article – Public Utilities  
23 Section 8–205(a)  
24 Annotated Code of Maryland  
25 (2020 Replacement Volume and 2023 Supplement)

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Commercial Law**

2 14–4501.

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

4 (f) “Telephone solicitation” has the meaning stated in § 8–205 of the Public  
5 Utilities Article.

6 14–4502.

7 (a) (1) This subsection does not apply to:

8 (i) A telephone solicitation that is an isolated transaction and not  
9 performed in the course of a pattern of repeated transactions of a similar nature;10 (ii) Subject to paragraph (2) of this subsection, a noncommercial  
11 telephone solicitation for religious, charitable, political, or educational purposes;12 (iii) A business–to–business sale where the telephone solicitor has  
13 been lawfully operating continuously for at least 3 years under the same business name;14 (iv) A person who solicits contracts for the maintenance or repair of  
15 goods previously purchased from the person making the solicitation or on whose behalf the  
16 solicitation is made;17 (v) A single telephone solicitation made to a customer or client in  
18 response to an inquiry or request from the customer or client; **[or]**19 (vi) A communication between a business and a customer that have  
20 an existing business contract or relationship with each other if:21 1. The communication is initially intended for informational  
22 purposes only; and23 2. Based on further inquiry from the customer, the  
24 communication becomes a telephone solicitation; **OR**25 **(VII) A NONCOMMERCIAL TELEPHONE SOLICITATION FOR THE**  
26 **PURPOSE OF PUBLIC OPINION RESEARCH.**27 (2) A person soliciting for noncommercial purposes under paragraph (1)(ii)  
28 of this subsection is exempt only if:

29 (i) The person is soliciting for a nonprofit entity; and

1 (ii) The entity is:

2 1. Registered with the Secretary of State in accordance with  
3 Title 6 of the Business Regulation Article; and

4 2. Exempt from taxation under § 501(c)(3), (4), or (6) of the  
5 Internal Revenue Code.

6 (3) Without the prior express written consent of the called party, a person  
7 may not make or cause to be made a telephone solicitation that involves:

8 (i) An automated system for the selection or dialing of telephone  
9 numbers; or

10 (ii) The playing of a recorded message when a connection is  
11 completed to the number called.

12 14-4503.

13 (a) A violation of this subtitle is:

14 (1) An unfair, abusive, or deceptive trade practice within the meaning of  
15 Title 13 of this article; and

16 (2) Subject to the enforcement and penalty provisions contained in Title 13  
17 of this article.

18 (b) There is a rebuttable presumption that a telephone solicitation made to any  
19 area code in the State is made to a resident or a person who is reasonably presumed to  
20 reside or have a place of business in the State at the time the call is made.

21 (c) This subtitle does not preclude the applicability of §§ 8-204 and 8-205 and  
22 Title 13 of the Public Utilities Article to a telephone solicitation subject to this subtitle.

23 **(D) EXCEPT AS PROVIDED IN § 14-4502(A)(3) OF THIS SUBTITLE, THE**  
24 **REQUIREMENTS AND REMEDIES PROVIDED UNDER THIS SUBTITLE MAY NOT BE**  
25 **WAIVED BY AN AGREEMENT, UNLESS THE AGREEMENT IS PART OF A SETTLEMENT**  
26 **OF A LEGAL DISPUTE OR ACTION.**

27 **(E) NOTHING IN THIS SUBTITLE PROHIBITS AN AGREEMENT FROM**  
28 **ESTABLISHING MORE EXTENSIVE REQUIREMENTS OR REMEDIES THAN THE**  
29 **REQUIREMENTS AND REMEDIES CONTAINED IN THIS SUBTITLE.**

30 **Article – Public Utilities**

31 8-205.

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

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

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

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

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

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

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

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