

HOUSE BILL 1156

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By: **Delegate Conaway**

Introduced and read first time: February 7, 2020

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Protection – Automatic Recurring Payments**

3 FOR the purpose of requiring certain merchants that enroll consumers in certain automatic
4 recurring payments for certain goods or services provided or sold over the Internet
5 to include a link to a web page that allows a consumer to cancel the contract;
6 requiring certain merchants that enroll consumers in certain automatic recurring
7 payments for certain goods or services provided or sold over the Internet, by mail, or
8 over the telephone to provide a consumer a certain form and present certain terms
9 in a certain manner; making conforming and stylistic changes; defining a certain
10 term; providing for the application of this Act; and generally relating to automatic
11 recurring payments.

12 BY repealing and reenacting, without amendments,
13 Article – Commercial Law
14 Section 13–101(a), (c), (d), and (g)
15 Annotated Code of Maryland
16 (2013 Replacement Volume and 2019 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – Commercial Law
19 Section 14–1321
20 Annotated Code of Maryland
21 (2013 Replacement Volume and 2019 Supplement)

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

24 **Article – Commercial Law**

25 13–101.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

(c) (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) (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.

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

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

(2) “Merchant” includes a person:

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

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

14–1321.

(a) (1) In this section the following words have the meanings indicated.

(2) “Account” means:

- (i) A credit card account;
- (ii) A debit card account;
- (iii) A bank account; or
- (iv) Any other financial account.

(3) “Consumer goods” has the meaning stated in § 13–101 of this article.

(4) “Consumer services” has the meaning stated in § 13–101 of this article.

(5) “Merchant” has the meaning stated in § 13–101 of this article.

(6) “RECURRING AUTOMATIC PAYMENTS” MEANS A CONTRACT, PLAN, OR ARRANGEMENT BETWEEN A MERCHANT AND A CONSUMER THAT:

(I) REQUIRES A CONSUMER TO MAKE PERIODIC PAYMENTS FOR CONSUMER GOODS OR CONSUMER SERVICES;

(II) ALLOWS THE MERCHANT TO COLLECT THE PAYMENTS DIRECTLY FROM THE CONSUMER’S ACCOUNT; AND

(III) IS AUTOMATICALLY RENEWED AT THE END OF A DEFINITE TERM FOR A SUBSEQUENT TERM.

(b) A merchant that provides consumer goods or consumer services over the Internet, **BY MAIL, OR OVER THE TELEPHONE** under a contract with a consumer that [requires] **ENROLLS** the consumer [to make periodic payments for the consumer goods or consumer services and allows the merchant to collect the payments directly from the consumer’s account] **IN RECURRING AUTOMATIC PAYMENTS** shall:

(1) IF CONSUMER GOODS OR CONSUMER SERVICES ARE PROVIDED OR SOLD OVER THE INTERNET, include in a prominent place on its [Web site] WEBSITE:

[(1)] (I) A toll-free telephone number that a consumer may call to cancel the contract; **[or]**

[(2)] (II) An address to which a consumer may write to cancel the contract;
AND

(III) A LINK TO A WEB PAGE THAT ALLOWS THE CONSUMER TO CANCEL THE CONTRACT;

(2) PROVIDE THE CONSUMER AN ELECTRONIC OR PHYSICAL FORM

1 THAT WILL ALLOW THE CONSUMER TO OPT OUT OF THE RECURRING AUTOMATIC
2 PAYMENTS OR CANCEL THE CONTRACT BEFORE ANY PAYMENT IS DRAWN FROM THE
3 CONSUMER'S ACCOUNT; AND

4 (3) PRESENT THE RECURRING AUTOMATIC PAYMENT TERMS TO THE
5 CONSUMER IN A CLEAR AND CONSPICUOUS MANNER BEFORE THE SUBSCRIPTION OR
6 PURCHASING AGREEMENT IS FULFILLED.

7 (c) A violation of this section is:

8 (1) An unfair or deceptive trade practice within the meaning of Title 13 of
9 this article; and

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

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
13 apply only prospectively and may not be applied or interpreted to have any effect on or
14 application to any recurring automatic payment contract entered into before the effective
15 date of this Act.

16 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2020.