

# HOUSE BILL 304

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By: **Delegates Shetty, Atterbeary, Bartlett, Carr, Crutchfield, D.M. Davis, Ebersole, Feldmark, W. Fisher, Fraser-Hidalgo, Guyton, Henson, Hettleman, Hill, Kelly, Kerr, Korman, Lehman, Lierman, Lopez, Love, Luedtke, Moon, Palakovich Carr, Pena-Melnyk, Qi, Queen, Smith, Solomon, Stewart, Terrasa, Valderrama, C. Watson, R. Watson, Wilkins, and K. Young**

Introduced and read first time: January 20, 2020

Assigned to: Economic Matters and Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Protection – Unfair, Abusive, or Deceptive Trade Practices –**  
3 **Exploitation of Vulnerable Adults**

4 FOR the purpose of authorizing the Division of Consumer Protection in the Office of the  
5 Attorney General to bring a certain action under the Consumer Protection Act  
6 against a person who violates a certain provision of criminal law regarding the  
7 exploitation of a vulnerable adult; adding a violation of a certain provision of criminal  
8 law regarding the exploitation of a vulnerable adult to the unfair, abusive, or  
9 deceptive trade practices that are subject to enforcement and penalties under this  
10 Act; making a stylistic change; and generally relating to the exploitation of  
11 vulnerable adults.

12 BY repealing and reenacting, with amendments,  
13 Article – Criminal Law  
14 Section 8–801  
15 Annotated Code of Maryland  
16 (2012 Replacement Volume and 2019 Supplement)

17 BY repealing and reenacting, without amendments,  
18 Article – Corporations and Associations  
19 Section 11–101(a) and (d) and 11–209  
20 Annotated Code of Maryland  
21 (2014 Replacement Volume and 2019 Supplement)

22 BY repealing and reenacting, with amendments,  
23 Article – Commercial Law  
24 Section 13–201, 13–204(a)(15), and 13–301(14)(xxiv)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Annotated Code of Maryland  
(2013 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, without amendments,  
Article – Commercial Law  
Section 13–204(b)  
Annotated Code of Maryland  
(2013 Replacement Volume and 2019 Supplement)

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

### Article – Criminal Law

8–801.

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

(2) “Deception” has the meaning stated in § 7–101 of this article.

(3) “Deprive” has the meaning stated in § 7–101 of this article.

(4) “Obtain” has the meaning stated in § 7–101 of this article.

(5) “Property” has the meaning stated in § 7–101 of this article.

(6) (i) “Undue influence” means domination and influence amounting to force and coercion exercised by another person to such an extent that a vulnerable adult or an individual at least 68 years old was prevented from exercising free judgment and choice.

(ii) “Undue influence” does not include the normal influence that one member of a family has over another member of the family.

(7) “Value” has the meaning stated in § 7–103 of this article.

(8) “Vulnerable adult” has the meaning stated in § 3–604 of this article.

(b) (1) A person may not knowingly and willfully obtain by deception, intimidation, or undue influence the property of an individual that the person knows or reasonably should know is a vulnerable adult with intent to deprive the vulnerable adult of the vulnerable adult’s property.

(2) A person may not knowingly and willfully obtain by deception, intimidation, or undue influence the property of an individual that the person knows or reasonably should know is at least 68 years old, with intent to deprive the individual of the individual’s property.

(c) (1) (i) A person convicted of a violation of this section when the value of the property is at least \$1,500 but less than \$25,000 is guilty of a felony and:

1. is subject to imprisonment not exceeding 5 years or a fine not exceeding \$10,000 or both; and

2. shall restore the property taken or its value to the owner, or, if the owner is deceased, restore the property or its value to the owner's estate.

(ii) A person convicted of a violation of this section when the value of the property is at least \$25,000 but less than \$100,000 is guilty of a felony and:

1. is subject to imprisonment not exceeding 10 years or a fine not exceeding \$15,000 or both; and

2. shall restore the property taken or its value to the owner, or, if the owner is deceased, restore the property or its value to the owner's estate.

(iii) A person convicted of a violation of this section when the value of the property is \$100,000 or more is guilty of a felony and:

1. is subject to imprisonment not exceeding 20 years or a fine not exceeding \$25,000 or both; and

2. shall restore the property taken or its value to the owner, or, if the owner is deceased, restore the property or its value to the owner's estate.

(2) A person convicted of a violation of this section when the value of the property is less than \$1,500 is guilty of a misdemeanor and:

(i) is subject to imprisonment not exceeding 1 year or a fine not exceeding \$500 or both; and

(ii) shall restore the property taken or its value to the owner, or, if the owner is deceased, restore the property or its value to the owner's estate.

(d) A sentence imposed under this section may be separate from and consecutive to or concurrent with a sentence for any crime based on the act or acts establishing the violation of this section.

(e) (1) If a defendant fails to restore fully the property taken or its value as ordered under subsection (c) of this section, the defendant is disqualified, to the extent of the defendant's failure to restore the property or its value, from inheriting, taking, enjoying, receiving, or otherwise benefiting from the estate, insurance proceeds, or property of the victim of the offense, whether by operation of law or pursuant to a legal document executed or entered into by the victim before the defendant shall have been convicted under this

section.

(2) The defendant has the burden of proof with respect to establishing under paragraph (1) of this subsection that the defendant has fully restored the property taken or its value.

(f) This section may not be construed to impose criminal liability on a person who, at the request of the victim of the offense, the victim's family, or the court appointed guardian of the victim, has made a good faith effort to assist the victim in the management of or transfer of the victim's property.

**(G) IN ADDITION TO ANY PENALTIES SET FORTH IN THIS SECTION, A VIOLATION OF THIS SECTION:**

**(1) IS AN UNFAIR, ABUSIVE, OR DECEPTIVE TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF THE COMMERCIAL LAW ARTICLE; AND**

**(2) IS SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS CONTAINED IN TITLE 13 OF THE COMMERCIAL LAW ARTICLE.**

#### **Article – Corporations and Associations**

11–101.

(a) In this title, unless the context requires otherwise, the following words have the meanings indicated.

(d) “Commissioner” means the Securities Commissioner of the Division of Securities.

11–209.

(a) The Commissioner may:

(1) Bring a civil action for damages against a person that violates § 8–801 of the Criminal Law Article on behalf of a victim of the violation or, if the victim is deceased, the victim's estate;

(2) Recover damages under this subsection for property loss or damage; and

(3) If the Commissioner prevails in an action brought under this subsection, recover the costs of the action for the use of the Office of the Attorney General.

(b) A conviction for a violation of § 8–801 of the Criminal Law Article is not a prerequisite for maintenance of an action under subsection (a) of this section.

