

SENATE BILL 776

F5, I3

4r0542
CF HB 244

By: **Senators Montgomery and Jones-Rodwell**

Introduced and read first time: January 31, 2014

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Libraries – Electronic Book Licenses and Sales – Discriminatory Practices**

3 FOR the purpose of requiring a person who offers to license or sell an electronic book
4 to consumers in the State to offer to license or sell the electronic book to
5 libraries in the State; prohibiting a person who licenses or sells or offers to
6 license or sell an electronic book to consumers in the State from licensing or
7 selling or offering to license or sell an electronic book to libraries in the State
8 above a certain price; providing that a violation of this Act is an unfair or
9 deceptive trade practice under the Maryland Consumer Protection Act and is
10 subject to certain enforcement and penalty provisions; defining certain terms;
11 and generally relating to libraries and electronic book licenses and sales.

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

17 BY adding to
18 Article – Education
19 Section 23–701 through 23–703 to be under the new subtitle “Subtitle 7.
20 Electronic Book Licenses and Sales”
21 Annotated Code of Maryland
22 (2008 Replacement Volume and 2013 Supplement)

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

25 **Article – Commercial Law**

26 13–101.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 (2) “Consumer” includes:

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

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

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

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

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

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

21 Article – Education

22 SUBTITLE 7. ELECTRONIC BOOK LICENSES AND SALES.

23 23–701.

24 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
25 INDICATED.

26 (B) “CONSUMER” HAS THE MEANING STATED IN § 13–101 OF THE
27 COMMERCIAL LAW ARTICLE.

28 (C) “ELECTRONIC BOOK” MEANS ANY PUBLICATION CONTAINING TEXT,
29 IMAGES, OR BOTH THAT IS READ USING A COMPUTER, A TABLET, OR ANY OTHER
30 ELECTRONIC DEVICE.

31 23–702.

1 **(A) A PERSON WHO OFFERS TO LICENSE OR SELL AN ELECTRONIC BOOK**
2 **TO CONSUMERS IN THE STATE SHALL OFFER TO LICENSE OR SELL THE**
3 **ELECTRONIC BOOK TO LIBRARIES IN THE STATE.**

4 **(B) A PERSON WHO LICENSES OR SELLS OR OFFERS TO LICENSE OR**
5 **SELL AN ELECTRONIC BOOK TO CONSUMERS IN THE STATE MAY NOT LICENSE**
6 **OR SELL OR OFFER TO LICENSE OR SELL AN ELECTRONIC BOOK TO LIBRARIES**
7 **IN THE STATE AT A PRICE GREATER THAN THE HIGHEST PRICE AT WHICH THE**
8 **PERSON LICENSED OR SOLD THE ELECTRONIC BOOK TO CONSUMERS.**

9 **23-703.**

10 **A VIOLATION OF THIS SUBTITLE:**

11 **(1) IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE UNDER TITLE**
12 **13 OF THE COMMERCIAL LAW ARTICLE; AND**

13 **(2) EXCEPT FOR THE PROVISIONS OF §§ 13-408 AND 13-411 OF**
14 **THE COMMERCIAL LAW ARTICLE, IS SUBJECT TO THE ENFORCEMENT AND**
15 **PENALTY PROVISIONS CONTAINED IN TITLE 13 OF THE COMMERCIAL LAW**
16 **ARTICLE.**

17 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
18 **October 1, 2014.**