
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1389 Session of
2006

INTRODUCED BY O'PAKE, DINNIMAN, FONTANA, C. WILLIAMS, BOSCOLA,
RAFFERTY, MELLOW AND LOGAN, NOVEMBER 22, 2006

REFERRED TO STATE GOVERNMENT, NOVEMBER 22, 2006

AN ACT

1 Amending the act of December 4, 1996 (P.L.911, No.147), entitled
2 "An act providing for registration requirements for
3 telemarketers and for powers and duties of the Office of
4 Attorney General," adding a definition of "political purpose"
5 and further providing for definitions of "telemarketing" and
6 "telephone solicitation call"; and prohibiting residential or
7 wireless telephone calls of a political purpose to those
8 persons on a do-not-call list.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. The definitions of "telemarketing" and "telephone
12 solicitation call" in section 2 of the act of December 4, 1996
13 (P.L.911, No.147), known as the Telemarketer Registration Act,
14 amended September 12, 2003 (P.L.105, No.22), are amended and the
15 section is amended by adding a definition to read:

16 Section 2. Definitions.

17 The following words and phrases when used in this act shall
18 have the meanings given to them in this section unless the
19 context clearly indicates otherwise:

20 * * *

1 "Political purpose." An automated or prerecorded message by
2 or on behalf of a political party, body or committee; a
3 candidate for public office; or an issue with the intent to
4 influence an election.

5 * * *

6 "Telemarketing." A plan, program or campaign which is
7 conducted to induce the purchase of goods or services [or]; to
8 solicit contributions for any charitable purpose, charitable
9 promotion or for or on behalf of any charitable organization or
10 to solicit contributions or support for or on behalf of a
11 political purpose by use of one or more telephones and which
12 involves more than one telephone call. For purposes of this act,
13 the terms "charitable purpose," "charitable promotion,"
14 "charitable organization," "professional fundraising counsel,"
15 "professional solicitor" and "solicitation" have the meanings as
16 defined in the act of December 19, 1990 (P.L.1200, No.202),
17 known as the Solicitation of Funds for Charitable Purposes Act.

18 * * *

19 "Telephone solicitation call." A call made to a residential
20 or wireless telephone subscriber for the purpose of soliciting
21 the sale of any consumer goods or services or for the purpose of
22 obtaining information that will or may be used for the direct
23 solicitation of a sale of consumer goods or services or an
24 extension of credit for that purpose or for a political purpose.
25 The term does not include a call made to a residential or
26 wireless telephone consumer:

27 (1) In response to an express request of the residential
28 or wireless telephone consumer.

29 (2) In reference to an existing debt, contract, payment
30 or performance.

1 (3) With whom the telemarketer has an established
2 business relationship within the past 12 months preceding the
3 call.

4 (4) On behalf of an organization granted tax-exempt
5 status under section 501(c)(3), (5) or (8) of the Internal
6 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et
7 seq.) or a veterans organization chartered by the Congress of
8 the United States and or its duly appointed foundation.

9 (5) On behalf of a political candidate or a political
10 party.

11 Section 2. Sections 3(a) and 5(a)(5) of the act are amended
12 to read:

13 Section 3. Registration requirement.

14 (a) General rule.--In addition to any other requirements
15 imposed by law, a telemarketer or the telemarketing business
16 which employs the telemarketer is required to register with the
17 Office of Attorney General at least 30 days prior to offering
18 for sale consumer goods or services through any medium. This
19 section will not apply, however, to persons or businesses
20 licensed by or registered with a Federal or Commonwealth agency
21 or to a person or business conducting telemarketing for an
22 exclusively political purpose. Notwithstanding any other
23 provision of this act, any business which provides telemarketing
24 services to other entities and has been under the same ownership
25 and control for less than five years shall register under this
26 section.

27 * * *

28 Section 5. Unlawful acts and penalties.

29 (a) Acts enumerated.--The following acts are prohibited:

30 * * *

1 (5) Failing to disclose [promptly to any consumer during
2 the initial telephone contact] to the recipient of the call
3 at the outset the purpose of the call, the name of the
4 telemarketer or telemarketing business and what the
5 telemarketer or telemarketing business is selling or on
6 behalf of whom or what it is soliciting.

7 * * *

8 Section 3. Section 5.2(a) of the act, amended September 12,
9 2003 (P.L.105, No.22), is amended to read:

10 Section 5.2. Unwanted telephone solicitation calls prohibited.

11 (a) General rule.--No telemarketer shall initiate or cause
12 to be initiated a telephone solicitation call to a residential
13 telephone number of a residential telephone subscriber who does
14 not wish to receive telephone solicitation calls and has caused
15 his name, address and telephone number to be enrolled on a do-
16 not-call list maintained by the list administrator. A person
17 requesting to be placed on a do-not-call list shall separately
18 indicate whether the prohibition is to include calls made for a
19 political purpose. This prohibition shall be effective 30 days
20 after a quarterly do-not-call list is issued by the list
21 administrator which first contains a residential telephone
22 subscriber's name, address and residential telephone number. In
23 the event that the Federal Trade Commission and/or the Federal
24 Communications Commission establish a national No Call Registry,
25 the Director of the Bureau of Consumer Protection in the Office
26 of Attorney General is authorized to release to the list
27 administrator of such national No Call Registry sufficient data
28 to include all those residential telephone subscribers currently
29 enrolled on the do-not-call list and any residential telephone
30 subscribers who subsequently enroll with the Bureau of Consumer

1 Protection in the Office of Attorney General. Prior to releasing
2 any such data to a national No Call Registry, the Bureau of
3 Consumer Protection in the Office of Attorney General shall
4 provide those residential telephone subscribers currently
5 enrolled with the opportunity to remove their information from
6 the do-not-call list.

7 * * *

8 Section 3. This act shall take effect in 60 days.