

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1877 Session of
2009

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HORNAMAN, SWANGER, SONNEY, McILVANE SMITH AND GIBBONS,
JULY 20, 2009

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF
REPRESENTATIVES, AS AMENDED, OCTOBER 6, 2009

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," further providing for definitions and for
5 registration requirement; and providing for unwanted
6 automatic political calls.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. The definition of "list administrator" in section
10 2 of the act of December 4, 1996 (P.L.911, No.147), known as the
11 Telemarketer Registration Act, amended September 12, 2003 (P.L.
12 105, No.22), is amended and the section is amended by adding
13 definitions to read:

14 Section 2. Definitions.

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

1 "Automatic dialing-announcing device." A device that selects
2 and dials telephone numbers and that, working alone or in
3 conjunction with other equipment, disseminates a prerecorded or
4 synthesized voice message to the telephone number called.

5 "Automatic political call." The use of an automatic dialing-
6 announcing device on behalf of any of the following:

7 (1) A candidate as defined in section 102(a) of the act
8 of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania
9 Election Code; a party as defined in section 102(n) of the
10 Pennsylvania Election Code; or a political body as defined in
11 section 102(p) of the Pennsylvania Election Code.

12 (2) A political committee as defined in section 1621(h)
13 of the Pennsylvania Election Code.

14 (3) A political organization as defined in section
15 527(e) of the Internal Revenue Code of 1986 (Public Law
16 99-514, 26 U.S.C. § 1 et seq.).

17 * * *

18 "List administrator." [A nonprofit] An organization, as
19 designated by contract entered into by the Director of the
20 Bureau of Consumer Protection in the Office of Attorney General,
21 that accepts individual names, addresses and telephone numbers
22 of persons who do not wish to receive telephone solicitation
23 calls and that has been in existence for ten or more years. In
24 the event that the Federal Trade Commission and/or Federal
25 Communications Commission establish a unified national No Call
26 Registry for the purpose of providing consumers with protection
27 from receiving unwanted telephone solicitation calls similar to
28 the protection provided in this act, then the Director of the
29 Bureau of Consumer Protection in the Office of Attorney General
30 may enter into an agreement to utilize the services of the

1 administrator of any such national No Call Registry in lieu of
2 using [any nonprofit] an organization.

3 * * *

4 Section 2. Section 3 of the act is amended to read:

5 Section 3. Registration requirement.

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

19 (b) Unlawful conduct.--It shall be unlawful for any
20 telemarketer to initiate a telephone call to or receive a
21 telephone call from a consumer in connection with the purchase
22 of consumer goods or services unless the telemarketer or the
23 telemarketing business which employs the telemarketer is
24 registered with the Office of Attorney General.

25 (c) Penalty.--Failure to register as required by this act
26 constitutes a misdemeanor of the second degree.

27 Section 3. The act is amended by adding a section to read:

28 Section 5.3. Unwanted automatic political calls.

29 (a) General rule.--

30 (1) Except as set forth in subsection (b), beginning 30

1 days after publication of the notice under paragraph (3), a
2 person may not initiate or cause to be initiated an automatic
3 political call to a residential or wireless telephone number
4 of a telephone subscriber who does not wish to receive
5 automatic political calls and has caused the subscriber's
6 name, address and telephone number to be enrolled on a do-
7 not-call list for automatic political calls maintained by a
8 list administrator.

9 (2) The list under paragraph (1) shall be developed and
10 maintained separately from the list established under section
11 5.2.

12 (3) The list under paragraph (1) shall be completed by ←
13 ~~September 15, 2009~~ SIX MONTHS AFTER THE EFFECTIVE DATE OF ←
14 THIS SECTION. The list administrator shall transmit a notice
15 of completion to the Legislative Reference Bureau for
16 publication in the Pennsylvania Bulletin.

17 (4) A residential telephone subscriber's name shall be
18 maintained on the list under paragraph (1) as long as the
19 telephone number is valid for the subscriber.

20 (5) The Office of Attorney General may serve as the list
21 administrator for purposes of this subsection.

22 (6) If the Office of Attorney General does not serve as
23 the list administrator for purposes of this subsection, the
24 list administrator shall provide the list under paragraph (1)
25 to the Office of Attorney General on a biannual basis.

26 (b) Exceptions.--Subsection (a)(1) shall not apply to a call
27 on behalf of a political candidate, political party or political
28 body made by an individual and not by an automatic dialing-
29 announcing device.

30 (c) Listings.--A person that makes automatic political calls

1 shall:

2 (1) obtain on a biannual basis a listing of residential
3 or wireless telephone subscribers in this Commonwealth who
4 have arranged to have their names, addresses and telephone
5 numbers enrolled on the list under subsection (a)(1); or

6 (2) use a service provider who has obtained the list
7 under subsection (a)(1) in order to restrict the use of
8 automatic political calls.

9 (d) Fee limitation.--A list administrator may not impose a
10 fee for a copy of the list under subsection (a)(1) which
11 exceeds:

12 (1) the cost incurred by the list administrator in the
13 production, preparation and distribution of the list; or

14 (2) the fee authorized by 16 CFR § 310.8(c) (relating to
15 fee for access to the National Do Not Call Registry).

16 (e) Restriction.--A person may not use the list under
17 subsection (a)(1) for any purpose other than to remove a
18 residential or wireless telephone subscriber from a call list.

19 (f) Investigation, enforcement and reporting.--
20 Investigation, enforcement and reporting shall be conducted in
21 accordance with section 5.2(k).

22 (g) Violation.--A violation of this section shall constitute
23 an unlawful act under section 3 of the act of December 17, 1968
24 (P.L.1224, No.387), known as the Unfair Trade Practices and
25 Consumer Protection Law.

26 Section 4. This act shall take effect immediately.