
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 713 Session of
2005

INTRODUCED BY WONDERLING, C. WILLIAMS, CORMAN, RAFFERTY,
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M. WHITE, ORIE, WAUGH, LEMMOND, FERLO, RHOADES, BOSCOLA AND
LOGAN, JUNE 9, 2005

REFERRED TO COMMUNICATIONS AND TECHNOLOGY, JUNE 9, 2005

AN ACT

1 Prohibiting a provider of mobile telephony services from
2 including the dialing number of any subscriber without first
3 obtaining the express consent of that subscriber.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Telephone
8 Subscriber Directory Express Consent Act.

9 Section 2. Definitions.

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

13 "Mobile telephony services." Commercially available
14 interconnected mobile phone services that provide access to the
15 public switched telephone network (PSTN) via mobile
16 communication devices employing radio wave technology to
17 transmit calls, including cellular radiotelephone, broadband

1 personal communications services (PCS), and digital specialized
2 mobile radio (SMR). The term does not include mobile satellite
3 services or mobile data services used exclusively for the
4 delivery of nonvoice information to a mobile device.

5 "Unpublished or unlisted access number." A telephone, telex,
6 teletex, facsimile, computer modem or any other code number that
7 is assigned to a subscriber by a telephone or telegraph
8 corporation for the receipt of communications initiated by other
9 telephone or telegraph customers and that the subscriber has
10 requested that the telephone or telegraph corporation keep in
11 confidence.

12 Section 3. General rule.

13 A provider of mobile telephony services, or any direct or
14 indirect affiliate or agent of a provider, providing the name
15 and dialing number of a subscriber for inclusion in any
16 directory of any form, or selling the contents of any directory
17 database, or any portion or segment thereof, shall not include
18 the dialing number of any subscriber without first obtaining the
19 express consent of that subscriber.

20 Section 4. Subscriber's express consent form.

21 The provider's form for obtaining the subscriber's express
22 consent shall meet all of the following requirements:

23 (1) It shall be recorded in oral, electronic or written
24 form.

25 (2) It shall be a separate document that is not attached
26 to any other document.

27 (3) It shall be signed and dated by the subscriber.

28 (4) It shall be a separate screen or if it is within
29 another screen shall be in a separate section of the screen
30 that includes the disclosure.

1 (5) It shall be a sound recording of a discrete verbal
2 confirmation.

3 (6) It shall be unambiguous, be legible and
4 conspicuously disclose that, by signing, the subscriber is
5 consenting to have the subscriber's dialing number sold or
6 licensed as part of a list of subscribers and the
7 subscriber's dialing number may be included in a publicly
8 available directory.

9 (7) If under the subscriber's calling plan the
10 subscriber may be billed for receiving unsolicited calls or
11 text messaging from a telemarketer, the provider's form shall
12 include a disclosure, which shall be unambiguous and legible,
13 that, by consenting to have the subscriber's dialing number
14 sold or licensed as part of a list of subscribers or be
15 included in a publicly available directory, the subscriber
16 may incur additional charges for receiving unsolicited calls
17 or text messages.

18 Section 5. Prior express consent.

19 A subscriber who provides express prior consent under section
20 4 may revoke that consent at any time. A provider of mobile
21 telephony services shall comply with the subscriber's request to
22 opt out within a reasonable period of time, not to exceed 60
23 days.

24 Section 6. Charges.

25 A subscriber shall not be charged for making the choice to
26 not be listed in a directory.

27 Section 7. Applicability.

28 This section does not apply to the provision of telephone
29 numbers to the following parties for the following purposes:

30 (1) To a collection agency, to the extent disclosures

1 made by the agency are supervised by the Pennsylvania Public
2 Utility Commission, exclusively for the collection of unpaid
3 debts.

4 (2) (i) To any law enforcement agency, fire protection
5 agency, public health agency, public environmental health
6 agency, city or county emergency services planning
7 agency, or private for-profit agency operating under
8 contract with and at the direction of one or more of
9 these agencies, for the exclusive purpose of responding
10 to a 911 call or communicating an imminent threat to life
11 or property.

12 (ii) Any information or records provided to a
13 private for-profit agency pursuant to this section shall
14 be held in confidence by that agency and by any
15 individual employed by or associated with that agency.
16 This information or these records shall not be open to
17 examination for any purpose not directly connected with
18 the administration of the services specified in this
19 paragraph.

20 (3) To a lawful process issued under Federal or State
21 law.

22 (4) To a telephone corporation providing service between
23 service areas for the provision to the subscriber of
24 telephone service between service areas or to third parties
25 for the limited purpose of providing billing services.

26 (5) To a telephone corporation to effectuate a
27 customer's request to transfer the customer's assigned
28 telephone number from the customer's existing provider of
29 telecommunications services to a new provider of
30 telecommunications services.

(6) To the Pennsylvania Public Utility Commission pursuant to its jurisdiction and control over telephone and telegraph corporations.

Section 8. Civil relief.

(a) General rule.--The Office of Attorney General may bring a civil action against an entity which intentionally violates this act.

(b) Additional remedies.--In addition to any other remedy provided by law, a person bringing an action under this section may:

(1) Seek injunctive relief to restrain the violator from continuing the violation.

(2) Recover actual damages arising from the willful violation.

(3) Seek both injunctive relief and recovery of damages as provided by this subsection.

Section 9. Liability.

No telephone corporation, nor any official or employee thereof, shall be subject to criminal or civil liability for the release of customer information as authorized by this section.

Section 10. Severability.

The provisions of this act are severable. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application.

Section 11. Effective date.

This act shall take effect in 60 days.