

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

AS AMENDED ON THIRD CONSIDERATION, NOVEMBER 21, 2005

AN ACT

1 Prohibiting a provider of commercial mobile service 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 "Commercial mobile service provider." A provider of
14 commercial mobile service as defined by section 332(d) of the
15 Communications Act of 1934 (48 Stat. 1064, 47 U.S.C. § 151 et
16 seq.), Federal Communications Commission Rules, and the Omnibus
17 Budget Reconciliation Act of 1993 (Public Law 103-66, 107 Stat.

1 312).

2 "Person." Any individual, partnership, corporation, limited
3 liability company or other organization or any combination
4 thereof.

5 Section 3. Required consent.

6 A commercial mobile service provider or any direct or
7 indirect affiliate or agent of a provider or any other person
8 doing business in this Commonwealth may not publish in a
9 directory or provide for publication in a directory the name and
10 telephone number of a mobile service customer in this
11 Commonwealth without the express consent of the customer. The
12 consent of a customer must be given by one of the following:

13 (1) In writing in a separate written document or in a
14 separate distinct section within a written document that
15 includes the customer's signature and the date.

16 (2) A distinct verbal confirmation.

17 (3) On an Internet website maintained by the commercial
18 mobile service provider or an agent acting on behalf of the
19 provider. The Internet website shall provide a separate
20 screen or if it is within another screen there shall be a
21 separate section of the screen that includes the disclosure.

22 (4) Other verifiable means utilizing the customer's
23 handset.

24 A subscriber who provides express prior consent under this
25 section may revoke that consent at any time. A commercial mobile
26 service provider shall comply with the subscriber's request to
27 opt out within a reasonable period of time, not to exceed 60
28 days. If under the subscriber's calling plan the subscriber may
29 be billed for receiving unsolicited calls or text messages, the
30 provider's form shall include a disclosure, which shall be

1 unambiguous and legible, that, by consenting to have the
2 subscriber's dialing number sold or licensed as part of a list
3 of subscribers or be included in a publicly available directory,
4 the subscriber may incur additional charges for receiving
5 unsolicited calls or text messages.

6 Section 4. Sale of list.

7 Before a customer consents under section 3, a commercial
8 mobile service provider must disclose to the customer in writing
9 or verbally, as appropriate, that by consenting the customer
10 agrees to have the customer's telephone number sold or licensed
11 as part of a list of customers and the customer's telephone
12 number may be included in a publicly available directory.

13 Section 5. Charges.

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

16 Section 6. Applicability.

17 This act shall not apply to the provision of telephone
18 numbers to the following parties for the following purposes:

19 (1) To a collection agency exclusively for the
20 collection of unpaid debts.

21 (2) (i) To any law enforcement agency, fire protection
22 agency, public health agency, city or county emergency
23 services planning agency, or private for-profit agency
24 operating under contract with and at the direction of one
25 or more of these agencies, for the exclusive purpose of
26 responding to a 911 call or communicating an imminent
27 threat to life or property.

28 (ii) Any information or records provided to a
29 private for-profit agency pursuant to this section shall
30 be held in confidence by that agency and by any

1 individual employed by or associated with that agency.

2 This information or these records shall not be open to
3 examination for any purpose not directly connected with
4 the administration of the services specified in this
5 paragraph.

6 (3) To a Federal, State or local agency, board or
7 commission, pursuant to lawful process issued under Federal
8 or State law.

9 (4) To a telephone corporation providing service between
10 service areas for the provision to the subscriber of
11 telephone service between service areas or to third parties
12 for the limited purpose of providing billing services.

13 (5) To a telephone corporation to effectuate a
14 customer's request to transfer the customer's assigned
15 telephone number from the customer's existing provider of
16 telecommunications services to a new provider of
17 telecommunications services.

18 Section 7. Civil relief.

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

22 (b) Additional remedies.--In addition to any other remedy
23 provided by law, the Attorney General bringing an action under
24 this section may:

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

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

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

1 Section 8. Liability.

2 No telephone corporation, nor any official or employee
3 thereof, shall be subject to criminal or civil liability for the
4 release of customer information as authorized by section 7 6. <—

5 Section 9. Effective date.

6 This act shall take effect in 60 days.