

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.