

AMENDMENTS TO HOUSE BILL NO. 318

Sponsor: REPRESENTATIVE FARRY

Printer's No. 275

1 Amend Bill, page 1, line 5, by inserting after "penalties"
2 , for blocking of caller identification and other telemarketing
3 screening products or services prohibited

4 Amend Bill, page 1, lines 9 through 11, by striking out all
5 of said lines and inserting

6 Section 1. The definitions of "do-not-call list,"
7 "established business relationship" and "telephone solicitation
8 call" in section 2 of the act of December 4, 1996 (P.L.911,
9 No.147), known as the Telemarketer Registration Act, are amended
10 and the section is amended by adding definitions to read:

11 Amend Bill, page 1, by inserting between lines 15 and 16

12 "Business telephone subscriber." Any natural person or
13 entity subscribing to telephone service at a business location
14 within this Commonwealth where the service provider classifies
15 the line as a business line. The term does not include a
16 subscriber that engages in telemarketing, makes telephone
17 solicitation calls or is a telemarketing business.

18 * * *

19 "Do-not-call list." A list of residential, business or
20 wireless telephone subscribers who have notified the list
21 administrator of their desire not to receive telephone
22 solicitation calls.

23 "Established business relationship." A prior or existing
24 relationship formed by a voluntary two-way communication between
25 a person or entity and a residential, business or wireless
26 telephone subscriber, with or without an exchange of
27 consideration, on the basis of an inquiry, application, purchase
28 or transaction by the residential, business or wireless
29 telephone subscriber regarding products or services offered by
30 such persons or entity. In regard to an inquiry, the person or
31 entity shall obtain the consent of a residential, business or
32 wireless telephone subscriber to continue the business
33 relationship beyond the initial inquiry.

34 Amend Bill, page 2, by inserting between lines 1 and 2

1 "Telephone solicitation call." A call made to a residential,
2 business or wireless telephone subscriber for the purpose of
3 soliciting the sale of any consumer goods or services or for the
4 purpose of obtaining information that will or may be used for
5 the direct solicitation of a sale of consumer goods or services
6 or an extension of credit for that purpose. The term does not
7 include a call made to a residential, business or wireless
8 telephone consumer:

9 (1) In response to an express request of the
10 residential, business or wireless telephone consumer.

11 (2) In reference to an existing debt, contract, payment
12 or performance.

13 (3) With whom the telemarketer has an established
14 business relationship within the past 12 months preceding the
15 call.

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

21 (5) On behalf of a political candidate or a political
22 party.

23 Amend Bill, page 2, line 8, by inserting a bracket before

24 "that"

25 Amend Bill, page 2, line 8, by inserting after "that"

26] the

27 Amend Bill, page 2, line 9, by inserting a bracket before

28 "he" where it occurs the first time

29 Amend Bill, page 2, line 9, by inserting after "she"

30] the person

31 Amend Bill, page 2, lines 24 through 27, by striking out all
32 of said lines and inserting

33 Section 3. Section 5.1 of the act is amended to read:
34 Section 5.1. Blocking of caller identification and other
35 telemarketing screening products or services
36 prohibited.

37 No telemarketer shall take any action with the primary
38 intent:

39 (1) to prevent the transmission of a telemarketer's name
40 or telephone number to any recipient of a telephone
41 solicitation call when the equipment or service used by the
42 telemarketer is capable of creating and transmitting the

1 telemarketer's name or telephone number; or

2 (2) to circumvent, bypass or disable any product or
3 service used by the residential or business telephone
4 subscriber to screen telephone calls.

5 Section 4. Section 5.2(a), (b), (c), (e), (g), (h) and (j)
6 of the act are amended and the section is amended by adding a
7 subsection to read:

8 Section 5.2. Unwanted telephone solicitation calls prohibited.

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

34 (b) Listings.--Telemarketers making telephone solicitation
35 calls shall quarterly obtain listings of residential [or],
36 business and wireless telephone subscribers in this Commonwealth
37 who have arranged to have their names, addresses and telephone
38 numbers enrolled on the list administrator's do-not-call list or
39 shall utilize a service provider who has quarterly obtained and
40 will use such listings.

41 Amend Bill, page 3, line 1, by inserting after "residential"
42 , business

43 Amend Bill, page 3, by inserting between lines 4 and 5

44 (e) Affirmative defense.--A telemarketer is not in violation
45 of this section if all of the following are satisfied:

46 (1) He has established and implemented written
47 procedures to comply with this section.

48 (2) He has trained his personnel in the procedures.

1 (3) The telemarketer acting on behalf of the seller has
2 maintained and recorded lists of residential, business or
3 wireless telephone subscribers who may not be contacted.

4 (4) Any subsequent call is the result of error.

5 * * *

6 (g) Restrictions on use of do-not-call list.--No
7 telemarketer shall use a list administrator's do-not-call list
8 for any purpose other than to remove residential, business or
9 wireless telephone subscribers from telephone sales call lists.

10 (h) Disclosure to residential, business or wireless
11 telephone subscribers.--Each local exchange telephone company,
12 competitive local exchange telephone company, long-distance
13 interexchange carrier company, Internet service provider that
14 provides telephone service and affiliated companies providing
15 telecommunications billing service shall clearly notify its
16 residential, business or wireless telephone subscribers in this
17 Commonwealth of their ability to contact the list administrator
18 which accepts individual names, addresses and telephone numbers
19 of persons who do not wish to receive telephone solicitation
20 calls. The method of notification shall include, but not be
21 limited to, placing the notice in billing statements mailed to
22 residential, business and wireless subscribers and publication
23 of notice in the consumer information pages of a local telephone
24 directory of general circulation. The notification shall specify
25 the methods by which residential, business and wireless
26 subscribers may place their names on the do-not-call list and
27 how often renewal is necessary.

28 * * *

29 Amend Bill, page 3, line 6, by inserting after "residential"
30 , business

31 Amend Bill, page 4, line 22, by striking out "4" and
32 inserting

33 5