

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 838

Session of
1987

INTRODUCED BY HAGARTY, COLAFELLA, REBER, CESSAR, KENNEY, MORRIS,
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E. Z. TAYLOR, HECKLER, BOOK AND FLICK, MARCH 16, 1987

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 16, 1987

AN ACT

1 Providing for the regulation of unsolicited promotional
2 advertising telephone calls on the telephone lines of private
3 users.

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 Pennsylvania
8 Telephone Privacy Act.

9 Section 2. Declaration of legislative policy.

10 It is the purpose of this act to protect the privacy of the
11 citizens of this Commonwealth by prohibiting the making of
12 certain types of unsolicited commercial telephone calls, which
13 the General Assembly hereby finds to be unwarranted intrusions
14 into the quiet and peaceful enjoyment of the homes of the
15 citizens of this Commonwealth.

16 Section 3. Definitions.

17 The following words and phrases when used in this act shall

1 have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 "Automated equipment." Equipment which, when attached to a
4 telephone line, can dial a group of telephone numbers, either on
5 a random or sequential basis, and has the capability, working
6 alone or in conjunction with other equipment, of disseminating a
7 prerecorded message to the telephone number called.

8 "Commission." The Pennsylvania Public Utility Commission.

9 "Exempt telephone call."

10 (1) An unsolicited commercial telephone call made on its
11 own behalf by a charitable organization which is registered
12 as such in the Office of the Attorney General and the
13 Department of State.

14 (2) An unsolicited commercial telephone call made by or
15 on behalf of a political organization or candidate.

16 (3) An unsolicited commercial telephone call made by a
17 public opinion polling or broadcast audience rating
18 organization.

19 (4) A commercial telephone call made in response to an
20 express request of the person called.

21 (5) An unsolicited commercial telephone call made
22 primarily in connection with an unpaid debt or the
23 performance of a contract.

24 (6) An unsolicited commercial telephone call made to a
25 person who has or previously had a business relationship with
26 the caller, or who is personally acquainted with the caller.

27 "Unsolicited commercial telephone call." A telephone call
28 made by or on behalf of a person, firm or association using
29 automated equipment, soliciting business or contributions or
30 promoting a product, service, or political, religious, or

1 ideological viewpoint.

2 Section 4. Limitation on unsolicited calls.

3 (a) Certain calls prohibited.--No person or organization may
4 make or cause to be made an unsolicited commercial telephone
5 call, except for an exempt telephone call, to a telephone if the
6 person who is the subscriber for that telephone has given
7 notice, in accordance with section 5, that he or she does not
8 wish to receive unsolicited commercial telephone calls.

9 (b) Length of automated call limited.--No person or
10 organization shall cause to be made an unsolicited commercial
11 telephone call or exempt telephone call to a telephone if the
12 call is made entirely by automated equipment and has or may have
13 a duration of more than one minute.

14 (c) Identification of prerecorded messages.--No person or
15 organization making unsolicited telephone calls or exempt
16 telephone calls with automated equipment may make the calls
17 unless each prerecorded message is preceded with an announcement
18 identifying the message as coming from automated equipment.

19 (d) Schedule.--No unsolicited commercial telephone call or
20 exempt telephone call may be made before 9:30 a.m. or after 8:00
21 p.m.

22 Section 5. List of subscribers not wishing to receive
23 unsolicited calls.

24 The commission shall adopt rules specifying:

25 (1) The manner in which a subscriber may notify a
26 telephone company that he does not wish to receive
27 unsolicited commercial telephone calls.

28 (2) The manner in which telephone companies shall make
29 available to persons making unsolicited commercial telephone
30 calls the telephone numbers of persons who do not wish to

1 receive such calls. These lists shall only contain the
2 numbers of such persons and not their names, so that persons
3 who have unlisted numbers cannot be identified.

4 (3) The times and manner in which a telephone subscriber
5 may give the notice, including a requirement that a
6 subscriber be given the opportunity to give such notice upon
7 installation of his or her telephone and not less frequently
8 than annually thereafter.

9 (4) The fees to be paid by persons making unsolicited
10 commercial telephone calls for a copy of the list of the
11 telephone numbers of persons who do not wish to receive such
12 calls.

13 Section 6. Defrayment of cost.

14 The costs incurred by each telephone utility to comply with
15 the rules cited in section 5 shall be borne by those persons or
16 organizations obtaining the list prescribed by section 4. In the
17 event that the commission determines that these costs are so
18 high as to be prohibitive, then the telephone utility may assess
19 a reasonable charge, as set by the commission, to a subscriber
20 who desires to be listed as not wishing to receive unsolicited
21 commercial telephone calls using automated equipment. The charge
22 may be made on a monthly basis and shall be specifically
23 identified on the bill so that the subscriber is aware of the
24 cost of this listing.

25 Section 7. Telephone book notation.

26 In addition to other prohibition and remedies provided under
27 this act, the commission shall establish procedures and set
28 fees, whereby a telephone subscriber may, for a fee, have
29 included as a part of his or her telephone directly listing, a
30 symbol indicating that he or she does not wish to receive

1 unsolicited commercial telephone calls. This symbol shall be
2 only for the convenience of the telephone subscriber, and there
3 shall be no penalty for making nonautomated unsolicited
4 commercial telephone calls to phone numbers notated with such a
5 symbol.

6 Section 8. Penalties.

7 A person who violates section 4 commits a misdemeanor of the
8 third degree and shall, upon conviction, be sentenced to pay a
9 fine of not more than \$1,000 or to imprisonment for not more
10 than 30 days, or both. For purposes of this section, each
11 telephone violation of section 4 shall constitute a separate
12 offense, but no person may be imprisoned for more than six
13 months for a related series of violations.

14 Section 9. Course of conduct.

15 No person may be prosecuted under section 8 for a violation
16 of section 4 unless, during the calendar year in which the
17 alleged violation occurred, the district attorney for the county
18 in which the complaint is brought has received at least ten
19 written statements alleging a violation of section 4 by such
20 person, and unless each statement of allegation is made within
21 14 days after the alleged violation.

22 Section 10. Territorial application.

23 This act applies to all telephone calls made to telephones
24 located within this Commonwealth.

25 Section 11. Effective date.

26 This act shall take effect immediately.