
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1982 Session of
1999

INTRODUCED BY MAYERNIK, PLATTS, ROEBUCK, SHANER, STABACK,
CORRIGAN, NAILOR, WOJNAROSKI, DALEY, STERN, LAUGHLIN, WILT,
HORSEY, YEWIC, ARGALL, WILLIAMS, HARHAI, LEDERER, WATERS,
COSTA, READSHAW, MICHLOVIC, WALKO, DALLY AND S. MILLER,
OCTOBER 20, 1999

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, OCTOBER 20, 1999

AN ACT

1 Regulating telephone surveys and political polling; and
2 providing for enforcement by the Attorney General.

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

5 Section 1. Short title.

6 This act shall be known and may be cited as the Telephone
7 Survey Practices Act.

8 Section 2. Definitions.

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

12 "Telephone survey." A poll, sampling or partial collection
13 by telephone of facts, figures, opinions or other information
14 taken and used to approximate or indicate what a complete
15 collection and analysis might reveal for any purpose. This term
16 includes a political poll conducted by telephone.

1 "Telephone surveyor." A person or business which conducts a
2 telephone survey by initiating or receiving telephone calls to
3 or from a consumer in this Commonwealth.

4 Section 3. Unlawful acts.

5 (a) General rule.--The following acts are prohibited:

6 (1) Conducting a telephone survey after 9 p.m. or before
7 8 a.m.

8 (2) Initiating an outbound telephone call to a consumer
9 when that consumer previously has stated that the consumer
10 does not wish to receive an outbound telephone call from a
11 telephone surveyor.

12 (b) Exceptions.--A telephone surveyor shall not be liable
13 for violating this section if the telephone surveyor:

14 (1) Discloses promptly to the consumer during the
15 initial telephone contact the purpose of the call, the name
16 of the telephone surveyor and the content of the telephone
17 survey; or

18 (2) Ends the telephone call if the consumer expresses a
19 desire to end the telephone call.

20 Section 4. Violations.

21 (a) Other law.--A violation of this act shall be deemed a
22 violation of the act of December 17, 1968 (P.L.1224, No.387),
23 known as the Unfair Trade Practices and Consumer Protection Law.

24 (b) Second or subsequent offense.--Upon a second or
25 subsequent violation of this act, the Attorney General may seek
26 an injunction to prohibit the telephone surveyor from conducting
27 telephone surveys in this Commonwealth.

28 (c) Procedure.--All actions of the Attorney General under
29 this act shall be taken subject to the right of notice, hearing
30 and adjudication and the right of appeal therefrom in accordance

1 with 2 Pa.C.S. (relating to administrative law and procedure).

2 Section 5. Burden of proof.

3 (a) Proceeding under this act.--In any civil proceeding
4 alleging a violation of this act, the burden of proving an
5 exception under section 3(b) shall be upon the person claiming
6 it.

7 (b) Other proceedings.--Compliance with this act does not
8 satisfy nor substitute for any requirements for license,
9 registration or regulation mandated by any other law.

10 Section 6. Investigation.

11 (a) Authority.--If the Attorney General has reason to
12 believe that a violation of this act has occurred, the Attorney
13 General shall investigate the matter on behalf of the
14 Commonwealth, its citizens or a political subdivision.

15 (b) Procedure.--Prior to the institution of a civil action,
16 the Attorney General may require the attendance and testimony of
17 witnesses and the production of documents. For this purpose, the
18 Attorney General may issue subpoenas, examine witnesses and
19 receive evidence. If a person objects to or otherwise fails to
20 comply with a subpoena or request for testimony, the Attorney
21 General may file in Commonwealth Court an action to enforce the
22 subpoena or request. Notice of hearing the action and a copy of
23 all pleadings shall be served upon the person who may appear in
24 opposition.

25 (c) Confidentiality.--Any testimony taken or material
26 produced shall be kept confidential by the Attorney General
27 except to the extent that the Attorney General may use
28 information in a judicial proceeding or if the disclosure is
29 authorized by the court for good cause shown or confidentiality
30 is waived by the person being investigated and by the person who

- 1 has testified, answered interrogatories or produced materials.
- 2 Section 7. Effective date.
- 3 This act shall take effect in 90 days.