

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1469 Session of  
2001

INTRODUCED BY RAYMOND, HERMAN, ADOLPH, ALLEN, McCALL, ARGALL,  
J. BAKER, M. BAKER, BEBKO-JONES, BELARDI, BELFANTI, BUNT,  
CALTAGIRONE, CAPPELLI, CLARK, CLYMER, CORRIGAN, COSTA,  
CREIGHTON, DALEY, DALLY, DeLUCA, FAIRCHILD, FEESE, FLICK,  
FREEMAN, GABIG, GANNON, GEIST, GEORGE, GODSHALL, HARHAI,  
HARPER, HERSHEY, HORSEY, JADLOWIEC, KELLER, KENNEY, KIRKLAND,  
LEH, MAJOR, MANN, MARSICO, McILHATTAN, McILHINNEY, MELIO,  
R. MILLER, MUNDY, NICKOL, PETRARCA, READSHAW, ROHRER, ROSS,  
RUBLEY, SAINATO, SCRIMENTI, SHANER, B. SMITH, SOLOBAY,  
STABACK, STERN, R. STEVENSON, SURRA, E. Z. TAYLOR, TIGUE,  
WALKO, WANSACZ, WATSON, WOJNAROSKI, YOUNGBLOOD, YUDICHAK,  
ZUG, J. EVANS, SCHRODER, SAYLOR, HENNESSEY, TULLI, BROWNE,  
STEELMAN AND GRUCELA, MAY 1, 2001

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, MAY 1, 2001

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," defining "telephone solicitation call";  
5 requiring identification of telephone solicitation;  
6 prohibiting blocking of caller identification and other  
7 telemarketing screening products or services; prohibiting  
8 unwanted telephone solicitation calls; and establishing an  
9 individual right of action.

10 The General Assembly of the Commonwealth of Pennsylvania  
11 hereby enacts as follows:

12 Section 1. Section 2 of the act of December 4, 1996  
13 (P.L.911, No.147), known as the Telemarketer Registration Act,  
14 is amended by adding a definition to read:

15 Section 2. Definitions.

16 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 \* \* \*

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

11 (1) In response to an express request of the residential  
12 telephone consumer.

13 (2) In reference to an existing debt, contract, payment  
14 or performance.

15 (3) With whom the telemarketer has had a business  
16 relationship within the past six months preceding the call.

17 (4) On behalf of a charitable organization granted tax  
18 exempt status under section 501(c)(3) of the Internal Revenue  
19 Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).

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

22 Section 2. The act is amended by adding sections to read:

23 Section 4.1. Identification of telephone solicitor required.

24 A telemarketer who makes a telephone solicitation call must  
25 identify himself and the name of the person on whose behalf the  
26 telephone solicitation call is being made promptly upon making  
27 contact with the recipient of the telephone solicitation call.

28 Section 4.2. Blocking of caller identification and other  
29 telemarketing screening products or services  
30 prohibited.

No telemarketer shall take any action with the primary intent:

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

(2) to circumvent, bypass or disable any product or service used by a person to screen telephone calls or to prevent the completion of telephone solicitation calls.

Section 4.3. Unwanted telephone solicitation calls prohibited.

(a) General rule.--No telemarketer shall initiate or cause to be initiated, a telephone solicitation call to a residential telephone number:

(1) When a person at such telephone number previously stated that he does not wish to receive telephone solicitation calls made by the telemarketer or person on whose behalf the telephone solicitation call is being made.

(2) When a person has arranged to have his name and telephone number included on a list maintained by a National Association of Telemarketers, which accepts individual names and telephone numbers of persons who do not wish to receive telephone solicitation calls.

(b) Duration of request.--Any such request not to receive telephone solicitation calls shall be valid for a minimum of ten years from the date the request is made.

(c) Listings.--Telemarketers shall semiannually obtain listings of residential telephone consumers in this Commonwealth who have arranged to have their names and telephone numbers

1 removed from direct marketing lists maintained by a National  
2 Association of Telemarketers.

3 (d) Affirmative defense.--It shall be an affirmative defense  
4 in any action brought under section 6 or 8 that the defendant  
5 has established and implemented practices and procedures to  
6 effectively prevent telephone solicitation calls in violation of  
7 this section.

8 Section 5.1. Individual action for damages.

9 (a) Right of action.--Any person aggrieved by a violation of  
10 sections 4.1, 4.2 and 4.3 shall have the right to initiate an  
11 action to enjoin such violation and to recover damages in the  
12 amount of \$500 for each such violation.

13 (b) Willful violations.--For willful violations of sections  
14 4.1, 4.2 and 4.3, the court may, in its discretion, increase the  
15 amount of the award to an amount not exceeding \$2,000.

16 (c) Attorney fees and costs recoverable.--Notwithstanding  
17 any other provision of the law to the contrary, in addition to  
18 any damages awarded, such person may be awarded reasonable  
19 attorney fees and court costs.

20 Section 3. This act shall take effect in 60 days.