

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2717 Session of
2004

INTRODUCED BY LaGROTTA, DeWEESE, GEORGE, GOODMAN, SOLOBAY,
McGEEHAN, WALKO, WATERS, HARHAI, TIGUE, FREEMAN, TANGRETTI,
CASORIO, THOMAS, READSHAW, LEDERER, BEBKO-JONES, MANN, BUNT,
WASHINGTON, FABRIZIO, SATHER, FICHTER, BELFANTI, DENLINGER,
PISTELLA, HASAY, GANNON, LEACH, SURRA, GRUCELA, GEIST,
J. TAYLOR, BLAUM, GOOD, JAMES, MILLARD, YOUNGBLOOD, COSTA,
ROBERTS, HORSEY AND PALLONE, JUNE 16, 2004

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, JUNE 16, 2004

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," expanding the scope of the act to include
5 telephone call centers doing business in this Commonwealth.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. The title and section 1 of the act of December 4,
9 1996 (P.L.911, No.147), known as the Telemarketer Registration
10 Act, are amended to read:

AN ACT

12 Providing for registration requirements for telemarketers and
13 telephone call centers and for powers and duties of the
14 Office of Attorney General.

15 Section 1. Short title.

16 This act shall be known and may be cited as the Telemarketer
17 and Telephone Call Center Registration Act.

1 Section 2. Section 2 of the act is amended by adding
2 definitions to read:

3 Section 2. Definitions.

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

7 "Call center." A physical or electronic operation staffed by
8 at least 25 employees or agents of a call center business whose
9 functions involve any of the following:

10 (1) Customer service.

11 (2) Reactivating dormant accounts.

12 (3) Collecting accounts receivable.

13 (4) Receiving reservations.

14 (5) Receiving or taking orders.

15 "Call center business." An entity that utilizes a call
16 center. The term does not include a telemarketer.

17 * * *

18 "Registrant." A call center business, telemarketer or
19 telemarketing business seeking or renewing registration under
20 section 4.

21 * * *

22 Section 3. Sections 3 and 4 of the act are amended to read:

23 Section 3. Registration requirement.

24 (a) General rule.--

25 (1) In addition to any other requirements imposed by
26 law, a telemarketer or the telemarketing business which
27 employs the telemarketer is required to register with the
28 Office of Attorney General at least 30 days prior to offering
29 for sale consumer goods or services through any medium. This
30 [section] paragraph will not apply, however, to persons or

1 businesses licensed by or registered with a Federal or
2 Commonwealth agency. Notwithstanding any other provision of
3 this act, any business which provides telemarketing services
4 to other entities and has been under the same ownership and
5 control for less than five years shall register under this
6 [section] paragraph.

7 (2) A call center business is required to register with
8 the Office of Attorney General.

9 (b) Unlawful conduct.--

10 (1) It shall be unlawful for any telemarketer to
11 initiate a telephone call to or receive a telephone call from
12 a consumer in connection with the purchase of consumer goods
13 or services unless the telemarketer or the telemarketing
14 business which employs the telemarketer is registered with
15 the Office of Attorney General.

16 (2) It shall be unlawful for any call center business to
17 do business in this Commonwealth through advertising or
18 contact with actual or potential customers or clients unless
19 the call center business is registered with the Office of
20 Attorney General.

21 (c) Penalty.--Failure to register as required by this act
22 constitutes a misdemeanor of the second degree.

23 Section 4. Registration and application process.

24 (a) Application form.--The Office of Attorney General shall
25 provide an application form for biennial registration except for
26 those persons or businesses covered by subsection (c). The form
27 shall include, but not be limited to, the following information:

28 (1) Name and current address, telephone number and
29 location of the [telemarketer or telemarketing business]
30 registrant.

1 (2) Name and current address and telephone number of
2 each principal owner of the [telemarketing business]
3 registrant.

4 (3) [A] One of the following, as applicable:

5 (i) For a telemarketing business, a list of
6 telemarketers currently employed [by the telemarketing
7 business].

8 (ii) For a call center business, a list of all call
9 centers utilized.

10 (b) Security.--The application for registration completed by
11 persons or businesses pursuant to subsection (a) shall be
12 accompanied by a surety bond in the sum of \$50,000 with
13 conditions and in a form prescribed by the Office of Attorney
14 General. The bond shall provide for the indemnification of any
15 person suffering a loss as the result of any fraud,
16 misrepresentation, violation of section 5 or violation of the
17 act of December 17, 1968 (P.L.1224, No.387), known as the Unfair
18 Trade Practices and Consumer Protection Law, by the principal.
19 The term of the bond shall be continuous, but it shall be
20 subject to cancellation by the surety in the manner described in
21 this section. The surety may terminate the bond upon giving a
22 60-day written notice to the principal and to the Office of
23 Attorney General, but the liability of the surety for acts of
24 the principal and its agents shall continue during the 60 days'
25 notice of cancellation. The notice does not absolve the surety
26 from liability which accrues before the cancellation becomes
27 final but which is discovered after that date and which may have
28 arisen at any time during the term of the bond. Unless the bond
29 is replaced by that of another surety before the expiration of
30 the 60 days' notice of cancellation, the registration of the

1 principal under this act will be treated as lapsed. Any person
2 or business required under this section to file a bond with a
3 registration application may file, in lieu thereof, cash, a
4 certificate of deposit or government bonds in the amount of
5 \$50,000. Such deposit is subject to the same terms and
6 conditions as are provided for in the surety bond required in
7 this subsection. The Office of Attorney General shall hold such
8 cash, certificate of deposit or government bonds for a
9 reasonable period from the date the [telemarketer or
10 telemarketing business] registrant ceases to operate or
11 registration lapses in order to pay claims made against the
12 [telemarketer or telemarketing business] registrant during its
13 operation. Any interest or earnings on such deposits are payable
14 to the depositor. If, after registered, the amount of bond,
15 cash, certificate of deposit or government bonds falls below the
16 amount required by this subsection, the registration [of the
17 telemarketer or telemarketing business] will be treated as
18 lapsed. The Office of Attorney General shall prescribe the
19 methods and procedures for handling claims under this
20 subsection.

21 (c) Registration procedure for other businesses.--The
22 Attorney General shall promulgate regulations providing for the
23 registration of persons and businesses that are licensed by,
24 certificated by or registered with a Federal or State agency but
25 who engage in telemarketing related to activities outside the
26 scope of the business for which such licensure, certification or
27 registration is required. Regulations adopted under this
28 subsection shall not apply to any person or business that is
29 otherwise exempt from registration under this act.

30 (d) Application fee.--The biennial fee for those persons or

1 businesses registering under subsection (a) shall be \$500. The
2 fee must be submitted with the application. Application fees
3 shall be deposited in a separate restricted account in the State
4 Treasury. All moneys in this account are hereby appropriated to
5 the Office of Attorney General on a continuing basis to
6 administer and enforce the provisions of this act.

7 (e) Rules and regulations.--The Office of Attorney General
8 may adopt rules and regulations necessary to enforce and
9 administer this act.

10 Section 4. The act is amended by adding a section to read:

11 Section 5.3. Call centers.

12 (a) Identification.--

13 (1) For a call center located in the United States, upon
14 request of a person in this Commonwealth that speaks to an
15 individual at the call center, the call center shall provide
16 the following information:

17 (i) Location of the call center.

18 (ii) Name or fictitious name of the call center
19 business utilizing the call center.

20 (iii) Name of the individual to whom the person is
21 speaking.

22 (2) For a call center located outside the United States,
23 except as set forth in paragraph (3), within the first minute
24 of conversation with between a person in this Commonwealth
25 and an individual at the call center, the call center shall
26 provide the following information:

27 (i) Location of the call center.

28 (ii) Name or fictitious name of the call center
29 business utilizing the call center.

30 (iii) Name of the individual to whom the person is

1 speaking.

2 (3) Paragraph (2) does not apply to a telephone call
3 relating to a life-threatening emergency.

4 (b) Protected information.--A call center business may not
5 send financial, credit or personal identification information
6 about an individual in this Commonwealth to any foreign country
7 without the permission of the individual.

8 Section 5. Section 6 of the act is amended to read:

9 Section 6. Violations.

10 (a) Other law.--A violation of this act is also a violation
11 of the act of December 17, 1968 (P.L.1224, No.387), known as the
12 Unfair Trade Practices and Consumer Protection Law.

13 (b) Second or subsequent offense.--Upon a second or
14 subsequent violation of this act, the Office of Attorney General
15 may seek revocation of registration or the right to conduct
16 [telemarketing] business in this Commonwealth.

17 (c) Procedure.--All actions of the Office of Attorney
18 General under this act shall be taken subject to the right of
19 notice, hearing and adjudication and the right of appeal
20 therefrom in accordance with 2 Pa.C.S. (relating to
21 administrative law and procedure).

22 Section 6. This act shall take effect in 60 days.