

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 295 Session of
2007

INTRODUCED BY MCGEEHAN, DePASQUALE, R. MILLER, SIPTROTH, BOYD,
CARROLL, DALEY, FABRIZIO, GALLOWAY, GERBER, GOODMAN, GRUCELA,
HARHAI, KING, LEACH, LEVDANSKY, MARSHALL, McILHATTAN, MELIO,
PETRARCA, PETRONE, READSHAW, SANTONI, SCAVELLO, SURRA,
SWANGER, THOMAS, SCHRODER, BRENNAN, DALLY, BENNINGTON AND
SHAPIRO, FEBRUARY 7, 2007

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF
REPRESENTATIVES, AS AMENDED, FEBRUARY 4, 2008

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 cover
5 automated political solicitations.

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, for~~
13 ~~regulation of telephone solicitation and for powers and~~
14 ~~duties of the Office of Attorney General.~~

15 ~~Section 1. Short title.~~

16 ~~This act shall be known and may be cited as the Telemarketer~~
17 ~~Registration and Telephone Solicitation Regulation Act.~~

~~Section 2. The definition of "telephone solicitation call" in section 2 of the act, amended September 12, 2003 (P.L.105, No.22), is amended to read:~~

~~Section 2. Definitions.~~

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

~~* * *~~

~~"Telephone solicitation call." A call made to a residential or wireless telephone subscriber for the purpose of soliciting the sale of any consumer goods or services [or]; for the purpose of obtaining information that will or may be used for the direct solicitation of a sale of consumer goods or services or an extension of credit for that purpose; or for the purpose of influencing the subscriber to vote or to vote in a specified manner in a general election, municipal election, primary election or special election. The term does not include a call made to a residential or wireless telephone consumer:~~

~~(1) In response to an express request of the residential or wireless telephone consumer.~~

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

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

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

~~(5) On behalf of a political candidate or a political party unless the call is made by the use of automated dialing equipment.~~

~~Section 3. Section 5.2 of the act is amended by adding a subsection to read:~~

~~Section 5.2. Unwanted telephone solicitation calls prohibited.~~

~~* * *~~

~~(1) Automated political calls. A person may not use automatic dialing equipment to make a telephone solicitation call on behalf of a political candidate or a political party.~~

SECTION 1. THE DEFINITIONS OF "TELEMARKETING" AND "TELEPHONE SOLICITATION CALL" IN SECTION 2 OF THE ACT OF DECEMBER 4, 1996 (P.L.911, NO.147), KNOWN AS THE TELEMARKETER REGISTRATION ACT, AMENDED SEPTEMBER 12, 2003 (P.L.105, NO.22), ARE AMENDED AND THE SECTION IS AMENDED BY ADDING A DEFINITION TO READ:

SECTION 2. DEFINITIONS.

THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

* * *

"POLITICAL PURPOSE." AN AUTOMATED OR PRERECORDED MESSAGE BY OR ON BEHALF OF A POLITICAL PARTY, BODY OR COMMITTEE; A CANDIDATE FOR PUBLIC OFFICE; OR AN ISSUE WITH THE INTENT TO INFLUENCE AN ELECTION.

* * *

"TELEMARKETING." A PLAN, PROGRAM OR CAMPAIGN WHICH IS CONDUCTED TO INDUCE THE PURCHASE OF GOODS OR SERVICES [OR], TO SOLICIT CONTRIBUTIONS FOR ANY CHARITABLE PURPOSE, CHARITABLE PROMOTION OR FOR OR ON BEHALF OF ANY CHARITABLE ORGANIZATION OR TO SOLICIT CONTRIBUTIONS OR SUPPORT FOR OR ON BEHALF OF A

1 POLITICAL PURPOSE BY USE OF ONE OR MORE TELEPHONES AND WHICH
2 INVOLVES MORE THAN ONE TELEPHONE CALL. FOR PURPOSES OF THIS ACT,
3 THE TERMS "CHARITABLE PURPOSE," "CHARITABLE PROMOTION,"
4 "CHARITABLE ORGANIZATION," "PROFESSIONAL FUNDRAISING COUNSEL,"
5 "PROFESSIONAL SOLICITOR" AND "SOLICITATION" HAVE THE MEANINGS AS
6 DEFINED IN THE ACT OF DECEMBER 19, 1990 (P.L.1200, NO.202),
7 KNOWN AS THE SOLICITATION OF FUNDS FOR CHARITABLE PURPOSES ACT.

8 * * *

9 "TELEPHONE SOLICITATION CALL." A CALL MADE TO A RESIDENTIAL
10 OR WIRELESS TELEPHONE SUBSCRIBER FOR THE PURPOSE OF SOLICITING
11 THE SALE OF ANY CONSUMER GOODS OR SERVICES OR FOR THE PURPOSE OF
12 OBTAINING INFORMATION THAT WILL OR MAY BE USED FOR THE DIRECT
13 SOLICITATION OF A SALE OF CONSUMER GOODS OR SERVICES OR AN
14 EXTENSION OF CREDIT FOR THAT PURPOSE OR FOR A POLITICAL PURPOSE.
15 THE TERM DOES NOT INCLUDE A CALL MADE TO A RESIDENTIAL OR
16 WIRELESS TELEPHONE CONSUMER:

17 (1) IN RESPONSE TO AN EXPRESS REQUEST OF THE RESIDENTIAL
18 OR WIRELESS TELEPHONE CONSUMER.

19 (2) IN REFERENCE TO AN EXISTING DEBT, CONTRACT, PAYMENT
20 OR PERFORMANCE.

21 (3) WITH WHOM THE TELEMARKETER HAS AN ESTABLISHED
22 BUSINESS RELATIONSHIP WITHIN THE PAST 12 MONTHS PRECEDING THE
23 CALL.

24 (4) ON BEHALF OF AN ORGANIZATION GRANTED TAX-EXEMPT
25 STATUS UNDER SECTION 501(C)(3), (5) OR (8) OF THE INTERNAL
26 REVENUE CODE OF 1986 (PUBLIC LAW 99-514, 26 U.S.C. § 1 ET
27 SEQ.) OR A VETERANS ORGANIZATION CHARTERED BY THE CONGRESS OF
28 THE UNITED STATES AND OR ITS DULY APPOINTED FOUNDATION.

29 [(5) ON BEHALF OF A POLITICAL CANDIDATE OR A POLITICAL
30 PARTY.]

SECTION 2. SECTION 5.2(A) OF THE ACT, AMENDED SEPTEMBER 12, 2003 (P.L.105, NO.22), IS AMENDED TO READ:

SECTION 5.2. 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 OF A RESIDENTIAL TELEPHONE SUBSCRIBER WHO DOES NOT WISH TO RECEIVE TELEPHONE SOLICITATION CALLS AND HAS CAUSED HIS NAME, ADDRESS AND TELEPHONE NUMBER TO BE ENROLLED ON A DO-NOT-CALL LIST MAINTAINED BY THE LIST ADMINISTRATOR. A PERSON REQUESTING TO BE PLACED ON A DO-NOT-CALL LIST SHALL SEPARATELY INDICATE WHETHER THE PROHIBITION IS TO INCLUDE CALLS MADE FOR A POLITICAL PURPOSE. THIS PROHIBITION SHALL BE EFFECTIVE 30 DAYS AFTER A QUARTERLY DO-NOT-CALL LIST IS ISSUED BY THE LIST ADMINISTRATOR WHICH FIRST CONTAINS A RESIDENTIAL TELEPHONE SUBSCRIBER'S NAME, ADDRESS AND RESIDENTIAL TELEPHONE NUMBER. IN THE EVENT THAT THE FEDERAL TRADE COMMISSION AND/OR THE FEDERAL COMMUNICATIONS COMMISSION ESTABLISH A NATIONAL NO CALL REGISTRY, THE DIRECTOR OF THE BUREAU OF CONSUMER PROTECTION IN THE OFFICE OF ATTORNEY GENERAL IS AUTHORIZED TO RELEASE TO THE LIST ADMINISTRATOR OF SUCH NATIONAL NO CALL REGISTRY SUFFICIENT DATA TO INCLUDE ALL THOSE RESIDENTIAL TELEPHONE SUBSCRIBERS CURRENTLY ENROLLED ON THE DO-NOT-CALL LIST AND ANY RESIDENTIAL TELEPHONE SUBSCRIBERS WHO SUBSEQUENTLY ENROLL WITH THE BUREAU OF CONSUMER PROTECTION IN THE OFFICE OF ATTORNEY GENERAL. PRIOR TO RELEASING ANY SUCH DATA TO A NATIONAL NO CALL REGISTRY, THE BUREAU OF CONSUMER PROTECTION IN THE OFFICE OF ATTORNEY GENERAL SHALL PROVIDE THOSE RESIDENTIAL TELEPHONE SUBSCRIBERS CURRENTLY ENROLLED WITH THE OPPORTUNITY TO REMOVE THEIR INFORMATION FROM THE DO-NOT-CALL LIST.

* * *

1 Section 4 3. This act shall take effect in 60 days.

<—