
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2551

Session of
2008

INTRODUCED BY MICOZZIE, ARGALL, BAKER, BARRAR, BENNINGTON, BOYD, CALTAGIRONE, CAPPELLI, CARROLL, CREIGHTON, CUTLER, FRANKEL, GEIST, HARHAI, HERSHEY, HORNAMAN, KULA, LEVDANSKY, MANN, MCGEEHAN, MCILVAINE SMITH, MENSCH, MILLARD, MOUL, MUNDY, MURT, MUSTIO, M. O'BRIEN, O'NEILL, PETRARCA, PETRONE, PYLE, RAMALEY, RUBLEY, SIPTROTH, SONNEY, R. STEVENSON, SURRA, SWANGER, THOMAS, WALKO, WANSACZ, J. WHITE, WOJNAROSKI AND YOUNGBLOOD, MAY 20, 2008

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, MAY 20, 2008

AN ACT

1 Prohibiting unwanted mail solicitation under certain
2 circumstances; providing for the powers and duties of the
3 Office of Attorney General; and prescribing penalties.

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 Do-not-mail
8 Act.

9 Section 2. Definitions.

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

13 "Attorney General." The Attorney General of the
14 Commonwealth.

15 "Bureau." The Bureau of Consumer Protection in the Office of

1 Attorney General.

2 "Do-not-mail list." The list published quarterly by the list
3 administrator from information entered on the registry.

4 "List administrator." A person or entity who is under
5 contract with the Attorney General to perform the duties under
6 section 3.

7 "Registry." The do-not-mail registry established by the
8 Attorney General under section 4.

9 Section 3. Unwanted mail solicitation prohibited.

10 (a) General rule.--No person or entity shall mail, or cause
11 to be mailed, any solicitation to the mailing or physical
12 address of a resident of this Commonwealth who does not wish to
13 receive mail solicitation and whose name and address appears on
14 the do-not-mail list maintained by the list administrator. This
15 prohibition as to a specific resident shall be effective 30 days
16 after the do-not-mail list, including the resident's name and
17 address for the first time, is published by the do-not-mail list
18 administrator.

19 (b) Do-not-mail list.--A person or entity making mail
20 solicitations shall quarterly obtain the do-not-mail list or
21 shall utilize a service provider who has quarterly obtained and
22 will use the do-not-mail list.

23 (c) Duration.--The entry for a resident on the do-not-mail
24 list shall be maintained for a minimum of five years from the
25 date of the publication or until the mail address is no longer
26 valid for the resident, whichever occurs first.

27 (d) Fee limitation.--The list administrator may not impose a
28 fee for copies of the do-not-mail list that exceed the costs
29 incurred by the list administrator in the production,
30 preparation and distribution of the list or at a fee authorized

1 by 16 CFR 310.8 (relating to fee for access to the National Do
2 Not Call Registry).

3 (e) Affirmative defense.--A person or entity making mail
4 solicitations is not in violation of this section if all of the
5 following are satisfied:

6 (1) He has established and implemented written
7 procedures to comply with this section.

8 (2) He has trained his personnel in the procedures.

9 (3) He maintains and records lists of residents of this
10 Commonwealth who have agreed in writing to be contacted.

11 (4) Any subsequent mail solicitation is the result of an
12 error committed in good faith by the person or entity.

13 (f) Restrictions on use of do-not-mail list.--No person or
14 entity making mail solicitations shall use the do-not-mail list
15 for any purpose other than to remove residents from the list.

16 (g) Contract.--

17 (1) The bureau shall enter into a contract with a list
18 administrator within 90 days of the effective date of this
19 section to produce a do-not-mail list from the registry.

20 (2) The bureau may contract with any nonprofit
21 organization to carry out the provisions of this section if
22 the bureau, after 90 days from the effective date of this
23 section, fails to enter into a contract under paragraph (1).

24 (h) Investigation, enforcement and reporting.--

25 (1) The bureau shall investigate any complaints received
26 concerning violations of this section. If, after
27 investigating any complaint, the Attorney General finds that
28 there has been a violation of this section, the Attorney
29 General may bring an action to impose a civil penalty and to
30 seek other relief, including injunctive relief, under the act

1 of December 17, 1968 (P.L.1224, No.387), known as the Unfair
2 Trade Practices and Consumer Protection Law.

3 (2) The Attorney General shall remit 10% of any civil
4 penalty collected under this section to the person filing the
5 complaint leading to the civil penalty. In no event, however,
6 shall the amount of the remittance exceed \$100 to any person.

7 (3) On or before November 30 of each year, the Attorney
8 General shall submit to the General Assembly a report
9 detailing investigations and enforcement actions taken under
10 this section during the preceding Commonwealth fiscal year.
11 The report shall include, but not be limited to:

12 (i) The number of complaints received under this
13 section.

14 (ii) The nature of those complaints.

15 (iii) The number of investigations and enforcement
16 actions instituted by the Attorney General.

17 (iv) A summary of the results of those
18 investigations and enforcement.

19 (v) The amount of any civil penalties collected.

20 Section 4. Do-not-mail registry.

21 (a) Establishment.--The Attorney General shall adopt rules
22 to establish and administer a registry containing a list of
23 mailing addresses of residents who object to receiving unwanted
24 mail solicitations.

25 (b) Rules.--The Attorney General shall adopt rules
26 implementing the provisions of this act. The rules shall
27 provide:

28 (1) The method by which a resident may, at no cost to
29 the resident, give notice, or revocation of that notice, to
30 the Attorney General of the resident's objection to receiving

1 unwanted mail solicitations.

2 (2) The length of time for which a notice of objection
3 by a resident is effective and the effect of a change of
4 mailing address on the notice.

5 (3) The method by which an objection, or revocation of
6 an objection, may be collected and added to the registry.

7 (4) The method by which an entity desiring to make
8 solicitations may obtain access to the do-not-mail list to
9 avoid sending mail to a resident whose address is included on
10 the list, including the cost assessed to that entity for
11 access to the list.

12 (5) Other matters relating to the registry that the
13 Attorney General determines necessary or desirable.

14 (c) Confidentiality.--Information contained in the registry
15 established pursuant to this section may be used only for the
16 purpose of compliance with this act. The information contained
17 in the registry is not a public document or record subject to
18 disclosure under the act of June 21, 1957 (P.L.390, No.212),
19 referred to as the Right-to-Know Law.

20 (d) Periodic updates to registry.--In January, April, July
21 and October of each year, the Attorney General shall obtain
22 listings of residents of this Commonwealth whose names and
23 addresses are included on any national do-not-mail list and add
24 those names and addresses to the registry.

25 Section 5. Violations.

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

29 (b) Second or subsequent offense.--Upon a second or
30 subsequent violation of this act, the Office of Attorney General

1 may seek revocation of the right to conduct mail solicitation in
2 this Commonwealth.

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

8 Section 6. Remedies available to consumers.

9 Nothing in this act shall be construed to limit the remedies
10 available to consumers, the Attorney General or any district
11 attorney under the act of December 17, 1968 (P.L.1224, No.387),
12 known as the Unfair Trade Practices and Consumer Protection Law,
13 or any other Federal or State law.

14 Section 7. Effective date.

15 This act shall take effect in 90 days.