

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 70

Session of  
2007

INTRODUCED BY O'PAKE, BOSCOLA, COSTA, FONTANA, KASUNIC,  
C. WILLIAMS, ORIE, RAFFERTY, EARLL, MUSTO, BRUBAKER, LAVALLE  
AND BROWNE, FEBRUARY 12, 2007

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,  
FEBRUARY 12, 2007

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," adding a definition of "political purpose"  
5 and further providing for definitions of "telemarketing" and  
6 "telephone solicitation call"; prohibiting residential or  
7 wireless telephone calls of a political purpose to those  
8 persons on a do-not-call list; and providing for penalties.

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

11 Section 1. The definitions of "telemarketing" and "telephone  
12 solicitation call" in section 2 of the act of December 4, 1996  
13 (P.L.911, No.147), known as the Telemarketer Registration Act,  
14 amended September 12, 2003 (P.L.105, No.22), are amended and the  
15 section is amended by adding a definition to read:

16 Section 2. Definitions.

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

20 \* \* \*

1       "Political purpose." An automated or prerecorded message by  
2       or on behalf of a political party, body or committee; a  
3       candidate for public office; or an issue with the intent to  
4       influence an election.

5       \* \* \*

6       "Telemarketing." A plan, program or campaign which is  
7       conducted to induce the purchase of goods or services [or]; to  
8       solicit contributions for any charitable purpose, charitable  
9       promotion or for or on behalf of any charitable organization or  
10      to solicit contributions or support for or on behalf of a  
11      political purpose by use of one or more telephones and which  
12      involves more than one telephone call. For purposes of this act,  
13      the terms "charitable purpose," "charitable promotion,"  
14      "charitable organization," "professional fundraising counsel,"  
15      "professional solicitor" and "solicitation" have the meanings as  
16      defined in the act of December 19, 1990 (P.L.1200, No.202),  
17      known as the Solicitation of Funds for Charitable Purposes Act.

18      \* \* \*

19      "Telephone solicitation call." A call made to a residential  
20      or wireless telephone subscriber for the purpose of soliciting  
21      the sale of any consumer goods or services or for the purpose of  
22      obtaining information that will or may be used for the direct  
23      solicitation of a sale of consumer goods or services or an  
24      extension of credit for that purpose or for a political purpose.  
25      The term does not include a call made to a residential or  
26      wireless telephone consumer:

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

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

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

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

9 (5) On behalf of a political candidate or a political  
10 party.

11 Section 2. Section 3(a) of the act is amended to read:

12 Section 3. Registration requirement.

13 (a) General rule.--In addition to any other requirements  
14 imposed by law, a telemarketer or the telemarketing business  
15 which employs the telemarketer is required to register with the  
16 Office of Attorney General at least 30 days prior to offering  
17 for sale consumer goods or services through any medium. This  
18 section will not apply, however, to persons or businesses  
19 licensed by or registered with a Federal or Commonwealth agency  
20 or to a person or business conducting telemarketing for an  
21 exclusively political purpose. Notwithstanding any other  
22 provision of this act, any business which provides telemarketing  
23 services to other entities and has been under the same ownership  
24 and control for less than five years shall register under this  
25 section.

26 \* \* \*

27 Section 3. Section 5(a)(5) of the act is amended and the  
28 section is amended by adding a subsection to read:

29 Section 5. Unlawful acts and penalties.

30 (a) Acts enumerated.--The following acts are prohibited:

1           \* \* \*

2           (5) Failing to disclose [promptly to any consumer during  
3       the initial telephone contact] to the recipient of the call  
4       at the outset the purpose of the call, the name of the  
5       telemarketer or telemarketing business and what the  
6       telemarketer or telemarketing business is selling or on  
7       behalf of whom or what it is soliciting.

8           \* \* \*

9       (e) Penalties.--

10       (1) Any person who violates any provision of this act  
11       commits a summary offense and upon conviction thereof shall  
12       be sentenced to pay a fine not to exceed \$300.

13       (2) Each violation of this act shall constitute a  
14       separate offense.

15       Section 4. Section 5.2(a) of the act, amended September 12,  
16       2003 (P.L.105, No.22), is amended to read:

17       Section 5.2. Unwanted telephone solicitation calls prohibited.

18       (a) General rule.--No telemarketer shall initiate or cause  
19       to be initiated a telephone solicitation call to a residential  
20       telephone number of a residential telephone subscriber who does  
21       not wish to receive telephone solicitation calls and has caused  
22       his name, address and telephone number to be enrolled on a do-  
23       not-call list maintained by the list administrator. A person  
24       requesting to be placed on a do-not-call list shall separately  
25       indicate whether the prohibition is to include calls made for a  
26       political purpose. This prohibition shall be effective 30 days  
27       after a quarterly do-not-call list is issued by the list  
28       administrator which first contains a residential telephone  
29       subscriber's name, address and residential telephone number. In  
30       the event that the Federal Trade Commission and/or the Federal

1 Communications Commission establish a national No Call Registry,  
2 the Director of the Bureau of Consumer Protection in the Office  
3 of Attorney General is authorized to release to the list  
4 administrator of such national No Call Registry sufficient data  
5 to include all those residential telephone subscribers currently  
6 enrolled on the do-not-call list and any residential telephone  
7 subscribers who subsequently enroll with the Bureau of Consumer  
8 Protection in the Office of Attorney General. Prior to releasing  
9 any such data to a national No Call Registry, the Bureau of  
10 Consumer Protection in the Office of Attorney General shall  
11 provide those residential telephone subscribers currently  
12 enrolled with the opportunity to remove their information from  
13 the do-not-call list.

14 \* \* \*

15 Section 5. This act shall take effect in 60 days.