

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 247 Session of  
2011

INTRODUCED BY GROVE, AUMENT, BOYD, CALTAGIRONE, CLYMER,  
D. COSTA, CUTLER, FLECK, GEIST, GINGRICH, HAHN, HARRIS,  
HENNESSEY, HESS, KAUFFMAN, M. K. KELLER, KNOWLES, KORTZ,  
MARSICO, MILLARD, MILLER, MILNE, MOUL, PICKETT, PYLE, ROAE,  
STEVENSON, SWANGER, TALLMAN, VULAKOVICH, WAGNER, MURT,  
BOBACK, KAVULICH, ELLIS AND FARRY, JANUARY 26, 2011

AS REPORTED FROM COMMITTEE ON CONSUMER AFFAIRS, HOUSE OF  
REPRESENTATIVES, AS AMENDED, MAY 4, 2011

## 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," further providing for definitions to  
5 ~~include text messages, for unlawful acts and penalties and~~ ←  
6 ~~for unwanted telephone solicitation calls prohibited.~~

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

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

14 Section 2. Definitions.

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

1 \* \* \*

2 "Electronic wireless communications device." A handheld  
3 electronic device that permits the user to send or receive  
4 electronic communications. The term does not include a voice-  
5 activated global positioning or navigation system affixed to a  
6 vehicle.

7 \* \* \*

8 "Telephone call." A call made in the form of an audible  
9 communication or text message.

10 "Telephone solicitation call." A telephone call made to a  
11 residential or wireless telephone subscriber for the purpose of  
12 soliciting the sale of any consumer goods or services or for the  
13 purpose of obtaining information that will or may be used for  
14 the direct solicitation of a sale of consumer goods or services  
15 or an extension of credit for that purpose. The term does not  
16 include a call made to a residential or wireless telephone  
17 consumer:

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

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

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

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

30 (5) On behalf of a political candidate or a political

1 party.

2 "Text message." A written communication consisting of words  
3 typed or entered on a keypad of a telephone or electronic  
4 wireless ~~communication~~ COMMUNICATIONS DEVICE and sent ←  
5 electronically.

6 ~~Section 2. Section 5(a)(2) of the act is amended and the~~ ←  
7 ~~subsection is amended by adding a paragraph to read:~~

8 ~~Section 5. Unlawful acts and penalties.~~

9 ~~(a) Acts enumerated. The following acts are prohibited:~~

10 ~~\* \* \*~~

11 ~~(2) Initiating an outbound [telephone call] audible~~  
12 ~~communication to a person when that person previously has~~  
13 ~~stated that he or she does not wish to receive an outbound~~  
14 ~~telephone call made by or on behalf of the seller whose goods~~  
15 ~~or services are being offered. A seller or telemarketer will~~  
16 ~~not be liable for violating the provisions of this paragraph~~  
17 ~~if:~~

18 ~~(i) he has established and implemented written~~  
19 ~~procedures to comply with this paragraph;~~

20 ~~(ii) he has trained his personnel in the procedures;~~

21 ~~(iii) the seller or the telemarketer acting on~~  
22 ~~behalf of the seller has maintained and recorded lists of~~  
23 ~~persons who may not be contacted; and~~

24 ~~(iv) any subsequent call is the result of error.~~

25 ~~(2.1) Initiating an outbound text message to a person~~  
26 ~~when that person previously has stated that he or she does~~  
27 ~~not wish to receive an outbound text message made by or on~~  
28 ~~behalf of the seller whose goods or services are being~~  
29 ~~offered. A seller or telemarketer will not be liable for~~  
30 ~~violating the provisions of this paragraph if:~~

1           ~~(i) he has established and implemented written~~  
2           ~~procedures to comply with this paragraph;~~  
3           ~~(ii) he has trained his personnel in the procedures;~~  
4           ~~(iii) the seller or the telemarketer acting on~~  
5           ~~behalf of the seller has maintained and recorded lists of~~  
6           ~~persons who may not be contacted; and~~  
7           ~~(iv) any subsequent text message is the result of~~  
8           ~~error.~~

9           \* \* \*

10          ~~Section 3. Section 5.2(c) of the act, amended September 12,~~  
11          ~~2003 (P.L.105, No.22), is amended to read:~~

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

13          \* \* \*

14          ~~(c) Duration. A listing on a do not call list shall be~~  
15          ~~maintained [for a minimum of five years from the date of the~~  
16          ~~enrollment or] until the telephone number is no longer valid for~~  
17          ~~the residential or wireless telephone subscriber[, whichever~~  
18          ~~occurs first] or until the subscriber requests to have his~~  
19          ~~telephone number removed from the list.~~

20          \* \* \*

21          ~~Section 4~~ 2. This act shall take effect June 1, 2012, or  
22          immediately, whichever is later.

