
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1469 Session of 2001

INTRODUCED BY RAYMOND, HERMAN, ADOLPH, ALLEN, McCALL, ARGALL, J. BAKER, M. BAKER, BEBKO-JONES, BELARDI, BELFANTI, BUNT, CALTAGIRONE, CAPPELLI, CLARK, CLYMER, CORRIGAN, COSTA, CREIGHTON, DALEY, DALLY, DeLUCA, FAIRCHILD, FEESE, FLICK, FREEMAN, GABIG, GANNON, GEIST, GEORGE, GODSHALL, HARHAI, HARPER, HERSHEY, HORSEY, JADLOWIEC, KELLER, KENNEY, KIRKLAND, LEH, MAJOR, MANN, MARSICO, McILHATTAN, McILHINNEY, MELIO, R. MILLER, MUNDY, NICKOL, PETRARCA, READSHAW, ROHRER, ROSS, RUBLEY, SAINATO, SCRIMENTI, SHANER, B. SMITH, SOLOBAY, STABACK, STERN, R. STEVENSON, SURRA, E. Z. TAYLOR, TIGUE, WALKO, WANSACZ, WATSON, WOJNAROSKI, YOUNGBLOOD, YUDICHAK, ZUG, J. EVANS, SCHRODER, SAYLOR, HENNESSEY, TULLI, BROWNE, STEELMAN, GRUCELA, MAHER, PICKETT, PRESTON AND ZIMMERMAN, MAY 1, 2001

SENATOR THOMPSON, APPROPRIATIONS, IN SENATE, RE-REPORTED AS AMENDED, FEBRUARY 11, 2002

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," defining "ESTABLISHED BUSINESS <—
5 RELATIONSHIP," "listing administrator" and "telephone
6 solicitation call"; prohibiting blocking of caller
7 identification and other telemarketing screening products or
8 services; and prohibiting unwanted telephone solicitation
9 calls.

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

12 Section 1. Section 2 of the act of December 4, 1996
13 (P.L.911, No.147), known as the Telemarketer Registration Act,
14 is amended by adding definitions to read:

1 Section 2. Definitions.

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

5 * * *

6 "Do-not-call list." A list of residential telephone
7 consumers who have notified the list administrator of their
8 desire not to receive telephone solicitation calls.

9 "ESTABLISHED BUSINESS RELATIONSHIP." A PRIOR OR EXISTING <—
10 RELATIONSHIP FORMED BY A VOLUNTARY TWO-WAY COMMUNICATION BETWEEN
11 A PERSON OR ENTITY AND A RESIDENTIAL SUBSCRIBER WITH OR WITHOUT
12 AN EXCHANGE OF CONSIDERATION, ON THE BASIS OF AN INQUIRY,
13 APPLICATION, PURCHASE OR TRANSACTION BY THE RESIDENTIAL
14 SUBSCRIBER REGARDING PRODUCTS OR SERVICES OFFERED BY SUCH
15 PERSONS OR ENTITY. IN REGARD TO AN INQUIRY, THE PERSON OR ENTITY
16 SHALL OBTAIN THE CONSENT OF A RESIDENTIAL SUBSCRIBER TO CONTINUE
17 THE BUSINESS RELATIONSHIP BEYOND THE INITIAL INQUIRY.

18 "List administrator." A nonprofit organization as designated
19 by contract entered into by the Director of the Bureau of
20 Consumer Protection in the Office of Attorney General, that
21 accepts individual names, addresses and telephone numbers of
22 persons who do not wish to receive telephone solicitation calls
23 and that has been in existence for ten or more years.

24 "Telephone solicitation call." A call made to a residential
25 telephone consumer for the purpose of soliciting the sale of any
26 consumer goods or services or for the purpose of obtaining
27 information that will or may be used for the direct solicitation
28 of a sale of consumer goods or services or an extension of
29 credit for that purpose. The term does not include a call made
30 to a residential telephone consumer:

1 (1) In response to an express request of the residential
2 telephone consumer.

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

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

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

13 (5) On behalf of a political candidate or a political
14 party.

15 Section 2. The act is amended by adding sections to read:

16 & SECTION 5.1. Blocking of caller identification and other <—
17 telemarketing screening products or services
18 prohibited.

19 No ~~person~~ TELEMARKETER shall take any action with the primary <—
20 intent:

21 (1) to prevent the transmission of a telephone
22 solicitor's name or telephone number to any recipient of a
23 telephone solicitation call when the equipment or service
24 used by the telephone solicitor is capable of creating and
25 transmitting the telephone solicitor's name or telephone
26 number; or

27 (2) to circumvent, bypass or disable any product or
28 service used by the ~~person~~ RESIDENTIAL TELEPHONE SUBSCRIBER <—
29 to screen telephone calls.

30 & SECTION 5.2. Unwanted telephone solicitation calls <—

1 prohibited.

2 (a) General rule.--No ~~person~~ TELEMARKETER shall initiate or <—
3 cause to be initiated a telephone solicitation call to a
4 residential telephone number of a ~~person~~ RESIDENTIAL TELEPHONE <—
5 SUBSCRIBER who does not wish to receive telephone solicitation
6 calls and has caused his name, address and telephone number to
7 be enrolled on a do-not-call list maintained by the list
8 administrator. This prohibition shall be effective 30 days after
9 a quarterly do-not-call list is issued by the list administrator
10 which first contains a ~~person's~~ RESIDENTIAL TELEPHONE <—
11 SUBSCRIBER'S name, address and residential telephone number.

12 (b) Listings.--~~Persons~~ TELEMARKETERS making telephone <—
13 solicitation calls shall quarterly obtain listings of
14 residential telephone consumers in this Commonwealth who have
15 arranged to have their names, addresses and telephone numbers
16 enrolled on the list administrator's do-not-call list or shall
17 utilize a service provider who has quarterly obtained and will
18 use such listings.

19 (c) Duration of prohibition.--A listing on a do-not-call
20 list shall be honored for a minimum of five years from the date
21 of the enrollment.

22 (d) Fee limitation.--No list administrator may impose a fee
23 for copies of a do-not-call list which exceeds the costs
24 incurred by the list administrator in the production,
25 preparation and distribution of that list.

26 (e) Affirmative defense.--A ~~person~~ TELEMARKETER is not in <—
27 violation of this section if all of the following are satisfied:

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

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

1 (3) The ~~person~~ TELEMARKETER acting on behalf of the <—
2 seller has maintained and recorded lists of ~~persons~~ <—
3 RESIDENTIAL TELEPHONE SUBSCRIBERS who may not be contacted. <—

4 (4) Any subsequent call is the result of error.

5 (f) Attorney General.--The list administrator shall provide
6 the Office of Attorney General with a copy of each quarterly do-
7 not-call list.

8 (g) Restrictions on use of do-not-call list.--No ~~person~~ <—
9 TELEMARKETER shall use a list administrator's do-not-call list <—
10 for any purpose other than to remove residential telephone
11 customers from telephone sales call lists.

12 (h) Disclosure to residential subscribers.--Each local
13 exchange telephone company, competitive local exchange telephone
14 company, long distance interexchange carrier company, Internet
15 service provider that provides telephone service and affiliated
16 companies providing telecommunications billing service shall
17 clearly notify its residential subscribers of their ability to
18 contact the list administrator which accepts individual names,
19 addresses and telephone numbers of persons who do not wish to
20 receive telephone solicitation calls. The method of notification
21 shall include, but not be limited to, placing the notice in
22 billing statements mailed to subscribers and publication of
23 notice in the consumer information pages of a local telephone
24 directory of general circulation. The notification shall specify
25 the methods by which subscribers may place their names on the
26 list and how often renewal is necessary.

27 (i) Contract.--If the Bureau of Consumer Protection has not
28 entered into a contract with a ~~national association~~ LIST <—
29 ADMINISTRATOR within 90 days of the effective date of this
30 section after a good faith effort to do so, the bureau may

1 contract with any nonprofit organization to carry out the
2 provisions of this section.

3 (J) IDENTIFICATION.--NO TELEMARKETER SHALL FAIL TO PROVIDE A <—
4 RESIDENTIAL TELEPHONE SUBSCRIBER WITH THE NAME OF THE CALLER,
5 THE NAME OF THE PERSON OR ENTITY ON WHOSE BEHALF THE CALL IS
6 BEING MADE AND A TELEPHONE NUMBER OR ADDRESS AT WHICH THE PERSON
7 OR ENTITY MAY BE CONTACTED. IF A TELEMARKETER MAKES A
8 SOLICITATION USING AN ARTIFICIAL OR PRERECORDED VOICE MESSAGE
9 TRANSMITTED BY AN AUTODIALER OR PRERECORDED MESSAGE PLAYER,
10 WHICH PLACED THE TELEPHONE SOLICITATION CALL, THE TELEPHONE
11 NUMBER MAY NOT BE A 900 NUMBER OR ANY OTHER NUMBER FOR WHICH
12 CHARGES EXCEED LOCAL OR LONG-DISTANCE TRANSMISSION CHARGES.

13 Section 3. This act shall take effect in 60 days.