

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 AND WAGNER,
JANUARY 26, 2011

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, JANUARY 26, 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:

18 * * *

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

6 * * *

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

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

1 "Text message." A written communication consisting of words
2 typed or entered on a keypad of a telephone or electronic
3 wireless communication and sent electronically.

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

6 Section 5. Unlawful acts and penalties.

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

8 * * *

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

16 (i) he has established and implemented written
17 procedures to comply with this paragraph;

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

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

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

23 (2.1) Initiating an outbound text message to a person
24 when that person previously has stated that he or she does
25 not wish to receive an outbound text message made by or on
26 behalf of the seller whose goods or services are being
27 offered. A seller or telemarketer will not be liable for
28 violating the provisions of this paragraph if:

29 (i) he has established and implemented written
30 procedures to comply with this paragraph;

1 (ii) he has trained his personnel in the procedures;
2 (iii) the seller or the telemarketer acting on
3 behalf of the seller has maintained and recorded lists of
4 persons who may not be contacted; and
5 (iv) any subsequent text message is the result of
6 error.

7 * * *

8 Section 3. Section 5.2(c) of the act, amended September 12,
9 2003 (P.L.105, No.22), is amended to read:

10 Section 5.2. Unwanted telephone solicitation calls prohibited.

11 * * *

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

18 * * *

19 Section 4. This act shall take effect June 1, 2012, or
20 immediately, whichever is later.