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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 318 Session of  
2019

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INTRODUCED BY MIZGORSKI, PICKETT, McNEILL, COX, MURT, STEPHENS,  
SCHROEDER, MACKENZIE, PYLE, ISAACSON, B. MILLER, SCHLOSSBERG,  
HAHN, FRANKEL, FREEMAN, ROTHMAN AND READSHAW,  
FEBRUARY 1, 2019

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REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, FEBRUARY 1, 2019

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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, for  
5 unlawful acts and penalties and for unwanted telephone  
6 solicitation calls prohibited.

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

9 Section 1. Section 2 of the act of December 4, 1996  
10 (P.L.911, No.147), known as the Telemarketer Registration Act,  
11 is amended by adding a definition to read:

12 Section 2. Definitions.

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

16 \* \* \*

17 "Robocall." A telephone solicitation call made to a large  
18 number of people, using a computerized autodialer, to deliver a  
19 prerecorded telemarketing message.

1 \* \* \*

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

4 Section 5. Unlawful acts and penalties.

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

6 \* \* \*

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

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

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

16 (iii) the seller or the telemarketer acting on  
17 behalf of the seller has maintained and recorded lists of  
18 persons who may not be contacted; and

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

20 \* \* \*

21 (10) Making a telephone solicitation call on a legal  
22 holiday.

23 \* \* \*

24 Section 3. Section 5.2(c) and (j) of the act are amended and  
25 the section is amended by adding a subsection to read:

26 Section 5.2. Unwanted telephone solicitation calls prohibited.

27 \* \* \*

28 (c) Duration.--A listing on a do-not-call list shall be  
29 maintained [for a minimum of five years from the date of the  
30 enrollment or] until the telephone number is no longer valid for

1 the residential or wireless telephone subscriber[, whichever  
2 occurs first] or until the subscriber requests to have the  
3 telephone number removed from the list.

4 \* \* \*

5 (j) Identification.--No telemarketer shall fail to provide a  
6 residential or wireless telephone subscriber with the name of  
7 the caller, the name of the person or entity on whose behalf the  
8 call is being made and, upon request, a telephone number or  
9 address at which the person or entity may be contacted. If a  
10 telemarketer makes a solicitation using [an artificial or  
11 prerecorded voice message transmitted by an autodialer or  
12 prerecorded message player which placed the telephone  
13 solicitation call] a robocall, the telephone number may not be a  
14 900 number or any other number for which charges exceed local or  
15 long-distance transmission charges.

16 \* \* \*

17 (1) Robocall requirements.--

18 (1) A telemarketer or telemarketing business that uses  
19 robocalls:

20 (i) Shall establish a procedure, consistent with the  
21 requirements under subparagraph (ii), for a called person  
22 to opt out of receiving future telephone solicitation  
23 calls from that telemarketer or telemarketing business  
24 and be immediately taken off the telemarketer's call  
25 list.

26 (ii) Shall provide notice to a called number, at the  
27 beginning of the call, stating how a called person can  
28 opt out of receiving future telephone solicitation calls  
29 from that telemarketer or telemarketing business.

30 Immediate opt out shall be available through an

1 automated, interactive voice-activated or key-press-  
2 activated opt-out mechanism for the called person to make  
3 a do-not-call request, including brief explanatory  
4 instructions on how to use the opt-out mechanism, within  
5 two seconds of disclosing the name of the caller and the  
6 name of the person or entity on whose behalf the call is  
7 being made. The called person shall be able to opt out  
8 throughout the duration of the call.

9 (iii) May not require a called person's written  
10 consent as a condition to opt out of future telemarketing  
11 calls.

12 (iv) May not consider the action of opting out as  
13 the creation of an established business relationship.

14 (2) When a robocall is left on an answering machine or a  
15 voicemail service, the message must provide a toll-free  
16 telephone number that enables the called person to call back  
17 at a later time and connect directly to the automated,  
18 interactive voice-activated or key-press-activated opt-out  
19 mechanism and automatically record the called person's number  
20 to the do-not-call list of the telemarketer or telemarketing  
21 business.

22 Section 4. This act shall take effect in 60 days.