

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 820 Session of 2015

INTRODUCED BY COX, BAKER, BARRAR, BENNINGHOFF, BOBACK, R. BROWN, V. BROWN, COHEN, D. COSTA, SCHLEGEL CULVER, CUTLER, DAVIS, DEAN, DEASY, DeLUCA, DIAMOND, DUNBAR, ELLIS, EVERETT, FARRY, FEE, GABLER, GILLEN, GODSHALL, GOODMAN, GREINER, HAHN, HARHAI, A. HARRIS, HELM, HICKERNELL, PHILLIPS-HILL, IRVIN, KAUFFMAN, M. K. KELLER, KNOWLES, KORTZ, LAWRENCE, LONGIETTI, MACKENZIE, MAJOR, MARSHALL, MARSICO, MATZIE, McGINNIS, MILLARD, MILNE, MOUL, MURT, O'BRIEN, O'NEILL, PASHINSKI, PETRI, PICKETT, PYLE, RAPP, RAVENSTAHL, READSHAW, SAMUELSON, SCHLOSSBERG, SCHREIBER, STEPHENS, THOMAS, WARD, WATSON, YOUNGBLOOD, ZIMMERMAN, McCARTER, ENGLISH, B. MILLER, DUSH AND MICCARELLI, JUNE 16, 2015

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, SEPTEMBER 30, 2015

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 5(a) 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 paragraph to read:

12 Section 5. Unlawful acts and penalties.

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

14 * * *

1 (III) THE SELLER OR THE TELEMARKETER ACTING ON
2 BEHALF OF THE SELLER HAS MAINTAINED AND RECORDED LISTS OF
3 PERSONS WHO MAY NOT BE CONTACTED; AND

4 (IV) ANY SUBSEQUENT CALL IS THE RESULT OF ERROR.

5 * * *

6 (10) CONDUCTING TELEMARKETING ON A LEGAL HOLIDAY.

7 * * *

8 SECTION 3. SECTION 5.2(C) AND (J) OF THE ACT, AMENDED
9 SEPTEMBER 12, 2003 (P.L.105, NO.22), ARE AMENDED AND THE SECTION
10 IS AMENDED BY ADDING A SUBSECTION TO READ:

11 Section 5.2. Unwanted telephone solicitation calls prohibited.

12 * * *

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15 enrollment or] until the telephone number is no longer valid for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

19 * * *

20 (J) IDENTIFICATION.--NO TELEMARKETER SHALL FAIL TO PROVIDE A <--
21 RESIDENTIAL OR WIRELESS TELEPHONE SUBSCRIBER WITH THE NAME OF
22 THE CALLER, THE NAME OF THE PERSON OR ENTITY ON WHOSE BEHALF THE
23 CALL IS BEING MADE AND, UPON REQUEST, A TELEPHONE NUMBER OR
24 ADDRESS AT WHICH THE PERSON OR ENTITY MAY BE CONTACTED. IF A
25 TELEMARKETER MAKES A SOLICITATION USING [AN ARTIFICIAL OR
26 PRERECORDED VOICE MESSAGE TRANSMITTED BY AN AUTODIALER OR
27 PRERECORDED MESSAGE PLAYER WHICH PLACED THE TELEPHONE
28 SOLICITATION CALL] A ROBOCALL, THE TELEPHONE NUMBER MAY NOT BE A
29 900 NUMBER OR ANY OTHER NUMBER FOR WHICH CHARGES EXCEED LOCAL OR
30 LONG-DISTANCE TRANSMISSION CHARGES.

1 * * *

2 (L) ROBOCALL REQUIREMENTS.--

3 (1) A TELEMARKETER OR TELEMARKETING BUSINESS THAT USES
4 ROBOCALLS:

5 (I) SHALL ESTABLISH A PROCEDURE, CONSISTENT WITH THE
6 REQUIREMENTS UNDER SUBPARAGRAPH (II), FOR A CALLED PERSON
7 TO OPT OUT OF RECEIVING FUTURE TELEPHONE SOLICITATION
8 CALLS FROM THAT TELEMARKETER OR TELEMARKETING BUSINESS
9 AND BE IMMEDIATELY TAKEN OFF THE TELEMARKETER'S CALL
10 LIST.

11 (II) SHALL PROVIDE NOTICE TO A CALLED NUMBER, AT THE
12 BEGINNING OF THE CALL, STATING HOW A CALLED PERSON CAN
13 OPT OUT OF RECEIVING FUTURE TELEPHONE SOLICITATION CALLS
14 FROM THAT TELEMARKETER OR TELEMARKETING BUSINESS.
15 IMMEDIATE OPT OUT SHALL BE AVAILABLE THROUGH AN
16 AUTOMATED, INTERACTIVE VOICE-ACTIVATED OR KEY PRESS-
17 ACTIVATED OPT-OUT MECHANISM FOR THE CALLED PERSON TO MAKE
18 A DO-NOT-CALL REQUEST, INCLUDING BRIEF EXPLANATORY
19 INSTRUCTIONS ON HOW TO USE THE OPT OUT MECHANISM, WITHIN
20 TWO SECONDS OF DISCLOSING THE NAME OF THE CALLER AND THE
21 NAME OF THE PERSON OR ENTITY ON WHOSE BEHALF THE CALL IS
22 BEING MADE. THE CALLED PERSON SHALL BE ABLE TO OPT OUT
23 THROUGHOUT THE DURATION OF THE CALL.

24 (III) MAY NOT REQUIRE A CALLED PERSON'S WRITTEN
25 CONSENT AS A CONDITION TO OPT OUT OF FUTURE TELEMARKETING
26 CALLS.

27 (IV) MAY NOT CONSIDER THE ACTION OF OPTING OUT AS
28 THE CREATION OF AN ESTABLISHED BUSINESS RELATIONSHIP.

29 (2) WHEN A ROBOCALL IS LEFT ON AN ANSWERING MACHINE OR A
30 VOICE MAIL SERVICE, THE MESSAGE MUST PROVIDE A TOLL-FREE

1 TELEPHONE NUMBER THAT ENABLES THE CALLED PERSON TO CALL BACK
2 AT A LATER TIME AND CONNECT DIRECTLY TO THE AUTOMATED,
3 INTERACTIVE VOICE-ACTIVATED OR KEY PRESS-ACTIVATED OPT-OUT
4 MECHANISM AND AUTOMATICALLY RECORD THE CALLED PERSON'S NUMBER
5 TO THE DO-NOT-CALL LIST OF THE TELEMARKETER OR TELEMARKETING
6 BUSINESS.

7 Section 3 4. This act shall take effect in 60 days.

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