

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 105 Session of 2017

INTRODUCED BY COX, BAKER, BOBACK, R. BROWN, CALTAGIRONE, CARROLL, D. COSTA, DEAN, DEASY, DeLUCA, DIAMOND, DRISCOLL, DUNBAR, EVERETT, FREEMAN, GABLER, GILLEN, GOODMAN, HARKINS, A. HARRIS, PHILLIPS-HILL, IRVIN, KAUFFMAN, KNOWLES, KORTZ, LAWRENCE, LONGIETTI, MACKENZIE, MALONEY, MARSHALL, MARSICO, MATZIE, McNEILL, MENTZER, MILLARD, B. MILLER, MOUL, MULLERY, MURT, NEILSON, O'NEILL, PETRARCA, PICKETT, RAVENSTAHL, ROZZI, SAMUELSON, SAYLOR, SCHLOSSBERG, SIMMONS, STAATS, THOMAS, WARD, WATSON, ZIMMERMAN, CUTLER, DAVIS, HAHN, GODSHALL, READSHAW, PASHINSKI, DUSH, RADER, CORR AND FARRY, FEBRUARY 23, 2017

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, APRIL 26, 2017

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:

1 * * *

2 "Robocall." A telephone solicitation call made to a large
3 number of people, using a computerized autodialer, to deliver a
4 prerecorded telemarketing message.

5 * * *

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, including a
12 robocall, to a person when that person previously has stated
13 that he or she does not wish to receive an outbound telephone
14 call made by or on behalf of the seller whose goods or
15 services are being offered. A seller or telemarketer will not
16 be liable for violating the provisions of this paragraph if:

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

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

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

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

24 * * *

25 (10) ~~Conducting telemarketing~~ MAKING A TELEPHONE
26 SOLICITATION CALL on a legal holiday.

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27 * * *

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

30 Section 5.2. Unwanted telephone solicitation calls prohibited.

1 * * *

2 (c) Duration.--A listing on a do-not-call list shall be
3 maintained [for a minimum of five years from the date of the
4 enrollment or] until the telephone number is no longer valid for
5 the residential or wireless telephone subscriber[, whichever
6 occurs first] or until the subscriber requests to have the
7 telephone number removed from the list.

8 * * *

9 (j) Identification.--No telemarketer shall fail to provide a
10 residential or wireless telephone subscriber with the name of
11 the caller, the name of the person or entity on whose behalf the
12 call is being made and, upon request, a telephone number or
13 address at which the person or entity may be contacted. If a
14 telemarketer makes a solicitation using [an artificial or
15 prerecorded voice message transmitted by an autodialer or
16 prerecorded message player which placed the telephone
17 solicitation call] a robocall, the telephone number may not be a
18 900 number or any other number for which charges exceed local or
19 long-distance transmission charges.

20 * * *

21 (1) Robocall requirements.--

22 (1) A telemarketer or telemarketing business that uses
23 robocalls:

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

30 (ii) Shall provide notice to a called number, at the

1 beginning of the call, stating how a called person can
2 opt out of receiving future telephone solicitation calls
3 from that telemarketer or telemarketing business.
4 Immediate opt out shall be available through an
5 automated, interactive voice-activated or key press-
6 activated opt-out mechanism for the called person to make
7 a do-not-call request, including brief explanatory
8 instructions on how to use the opt-out mechanism, within
9 two seconds of disclosing the name of the caller and the
10 name of the person or entity on whose behalf the call is
11 being made. The called person shall be able to opt out
12 throughout the duration of the call.

13 (iii) May not require a called person's written
14 consent as a condition to opt out of future telemarketing
15 calls.

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

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

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