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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2434 Session of  
2015

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INTRODUCED BY ENGLISH, NELSON, READSHAW, WARD, BARBIN AND  
D. MILLER, NOVEMBER 3, 2016

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REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, NOVEMBER 3, 2016

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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 and for  
5 registration requirement; and providing for unwanted  
6 automatic political calls.

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

9 Section 1. The definition of "list administrator" in section  
10 2 of the act of December 4, 1996 (P.L.911, No.147), known as the  
11 Telemarketer Registration Act, amended September 12, 2003  
12 (P.L.105, No.22), is amended and the section is amended by  
13 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 "Automatic dialing-announcing device." A device that selects  
19 and dials telephone numbers and that, working alone or in  
20 conjunction with other equipment, disseminates a prerecorded or

1 synthesized voice message to the telephone number called.

2 "Automatic political call." The use of an automatic dialing-  
3 announcing device on behalf of any of the following:

4 (1) A candidate as defined in section 102(a) of the act  
5 of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania  
6 Election Code; a party as defined in section 102(n) of the  
7 Pennsylvania Election Code; or a political body as defined in  
8 section 102(p) of the Pennsylvania Election Code.

9 (2) A political committee as defined in section 1621(h)  
10 of the Pennsylvania Election Code.

11 (3) A political organization as defined in section  
12 527(e) of the Internal Revenue Code of 1986 (Public Law 99-  
13 514, 26 U.S.C. § 527(e)).

14 \* \* \*

15 "List administrator." [A nonprofit] An organization, as  
16 designated by contract entered into by the Director of the  
17 Bureau of Consumer Protection in the Office of Attorney General,  
18 that accepts individual names, addresses and telephone numbers  
19 of persons who do not wish to receive telephone solicitation  
20 calls and that has been in existence for ten or more years. In  
21 the event that the Federal Trade Commission and/or Federal  
22 Communications Commission establish a unified national No Call  
23 Registry for the purpose of providing consumers with protection  
24 from receiving unwanted telephone solicitation calls similar to  
25 the protection provided in this act, then the Director of the  
26 Bureau of Consumer Protection in the Office of Attorney General  
27 may enter into an agreement to utilize the services of the  
28 administrator of any such national No Call Registry in lieu of  
29 using [any nonprofit] an organization.

30 \* \* \*

1 Section 2. Section 3 of the act is amended to read:

2 Section 3. Registration requirement.

3 (a) General rule.--In addition to any other requirements  
4 imposed by law, a telemarketer or the telemarketing business  
5 which employs the telemarketer is required to register with the  
6 Office of Attorney General at least 30 days prior to offering  
7 for sale consumer goods or services through any medium. This  
8 section will not apply, however, to persons or businesses  
9 licensed by or registered with a Federal or Commonwealth agency  
10 or to a person or business conducting telemarketing exclusively  
11 through the use of automatic political calls. Notwithstanding  
12 any other provision of this act, any business which provides  
13 telemarketing services to other entities and has been under the  
14 same ownership and control for less than five years shall  
15 register under this section.

16 (b) Unlawful conduct.--It shall be unlawful for any  
17 telemarketer to initiate a telephone call to or receive a  
18 telephone call from a consumer in connection with the purchase  
19 of consumer goods or services unless the telemarketer or the  
20 telemarketing business which employs the telemarketer is  
21 registered with the Office of Attorney General.

22 (c) Penalty.--Failure to register as required by this act  
23 constitutes a misdemeanor of the second degree.

24 Section 3. The act is amended by adding a section to read:

25 Section 5.3. Unwanted automatic political calls.

26 (a) General rule.--

27 (1) Except as set forth in subsection (b), beginning 30  
28 days after publication of the notice under paragraph (3), a  
29 person may not initiate or cause to be initiated an automatic  
30 political call to a residential or wireless telephone number

1 of a telephone subscriber who does not wish to receive  
2 automatic political calls and has caused the subscriber's  
3 name, address and telephone number to be enrolled on a do-  
4 not-call list for automatic political calls maintained by a  
5 list administrator.

6 (2) The list under paragraph (1) shall be developed and  
7 maintained separately from the list established under section  
8 5.2.

9 (3) The list under paragraph (1) shall be completed by  
10 September 15, 2016. The list administrator shall transmit a  
11 notice of completion to the Legislative Reference Bureau for  
12 publication in the Pennsylvania Bulletin.

13 (4) A residential telephone subscriber's name shall be  
14 maintained on the list under paragraph (1) as long as the  
15 telephone number is valid for the subscriber.

16 (5) The Office of Attorney General may serve as the list  
17 administrator for purposes of this subsection.

18 (6) If the Office of Attorney General does not serve as  
19 the list administrator for purposes of this subsection, the  
20 list administrator shall provide the list under paragraph (1)  
21 to the Office of Attorney General on a biannual basis.

22 (b) Exceptions.--Subsection (a)(1) shall not apply to the  
23 following:

24 (1) A call on behalf of a political candidate, political  
25 party or political body made by an individual and not by an  
26 automatic dialing-announcing device.

27 (2) A call on behalf of a candidate, political party or  
28 political body made by an automatic dialing-announcing device  
29 during the five calendar days preceding an election.

30 (c) Listings.--A person that makes automatic political calls

1 shall:

2 (1) obtain on a biannual basis a listing of residential  
3 or wireless telephone subscribers in this Commonwealth who  
4 have arranged to have their names, addresses and telephone  
5 numbers enrolled on the list under subsection (a)(1); or

6 (2) use a service provider who has obtained the list  
7 under subsection (a)(1) in order to restrict the use of  
8 automatic political calls.

9 (d) Fee limitation.--A list administrator may not impose a  
10 fee for a copy of the list under subsection (a)(1) which  
11 exceeds:

12 (1) the cost incurred by the list administrator in the  
13 production, preparation and distribution of the list; or

14 (2) the fee authorized by 16 CFR § 310.8(c) (relating to  
15 fee for access to the National Do Not Call Registry).

16 (e) Restriction.--A person may not use the list under  
17 subsection (a)(1) for any purpose other than to remove a  
18 residential or wireless telephone subscriber from a call list.

19 (f) Investigation, enforcement and reporting.--  
20 Investigation, enforcement and reporting shall be conducted in  
21 accordance with section 5.2(k).

22 (g) Violation.--A violation of this section shall constitute  
23 an unlawful act under section 3 of the act of December 17, 1968  
24 (P.L.1224, No.387), known as the Unfair Trade Practices and  
25 Consumer Protection Law.

26 Section 4. This act shall take effect immediately.