



General Assembly

February Session, 2000

Amendment

LCO No. 3114

Offered by:

SEN. COLAPIETRO, 31st Dist.

To: Senate Bill No. 365

File No. 136

Cal. No. 151

"An Act Concerning Telephone Solicitation."

1 Strike out everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (a) As used in this section:

4 (1) "Commissioner" means the Commissioner of Consumer
5 Protection;

6 (2) "Consumer" means any individual who is a resident of this state
7 and a prospective recipient of consumer goods or services;

8 (3) "Consumer goods or services" means any article or service that is
9 purchased, leased, exchanged or received primarily for personal,
10 family or household purposes, and includes, but is not limited to,
11 stocks, bonds, mutual funds, annuities and other financial products;

12 (4) "Department" means the Department of Consumer Protection;

13 (5) "Doing business in this state" means conducting telephonic sales
14 calls (A) from a location in this state, or (B) from a location outside of

15 this state to consumers residing in this state;

16 (6) "Marketing or sales solicitation" means the initiation of a
17 telephone call or message to encourage the purchase or rental of, or
18 investment in, property, goods or services, that is transmitted to any
19 consumer, but does not include a telephone call or message (A) to any
20 consumer with that consumer's prior express written or verbal
21 invitation or permission, (B) by a tax-exempt nonprofit organization,
22 or (C) to a consumer in response to a visit made by such consumer to
23 an establishment selling, leasing or exchanging consumer goods or
24 services at a fixed location;

25 (7) "Telephonic sales call" means a call made by a telephone solicitor
26 to a consumer for the purpose of (A) engaging in a marketing or sales
27 solicitation, (B) soliciting an extension of credit for consumer goods or
28 services, or (C) obtaining information that will or may be used for
29 marketing or sales solicitation or exchange of or extension of credit for
30 consumer goods or services;

31 (8) "Telephone solicitor" means any individual, association,
32 corporation, partnership, limited partnership, limited liability
33 company or other business entity, or a subsidiary or affiliate thereof,
34 doing business in this state that makes or causes to be made a
35 telephonic sales call;

36 (9) "Unsolicited telephonic sales call" means any telephonic sales call
37 other than a call made: (A) In response to an express written or verbal
38 request of the consumer called; (B) primarily in connection with an
39 existing debt or contract, payment or performance of which has not
40 been completed at the time of the call; or (C) to an existing customer,
41 unless such customer has stated to the telephone solicitor that such
42 customer no longer wishes to receive the telephonic sales calls of such
43 telephone solicitor; and

44 (10) "Caller identification service or device" means any telephone
45 service or device which permits a consumer to see the telephone
46 number of incoming calls.

47 (b) The department shall establish and maintain a "no sales
48 solicitation calls" listing of consumers who do not wish to receive
49 unsolicited telephonic sales calls. The department may contract with a
50 private vendor to establish and maintain such listing, provided (1) the
51 private vendor has maintained national "no sales solicitation calls"
52 listings for more than two years, and (2) the contract requires the
53 vendor to provide the "no sales solicitation calls" listing in a printed
54 hard copy format and in any other format offered at a cost that does
55 not exceed the production cost of the format offered. The department
56 shall provide notice to consumers of the establishment of a "no sales
57 solicitation calls" listing. Any consumer who wishes to be included on
58 such listing shall notify the department by calling a toll-free number
59 provided by the department, or in any other such manner and at such
60 times as the commissioner may prescribe. A consumer on such listing
61 shall be deleted from such listing upon the consumer's written request.
62 The department shall update such listing not less than quarterly and
63 shall make such listing available to telephone solicitors and other
64 persons upon request.

65 (c) No telephone solicitor may make or cause to be made any
66 unsolicited telephonic sales call to any consumer (1) if the consumer's
67 name and telephone number or numbers appear on the then current
68 quarterly "no sales solicitation calls" listing made available by the
69 department under subsection (b) of this section, unless (A) such call
70 was made by a telephone solicitor that first began doing business in
71 this state on or after January 1, 2000, (B) a period of less than one year
72 has passed since such telephone solicitor first began doing business in
73 this state, and (C) the consumer to which such call was made had not
74 on a previous occasion stated to such telephone solicitor that such
75 consumer no longer wishes to receive the telephonic sales calls of such
76 telephone solicitor, (2) to be received between the hours of nine o'clock
77 p.m. and nine o'clock a.m., local time, at the consumer's location, (3) in
78 the form of electronically transmitted facsimiles, or (4) by use of a
79 recorded message device.

80 (d) No telephone solicitor shall intentionally cause to be installed or

81 shall intentionally use any blocking device or service to circumvent a
82 consumer's use of a caller identification service or device.

83 (e) (1) Any person who obtains the name, residential address or
84 telephone number of any consumer from published telephone
85 directories or from any other source and republishes or compiles such
86 information, electronically or otherwise, and sells or offers to sell such
87 publication or compilation to telephone solicitors for marketing or
88 sales solicitation purposes, shall exclude from any such publication or
89 compilation, and from the database used to prepare such publication
90 or compilation, the name, address and telephone number or numbers
91 of any consumer if the consumer's name and telephone number or
92 numbers appear in the then current quarterly "no sales solicitation
93 calls" listing made available by the department under subsection (b) of
94 this section.

95 (2) This subsection does not apply to (A) any telephone company, as
96 defined in section 16-1 of the general statutes, for the sole purpose of
97 compiling, publishing or distributing telephone directories or causing
98 the compilation, publication or distribution of telephone directories or
99 providing directory assistance, and (B) any person, for the sole
100 purpose of compiling, publishing or distributing telephone directories
101 for such telephone company pursuant to an agreement or other
102 arrangement with such telephone company.

103 (f) The commissioner may adopt regulations, pursuant to chapter 54
104 of the general statutes, to carry out the provisions of this section. Such
105 regulations may include, but shall not be limited to, provisions
106 governing the availability and distribution of the listing established
107 under subsection (b) of this section and notice requirements for
108 consumers wishing to be included on the listing established under
109 subsection (b) of this section.

110 (g) A violation of any of the provisions of this section shall be
111 deemed an unfair or deceptive trade practice under subsection (a) of
112 section 42-110b of the general statutes, except no telephone solicitor

113 may be liable under this section for a call made in violation of
114 subdivision (1) of subsection (c) of this section if such telephone
115 solicitor demonstrates that: (1) Such telephone solicitor established
116 and implemented written procedures and trained its employees to
117 follow such procedures to comply with subdivision (1) of subsection
118 (c) of this section; (2) such telephone solicitor deleted from its call list
119 any listing of a consumer on the then current quarterly "no sales
120 solicitation calls" listing maintained pursuant to subsection (b) of this
121 section; and (3) such call was made inadvertently.

122 Sec. 2. On or before January 1, 2001, the commissioner shall review
123 and report to the joint standing committee of the General Assembly
124 having cognizance of matters relating to general law concerning the
125 feasibility of regulating the use of automatic dialing to minimize the
126 amount of telephonic sales calls received by consumers that do not
127 have a telephone solicitor ready to take such calls if a consumer
128 answers the telephone.

129 Sec. 3. This act shall take effect October 1, 2000, except that section 1
130 of this act shall take effect January 1, 2001."