

**Testimony to the GAE Committee
Raised Bill 1313
An Act Concerning Political "Robo" Calls
Hartford, CT
February 28, 2007
By John Pudner (404.606.3163)**

Mr. Chairman, thank you. My name is John Pudner, and I am here on behalf of ccAdvertising, which conducts policy and political automated surveys.

There are three reasons I would ask you not to pass this legislation as written.

First, this week the 7th Circuit took up this issue, and we believe these restrictions will again be ruled unconstitutional.

Second, I believe the unintended consequence of this legislation would be to take away the 1st amendment rights of citizens who will no longer have an inexpensive way to fight wealthy opponents such as developers.

Third, there is a Constitutional option which would allow you to shut down irresponsible robocall companies.

First – Constitutionality: As I predicted in my testimony to the General Laws Committee two weeks ago, the 7th Circuit has in fact announced that it will hear the challenge to the Indiana law on April 3.

We believe the outcome will be the same as when the 8th Circuit took up *Van Bergen v. Minnesota*. In that case, United States District Judge Kyle concluded that the plaintiff lacked standing to challenge any **INTERSTATE** calls coming into the state, and so there have been millions of robocalls made into Minnesota under this law. They just can't be made from within the state.

In short, this law would be telling political candidates only that they had to hire someone with an autodialer that was not physically located in Connecticut to make their robocalls.

Second – Unintended Consequences: Consider a community activist who is concerned that a developer is about to put a 200,000 square foot big box store in his or her backyard. The developer has all the money and the connections needed to rezone the property from agricultural to industrial.

One option my company has successfully offered dozens of these groups is to conduct an automated survey through ccAdvertising of all the voters in their area, which costs only pennies per home called. This survey enables the community group to compile a list of voters who agree with them, and who will join their group and come to a zoning hearing to let their 1st Amendment voices be heard.

Earlier this month a local government buried a legal notice in the newspaper of just such a development, and didn't expect to have any trouble giving the developer their approval. However, we ran a survey for a community group that resulted in 300 people attending the public hearing and the zoning was not approved.

In the past people have tried to ban fliers from littering door-steps, just like they now want to ban robocalls, but the courts have always upheld the right to political free speech and never allowed restrictions such as the Do Not Call list to apply to political calls.

Just recently the ACLU intervened in Maryland and the Attorney General there said that these proposals appeared to be unconstitutional.

Third – There is a Constitutional Solution. You could amend this legislation to require that the telemarketers display a phone number on Caller ID and during the script that a voter can call to request they are never receive a political call from that vendor again. You can also make it an offense to tie up a phone line for more than 5 seconds.

These are the two restrictions that have passed federal review. They would give your Attorney General the tools to shut down fly-by-night companies with a cheap robocall machine, because they would not have the technology to exclude phone numbers of people who request that their numbers be removed.

Thank you for your consideration.