



General Assembly

January Session, 2007

Raised Bill No. 1232

LCO No. 4497

04497 _____ GL_

Referred to Committee on General Law

Introduced by:

(GL)

AN ACT INCLUDING TEXT MESSAGES TO THE "DO NOT CALL" LIST.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 42-288a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2007*):

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

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

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

38 (9) "Unsolicited telephonic sales call" means any telephonic sales call
39 or cellular telephone text message other than a call or text message
40 made or sent: (A) In response to an express written or verbal request of
41 the consumer called or to whom the text message is sent; (B) primarily
42 in connection with an existing debt or contract, payment or
43 performance of which has not been completed at the time of the call or
44 at the time the text message is sent; or (C) to an existing customer,

45 unless such customer has stated to the telephone solicitor that such
46 customer no longer wishes to receive the telephonic sales calls or text
47 messages of such telephone solicitor; and

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

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

69 (c) No telephone solicitor may make or cause to be made any
70 unsolicited telephonic sales call to any consumer (1) if the consumer's
71 name and telephone number or numbers appear on the then current
72 quarterly "no sales solicitation calls" listing made available by the
73 department under subsection (b) of this section, unless (A) such call
74 was made by a telephone solicitor that first began doing business in
75 this state on or after January 1, 2000, (B) a period of less than one year
76 has passed since such telephone solicitor first began doing business in

77 this state, and (C) the consumer to whom such call was made had not
78 on a previous occasion stated to such telephone solicitor that such
79 consumer no longer wishes to receive the telephonic sales calls of such
80 telephone solicitor, (2) to be received between the hours of nine o'clock
81 p.m. and nine o'clock a.m., local time, at the consumer's location, (3) in
82 the form of electronically transmitted facsimiles, or (4) by use of a
83 recorded message device.

84 (d) No telephone solicitor shall intentionally cause to be installed or
85 shall intentionally use any blocking device or service to circumvent a
86 consumer's use of a caller identification service or device.

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

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

107 (f) The commissioner may adopt regulations, pursuant to chapter
108 54, to carry out the provisions of this section. Such regulations may

109 include, but shall not be limited to, provisions governing the
110 availability and distribution of the listing established under subsection
111 (b) of this section and notice requirements for consumers wishing to be
112 included on the listing established under subsection (b) of this section.

113 (g) A violation of any of the provisions of this section shall be
114 deemed an unfair or deceptive trade practice under subsection (a) of
115 section 42-110b, except no telephone solicitor may be liable under this
116 section for a call made in violation of subdivision (1) of subsection (c)
117 of this section if such telephone solicitor demonstrates that: (1) Such
118 telephone solicitor established and implemented written procedures
119 and trained its employees to follow such procedures to comply with
120 subdivision (1) of subsection (c) of this section; (2) such telephone
121 solicitor deleted from its call list any listing of a consumer on the then
122 current quarterly "no sales solicitation calls" listing maintained
123 pursuant to subsection (b) of this section; and (3) such call was made
124 inadvertently.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2007	42-288a

Statement of Purpose:

To protect consumers from receiving unwanted cellular telephone text messages.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]