



Substitute House Bill No. 5089

Public Act No. 12-79

**AN ACT PROHIBITING TELEMARKETERS FROM TRANSMITTING
INACCURATE OR MISLEADING CALLER IDENTIFICATION
INFORMATION.**

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

Section 1. Section 42-288a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) As used in this section:

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

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

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

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

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

Substitute House Bill No. 5089

this state to consumers residing in this state;

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

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

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

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

Substitute House Bill No. 5089

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

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

(c) No telephone solicitor may make or cause to be made any unsolicited telephonic sales call to any consumer (1) if the consumer's name and telephone number or numbers appear on the then current quarterly "no sales solicitation calls" listing made available by the department under subsection (b) of this section, unless (A) such call was made by a telephone solicitor that first began doing business in this state on or after January 1, 2000, (B) a period of less than one year has passed since such telephone solicitor first began doing business in this state, and (C) the consumer to whom such call was made had not on a previous occasion stated to such telephone solicitor that such

Substitute House Bill No. 5089

consumer no longer wishes to receive the telephonic sales calls of such telephone solicitor, (2) to be received between the hours of nine o'clock p.m. and nine o'clock a.m., local time, at the consumer's location, (3) in the form of electronically transmitted facsimiles, or (4) by use of a recorded message device.

(d) No telephone solicitor shall intentionally cause to be installed or shall intentionally use any blocking device or service to circumvent a consumer's use of a caller identification service or device. No telephone solicitor shall intentionally transmit inaccurate or misleading caller identification information.

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

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

Substitute House Bill No. 5089

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

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

(h) In addition to any penalty imposed under chapter 735a, any telephone solicitor, who is liable under the provisions of subsection (g) of this section, shall be fined not more than eleven thousand dollars for each violation.