

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 14-53—sSB 209
General Law Committee
Judiciary Committee

AN ACT PROHIBITING UNSOLICITED COMMERCIAL TEXT MESSAGES AND INCREASING PENALTIES FOR VIOLATIONS OF THE DO NOT CALL REGISTRY

SUMMARY: This act broadens the scope of the laws regulating telemarketers. It generally prohibits telephone solicitors from making unsolicited sales calls, including sending texts and media messages, to consumers on the state “Do Not Call” registry unless they receive a consumer’s prior express written consent (see BACKGROUND). Prior law allowed these calls upon written or verbal request. The act also prohibits solicitors from making or causing to be made unsolicited, automatically dialed, recorded telephonic sales calls without prior express written consent. These messages are often referred to as “robocalls.”

Additionally, the act (1) prohibits solicitors from sending unsolicited texts or media messages to a consumer’s mobile device at any time and (2) limits the types of texts and media messages telecommunication companies can send. Under the act, a text or media message is a message that contains written, audio, video, or photographic content and is sent electronically to a mobile telephone or electronic device telephone number, but does not include electronic mail.

The act also increases the maximum fine for each solicitor’s registry violation from \$11,000 to \$20,000. By law and under the act, “Do Not Call” violations are also deemed an unfair and deceptive trade practice (see BACKGROUND).

Under the act, each telephone and telecommunications company that issues an account statement to a consumer for telephone, mobile telephone, or mobile electronic device services must include, at least twice a year, a conspicuous notice on or with the statement. The notice must inform a consumer (1) of the prohibited actions of telephone solicitors; (2) how to place his or her telephone, mobile telephone, or mobile electronic device number on the “Do Not Call” registry; and (3) how to obtain a registry complaint form from the Department of Consumer Protection (DCP) website.

EFFECTIVE DATE: October 1, 2014

TEXT AND MEDIA MESSAGES

Telephone Solicitors

Under the act, regardless of whether a consumer is on the registry, solicitors may only send, or cause to be sent, text or media messages for marketing or soliciting sales of consumer goods if the solicitor has received the consumer’s prior express written consent to receive such texts or messages.

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Telecommunications Companies

Under the act, a telecommunications company may send a free text or media message to an existing customer if the message is primarily in connection with (1) an existing debt that has not yet been paid, (2) an existing contract between the company and the customer, (3) a wireless emergency alert authorized by federal law, or (4) a prior customer-initiated request for customer service.

BACKGROUND

Prior Express Written Consent

Under federal regulations, “prior express written consent” means a written agreement, bearing the caller’s signature (including electronic or digital signatures) that clearly authorizes the seller to deliver or cause to be delivered to the caller, advertisements or telemarketing messages using an automatic telephone dialing system or an artificial or prerecorded voice. The agreement must (1) include a clear and conspicuous disclosure with certain consumer protections and (2) give the telephone number to which the caller authorizes the messages to be delivered (47 CFR § 64.1200).

Do Not Call Registry

Connecticut Law. State law allows any individual to register a telephone number with the “Do Not Call” registry, and prohibits telephone solicitors from making unsolicited telephone calls to any such number. The law applies to calls made to (1) engage in a marketing or sales solicitation, (2) solicit a credit extension for such goods or services, or (3) obtain information to use in soliciting a sale or credit extension.

The law does not apply to calls made or sent (1) in response to a consumer’s visit to a seller’s establishment; (2) by a tax-exempt nonprofit organization; (3) primarily in connection with an existing debt or contract that has not been paid or performed; or (4) to an existing consumer, unless he or she has informed the solicitor that he or she no longer wishes to receive the solicitor’s calls (CGS § 42-288a).

Federal Law. The Federal Communications Commission restricts telemarketers from placing unsolicited robocalls and sending text messages under the Telephone and Consumer Protection Act. Under federal law, telemarketers cannot make robocalls based solely on an “established business relationship.”

Federal law bans these texts unless the (1) recipient previously consented to receive the message or (2) message is sent for emergency purposes. This ban applies even if a person has not placed his or her mobile phone number on the national Do Not Call list.

Connecticut Unfair Trade Practices Act (CUTPA)

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the DCP commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and

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desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorneys fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order.

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