

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Telephone Solicitations Act is amended by  
5 changing Sections 5, 15, 20, and 25 as follows:

6 (815 ILCS 413/5)

7 Sec. 5. Definitions. For purposes of this Act:

8 "Automatic telephone dialing system" has the meaning set  
9 forth in the Telephone Consumer Protection Act (47 U.S.C.  
10 227). The use of an automatic telephone dialing system also  
11 includes sending a message directly to the recipient's  
12 voicemail or transmitting an artificial voice to the recipient  
13 of a telephone call.

14 "Caller ID" means the display to the recipient of the call  
15 of the caller's telephone number or identity.

16 "Emergency telephone number" means any telephone number  
17 which accesses or calls a fire department, law enforcement  
18 agency, ambulance, hospital, medical center, poison control  
19 center, rape crisis center, suicide prevention center  
20 (including the 9-8-8 suicide and crisis lifeline), rescue  
21 service, the 911 emergency access number provided by law  
22 enforcement agencies and police departments.

23 "Existing business relationship" means a relationship

1 formed by:

2 (1) a previous purchase, contract, or service  
3 agreement between the customer and the caller within the  
4 preceding 12 months;

5 (2) a current subscription, account, membership, or  
6 ongoing transaction for goods or services between the  
7 customer and the caller; or

8 (3) an inquiry related to goods or services made by  
9 the customer to the caller within the preceding 12 months.

10 "Subscriber" means:

11 (1) A person who has subscribed to telephone service  
12 from a telephone company; or

13 (2) Other persons living or residing with the  
14 subscribing person.

15 "Telephone solicitation" means any voice communication  
16 through the use of a telephone ~~by live operators~~ for  
17 soliciting the sale of goods, ~~or~~ services, or property or  
18 wrongfully obtaining anything of value.

19 (Source: P.A. 95-331, eff. 8-21-07.)

20 (815 ILCS 413/15)

21 Sec. 15. Method of operation.

22 (a) No person shall solicit the sale of goods or services  
23 in this State by placing a telephone call during the hours  
24 between 9 p.m. and 8 a.m.

25 (a-5) No person shall initiate a telephone solicitation in

1 this State through the use of an automatic telephone dialing  
2 system. This subsection applies to all commercial telephone  
3 solicitation intended to be received by a telephone customer  
4 in this State, unless the person being contacted has expressly  
5 consented to be contacted in this manner or has an existing  
6 business relationship with the person initiating the telephone  
7 solicitation. If a person has previously consented to be  
8 contacted in a manner otherwise prohibited by this subsection,  
9 the person shall be allowed to withdraw that consent at any  
10 time in the same manner that the consent was given. A person to  
11 whom consent has been given under this subsection shall not  
12 sell, give, transfer, or assign that consent to another  
13 person.

14 The provisions of this subsection shall not apply to calls  
15 or alerts: (i) made through an emergency telephone number;  
16 (ii) made by a unit of local, State, or federal government;  
17 (iii) made by a government official acting in an official  
18 capacity; (iv) made by a not-for-profit organization that is  
19 exempt from taxation under Section 501 of the Internal Revenue  
20 Code; (v) made by a health care provider, office, and facility  
21 licensed in this State; (vi) made by a public utility or  
22 telecommunications carrier in this State as defined in Section  
23 3-105 of the Public Utilities Act; or (vii) otherwise  
24 permitted by State or federal law.

25 (b) A live operator making a telephone solicitation  
26 ~~soliciting the sale of goods or services~~ shall:

1 (1) immediately state his or her name, the name of the  
2 business or organization being represented, and the  
3 purpose of the call; and

4 (2) inquire at the beginning of the call whether the  
5 person called consents to the solicitation; and

6 (3) if the person called requests to be taken off the  
7 contact list of the business or organization, the operator  
8 must refrain from calling that person again and take all  
9 steps necessary to have that person's name and telephone  
10 number removed from the contact records of the business or  
11 organization so that the person will not be contacted  
12 again by the business or organization. Compliance with  
13 Section 310.4(b) of the Federal Trade Commission's  
14 Telemarketing Sales Rule shall constitute compliance with  
15 this subsection (b) (3) of this Section.

16 (c) A person may not initiate a telephone solicitation  
17 ~~solicit the sale of goods or services by telephone~~ in a manner  
18 that impedes the function of any caller ID when the telephone  
19 solicitor's service or equipment is capable of allowing the  
20 display of the solicitor's telephone number.

21 (Source: P.A. 90-541, eff. 6-1-98; 91-182, eff. 1-1-00.)

22 (815 ILCS 413/20)

23 Sec. 20. Exemptions.

24 (a) Except as provided in subsection (b), the ~~provisions~~  
25 ~~of this Act shall not apply to telephone calls made by an~~

1 ~~autodialer.~~ The provisions of this Act do not apply to  
2 telephone solicitations ~~calls~~ made by a person who is a  
3 registered dealer, registered investment adviser, or  
4 registered salesperson under Section 8 of the Illinois  
5 Securities Law of 1953 or who is registered as a  
6 broker-dealer, registered representative, or salesperson of a  
7 broker-dealer under the federal securities laws, when  
8 performing acts within the scope of that registration.

9 (b) Notwithstanding the provisions of subsection (a), all  
10 telephone solicitations ~~calls~~ must be made in compliance with  
11 the requirements of subsection (c) of Section 15.

12 (Source: P.A. 91-182, eff. 1-1-00.)

13 (815 ILCS 413/25)

14 Sec. 25. Violations.

15 (a) It is a violation of this Act to make or cause to be  
16 made telephone solicitations ~~calls~~ to any emergency telephone  
17 number as defined in Section 5 of this Act. It is a violation  
18 of this Act to make or cause to be made telephone calls in a  
19 manner that does not comply with Section 15.

20 (b) It is a violation of this Act to continue with a  
21 solicitation placed by a live operator without the consent of  
22 the called party.

23 (c) It is an unlawful act or practice and a violation of  
24 this Act for any person engaged in telephone solicitation to  
25 obtain or submit for payment a check, draft, or other form of

1 negotiable paper drawn on a person's checking, savings, or  
2 other account or on a bond without the person's express  
3 written consent.

4 (d) ~~Enforcement by customer.~~ Any customer injured by a  
5 violation of this Act, other than a violation of subsection  
6 (a-5) of Section 15, may bring an action for the recovery of  
7 damages. Judgment may be entered for 3 times the amount at  
8 which the actual damages are assessed, plus costs and  
9 reasonable attorney's attorney fees. Any person who receives a  
10 telephone solicitation in violation of subsection (a-5) of  
11 Section 15 may bring an action for damages of \$500 for each  
12 solicitation received, plus costs and reasonable attorney's  
13 fees. Any damages recoverable under this Section are in the  
14 alternative to, and not in addition to, any damages that may be  
15 recovered under the federal Telephone Consumer Protection Act,  
16 47 U.S.C. 227 et seq.

17 (e) ~~Enforcement by Attorney General.~~ Violation of any of  
18 the provisions of this Act is an unlawful practice under  
19 Section 2Z of the Consumer Fraud and Deceptive Business  
20 Practices Act. All remedies, penalties, and authority granted  
21 to the Attorney General by that Act shall be available to him  
22 for the enforcement of this Act. In any action brought by the  
23 Attorney General to enforce this Act, the court may order that  
24 persons who incurred actual damages be awarded the amount at  
25 which actual damages are assessed.

26 (Source: P.A. 91-182, eff. 1-1-00; 91-761, eff. 1-1-01.)