



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

Introduced 02/09/04, by Charles E. Jefferson

SYNOPSIS AS INTRODUCED:

815 ILCS 402/5

Amends the Restricted Call Registry Act. Makes a stylistic change in a Section concerning definitions.

LRB093 20144 RXD 45889 b

1 AN ACT concerning consumer protection.

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

4 Section 5. The Restricted Call Registry Act is amended by
5 changing Section 5 as follows:

6 (815 ILCS 402/5)

7 Sec. 5. Definitions. ~~As used~~ In this Act:

8 (a) "Residential subscriber" means a person or spouse who
9 has subscribed to either residential telephone service from a
10 local exchange company or public mobile services, as defined by
11 Section 13-214 of the Public Utilities Act, a guardian of the
12 person or the person's spouse, or an individual who has power
13 of attorney from or an authorized agent of the person or the
14 person's spouse.

15 (b) "Established business relationship" means the
16 existence of an oral or written transaction, agreement,
17 contract, or other legal state of affairs involving a person or
18 entity and an existing customer under which both parties have a
19 course of conduct or established pattern of activity for
20 commercial or mercantile purposes and for the benefit or profit
21 of both parties. A pattern of activity does not necessarily
22 mean multiple previous contacts. The established business
23 relationship must exist between the existing customer and the
24 person or entity directly, and does not extend to any related
25 business entity or other business organization of the person or
26 entity or related to the person or entity or the person or
27 entity's agent including but not limited to a parent
28 corporation, subsidiary partnership, company or other
29 corporation or affiliate.

30 (c) "Existing customer" means an individual who has either:

31 (1) entered into a transaction, agreement, contract,
32 or other legal state of affairs between a person or entity

1 and a residential subscriber under which the payment or
2 exchange of consideration for any goods or services has
3 taken place within the preceding 18 months or has been
4 arranged to take place at a future time; or

5 (2) opened or maintained a debit account, credit card
6 account, or other credit or discount program offered by or
7 in conjunction with the person or entity and has not
8 requested the person or entity to close such account or
9 terminate such program.

10 (d) "Registry" means the Restricted Call Registry
11 established under this Act.

12 (e) "Telephone solicitation" means any voice communication
13 over a telephone line from a live operator, through the use of
14 an autodialer or autodialer system, as defined in Section 5 of
15 the Automatic Telephone Dialers Act, or by other means for the
16 purpose of encouraging the purchase or rental of, or investment
17 in, property, goods, or services, or for the purposes of
18 soliciting charitable contributions but does not include
19 communications:

20 (1) to any residential subscriber with that
21 subscriber's prior express invitation or permission when a
22 voluntary 2-way communication between a person or entity
23 and a residential subscriber has occurred with or without
24 an exchange of consideration. A telephone solicitation is
25 presumed not to be made at the express request of a
26 subscriber if one of the following occurs, as applicable:

27 (A) The telephone solicitation is made 30 business
28 days after the last date on which the subscriber
29 contacted a business with the purpose of inquiring
30 about the potential purchase of goods or services.

31 (B) The telephone solicitation is made 30 business
32 days after the last date on which the subscriber
33 consented to be contacted.

34 (C) The telephone solicitation is made 30 business
35 days after a product or service becomes available where
36 the subscriber has made a request to the business for

1 that product or service that is not then available, and
2 requests a call when the product or service becomes
3 available;

4 (2) by or on behalf of any person or entity with whom a
5 residential subscriber has an established business
6 relationship which has not been terminated in writing by
7 either party and which is related to the nature of the
8 established business relationship;

9 (3) by or on behalf of any person or entity with whom a
10 residential subscriber is an existing customer, unless the
11 customer has stated to the person or entity or the person
12 or entity's agent that he or she no longer wishes to
13 receive the telemarketing sales calls of the person or
14 entity, or unless the nature of the call is unrelated to
15 the established business relationship with the existing
16 customer;

17 (4) by or on behalf of an organization that is exempt
18 from federal income taxation under Section 501(c) of the
19 Internal Revenue Code, but only if the person making the
20 telephone solicitation immediately discloses all of the
21 following information upon making contact with the
22 consumer:

23 (A) the caller's true first and last name; and

24 (B) the name, address, and telephone number of the
25 organization;

26 (5) by or on behalf of an individual licensed under the
27 Real Estate License Act of 2000 or as an insurance producer
28 under the Illinois Insurance Code who either:

29 (A) is setting or attempting to set a face to face
30 appointment for actions relating to that individual's
31 real estate or insurance business; or

32 (B) is encouraging or attempting to encourage the
33 purchase or rental of, or investment in, property,
34 goods, or services, which cannot be completed, and for
35 which payment or authorization of payment is not
36 required, until after a written or electronic

1 agreement is signed by the residential subscriber; or
2 (6) until July 1, 2005, by or on behalf of any entity
3 over which the Federal Communications Commission or the
4 Illinois Commerce Commission has regulatory authority to
5 the extent that, subject to that authority, the entity is
6 required to maintain a license, permit, or certificate to
7 sell or provide telecommunications service, as defined in
8 Section 13-203 of the Public Utilities Act, while the
9 entity is engaged in telephone solicitation for
10 inter-exchange telecommunications service, as defined in
11 Section 13-205 of the Public Utilities Act, or local
12 exchange telecommunications service, as defined in Section
13 13-204 of the Public Utilities Act or to the extent,
14 subject to the regulatory authority of the Federal
15 Communications Commission, the entity is defined by Title
16 47 Section 522(5) of the United States Code, or providers
17 of information services as defined by Title 47 Section
18 153(20) of the United States Code.

19 (Source: P.A. 92-795, eff. 8-9-02.)