

# SB1246



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

SB1246

Introduced 2/18/2005, by Sen. Martin A. Sandoval - Emil Jones, Jr.

#### SYNOPSIS AS INTRODUCED:

815 ILCS 402/5

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

LRB094 04917 RXD 34946 b

A BILL FOR

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 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 ~~the~~ Public Utilities Act, a guardian of  
12 the person or the person's spouse, or an individual who has  
13 power of attorney from or an authorized agent of the person or  
14 the 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.)