

FIRST REGULAR SESSION

HOUSE BILL NO. 26

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES CUNNINGHAM (86) (Sponsor) AND NOLTE (Co-sponsor).

Pre-filed December 1, 2006 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

0454L.02I

AN ACT

To repeal section 407.1095, RSMo, and to enact in lieu thereof two new sections relating to the telemarketing no-call list.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 407.1095, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 407.1095 and 407.1096, to read as follows:

407.1095. As used in sections 407.1095 to 407.1110, the following words and phrases mean:

(1) "Caller identification service", a type of telephone service which permits telephone subscribers to see the telephone number of incoming telephone calls;

(2) "Residential subscriber", a person who has subscribed to residential telephone service from a local exchange company or the other persons living or residing with such person;

(3) "Telephone solicitation", **shall mean:**

(a) Any voice communication over a telephone line from a live operator[, through the use of ADAD equipment] or by other means for the purpose of encouraging the purchase or rental of, or investment in, property, goods or services, but does not include communications:

[(a)] a. To any residential subscriber with that subscriber's prior express invitation or permission;

[(b)] b. By or on behalf of any person or entity with whom a residential subscriber has had a business contact within the past one hundred eighty days or a current business or personal relationship;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 [(c)] c. By or on behalf of an entity organized pursuant to Chapter 501(c)(3) of the
17 United States Internal Revenue Code, while such entity is engaged in fund-raising to support the
18 charitable purpose for which the entity was established provided that a bona fide member of such
19 exempt organization makes the voice communication;

20 [(d)] d. By or on behalf of any entity over which a federal agency has regulatory
21 authority to the extent that:

22 [a.] (i) Subject to such authority, the entity is required to maintain a license, permit or
23 certificate to sell or provide the merchandise being offered through telemarketing; and

24 [b.] (ii) The entity is required by law or rule to develop and maintain a no-call list;

25 [(e)] e. By a natural person responding to a referral, or working from his or her primary
26 residence, or a person licensed by the state of Missouri to carry out a trade, occupation or
27 profession who is setting or attempting to set an appointment for actions relating to that licensed
28 trade, occupation or profession within the state or counties contiguous to the state; and

29 (b) Any use of ADAD equipment for the purpose of encouraging the purchase or
30 rental of, or investment in, property, goods, or services or for any noncommercial or
31 political purpose whatsoever, but shall not include ADAD communications:

32 a. To any residential subscriber with that subscriber's prior express invitation or
33 permission;

34 b. By or on behalf of any person or entity with whom a residential subscriber has
35 had contact within the past one hundred eighty days or a current business, employment,
36 or personal relationship;

37 c. By an educational institution to the parents or guardians of children enrolled in
38 such institution.

407.1096. 1. Beginning January 1, 2008, the prohibition on telephone solicitations
2 and all applicable procedures and penalties in sections 407.1095 to 407.1110, and any
3 applicable rules and regulations promulgated under sections 407.1095 to 407.1110, shall
4 apply to any cellular home subscriber or fax transmissions to the telephone number of any
5 residential subscriber in this state who has given notice to the attorney general, in
6 accordance with rules promulgated under this section, of such subscriber's objection to
7 receiving fax transmissions.

8 2. The attorney general shall establish and provide for the operation of a database
9 to compile a list of telephone numbers of residential subscribers who object to receiving
10 such fax transmissions. The attorney general shall have the database in operation no later
11 than January 1, 2008.

12 3. The attorney general may promulgate rules to implement the provisions of this
13 section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,

14 that is created under the authority delegated in this section shall become effective only if
15 it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if
16 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
17 and if any of the powers vested with the general assembly under chapter 536, RSMo, to
18 review, to delay the effective date, or to disapprove and annul a rule are subsequently held
19 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
20 after August 28, 2007, shall be invalid and void.

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