

SECOND REGULAR SESSION

HOUSE BILL NO. 1538

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SPENCER (Sponsor) AND HICKS (Co-sponsor).

4078H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 407.1073, RSMo, and to enact in lieu thereof one new section relating to telemarketer solicitation.

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

Section A. Section 407.1073, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 407.1073, to read as follows:

407.1073. 1. A telemarketer shall disclose, promptly and in a clear and conspicuous manner, to the consumer receiving the telephone call the following:

(1) That the purpose of the telephone call is to make a sale;

(2) The telemarketer's identifiable name and the seller on whose behalf the solicitation is being made;

(3) The nature of the merchandise or investment opportunity being sold;

(4) That no purchase or payment is necessary to be able to win a prize or participate in a prize promotion if a prize promotion is offered. This disclosure shall be made before or in conjunction with the description of the prize to the consumer called; [and]

(5) If the telephone call is made by any recorded, computer-generated, electronically generated or other voice communication of any kind. When engaged in telemarketing, such voice communication shall, promptly at the beginning of the telephone call, inform the consumer that the call is being made by a recorded, computer-generated, electronically generated or other type of voice communication, as the case may be; **and**

(6) **At the beginning of the call, whether or not the telemarketer is affiliated with any governmental entity.**

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.

17 2. Before a consumer pays for merchandise offered for sale through telemarketing, the
18 telemarketer shall disclose, in a clear and conspicuous manner, the following:

19 (1) The seller or telemarketer's identifiable name and the address or telephone number
20 where the seller or telemarketer can be reached;

21 (2) The total cost and quantity of the merchandise that is the subject of the telemarketing
22 sales call;

23 (3) Any material restriction, limitation or condition to purchase, receive or use the
24 merchandise that is the subject of a telemarketing sales call;

25 (4) Any material aspect of the nature or terms of the refund, cancellation, exchange or
26 repurchase policies, including the absence of such policies;

27 (5) Any material aspect of an investment opportunity being offered, including benefits,
28 the price of the land or other investment, and the location of the investment;

29 (6) Material elements of a prize promotion, including:

30 (a) The odds of being able to receive the prize and, if the odds are not calculable in
31 advance, the factors and methods used in calculating the odds;

32 (b) That no purchase or payment of any kind is required to win a prize or to participate
33 in a prize promotion;

34 (c) The no-purchase or no-payment method of participating in the prize promotion, with
35 either instructions on how to participate or an address or local or toll-free telephone number to
36 which consumers may write or call for information on how to participate; and

37 (d) All material conditions to receive or redeem the prize.

38 3. A telemarketer shall not misrepresent, directly or by implication, any of the following:

39 (1) A description of the prize;

40 (2) Its market value;

41 (3) The actual number of each prize to be awarded;

42 (4) The date by which the prize will be awarded.

43 4. A telemarketer shall not misrepresent any material aspect of the performance, quality,
44 efficacy, nature or basic characteristics of merchandise that is the subject of a telemarketing sales
45 call.

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