

SECOND REGULAR SESSION

HOUSE BILL NO. 3052

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DURNELL.

6774H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 407.1095, 407.1098, 407.1101, 407.1104, and 407.1110, RSMo, and to enact in lieu thereof five new sections relating to the no-call list.

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

Section A. Sections 407.1095, 407.1098, 407.1101, 407.1104, and 407.1110, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 407.1095, 407.1098, 407.1101, 407.1104, and 407.1110, to read as follows:

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

(1) **"Business subscriber"**, a person or entity that, for primarily business use, has subscribed to telephone service, wireless service, or other similar service;

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

~~(2)~~ (3) "Residential subscriber", a person who, for primarily personal and familial use, has subscribed to residential telephone service, wireless service or similar service, or the other persons living or residing with such person;

~~(3)~~ (4) "Telephone solicitation", any voice, facsimile, short messaging service (SMS), or multimedia messaging service (MMS), for the purpose of encouraging the purchase or rental of, or investment in, property, goods or services, but does not include communications:

(a) To any residential **or business** subscriber with that subscriber's prior express invitation or permission;

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

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

23 (d) By or on behalf of any entity over which a federal agency has regulatory authority
24 to the extent that:

25 a. Subject to such authority, the entity is required to maintain a license, permit or
26 certificate to sell or provide the merchandise being offered through telemarketing; and

27 b. The entity is required by law or rule to develop and maintain a no-call list;

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

407.1098. No person or entity shall make or cause to be made any telephone
2 solicitation to any residential **or business** subscriber in this state who has given notice to the
3 attorney general, in accordance with rules promulgated pursuant to section 407.1101 of such
4 subscriber's objection to receiving telephone solicitations.

407.1101. 1. The attorney general shall establish and provide for the operation of a
2 database to compile a list of telephone numbers of residential **or business** subscribers who
3 object to receiving telephone solicitations. [~~Such list is not intended to include any telephone~~
4 ~~number primarily used for business or commercial purposes.~~]

5 2. The attorney general shall promulgate rules and regulations governing the
6 establishment of a state no-call database as he or she deems necessary and appropriate to fully
7 implement the provisions of sections 407.1095 to 407.1110. The rules and regulations shall
8 include those which:

9 (1) Specify the methods by which each residential **or business** subscriber may give
10 notice to the attorney general or its contractor of his or her objection to receiving such
11 solicitations or revocation of such notice. There shall be no cost to the subscriber for joining
12 the database;

13 (2) Specify the length of time for which a notice of objection shall be effective and
14 the effect of a change of telephone number on such notice;

15 (3) Specify the methods by which such objections and revocations shall be collected
16 and added to the database;

17 (4) Specify the methods by which any person or entity desiring to make telephone
18 solicitations will obtain access to the database as required to avoid calling the telephone
19 numbers of residential **or business** subscribers included in the database, including the cost
20 assessed to that person or entity for access to the database;

21 (5) Specify such other matters relating to the database that the attorney general deems
22 desirable.

23 3. If the Federal Communications Commission establishes a single national database
24 of telephone numbers of subscribers who object to receiving telephone solicitations pursuant
25 to 47 U.S.C. Section 227(c)(3), the attorney general shall include that part of such single
26 national database that relates to Missouri in the database established pursuant to this section.

27 4. Information contained in the database established pursuant to this section shall be
28 used only for the purpose of compliance with section 407.1098 and this section or in a
29 proceeding or action pursuant to section 407.1107. Such information shall not be considered
30 a public record pursuant to chapter 610.

31 5. In April, July, October and January of each year, the attorney general shall be
32 encouraged to obtain subscription listings of residential **or business** subscribers in this state
33 who have arranged to be included on any national do-not-call list and add those telephone
34 numbers to the state do-not-call list.

35 6. The attorney general may utilize moneys appropriated from general revenue and
36 moneys appropriated from the merchandising practices revolving fund established in section
37 407.140 for the purposes of establishing and operating the state no-call database.

38 7. Any rule or portion of a rule, as that term is defined in section 536.010, that is
39 created under the authority delegated in sections 407.1095 to 407.1110 shall become effective
40 only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable,
41 section 536.028. This section and chapter 536 are nonseverable and if any of the powers
42 vested with the general assembly pursuant to chapter 536 to review, to delay the effective date
43 or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of
44 rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid
45 and void.

407.1104. 1. Any person or entity who makes a telephone solicitation to any
2 residential **or business** subscriber in this state shall, at the beginning of such solicitation, state
3 clearly the identity of the person or entity initiating the solicitation.

4 2. No person or entity who makes a telephone solicitation to a residential **or business**
5 subscriber in this state shall knowingly use any method to block or otherwise circumvent any
6 subscriber's use of a caller identification service.

407.1110. The attorney general shall establish an advisory group composed of
2 government entities, local telecommunications companies, businesses, and senior citizen and

3 other community advocates to compile and promote a list of educational literature to help
4 consumers understand their options with regard to telephone solicitations. The attorney
5 general shall work with local exchange telecommunications companies to disseminate to their
6 residential **or business** subscribers information about the availability of and instructions
7 about how to request educational literature from the attorney general. The attorney general
8 may enter into agreements with those companies for the purpose of dissemination of the
9 educational literature. The attorney general shall include on his or her internet website
10 information that informs residential **or business** subscribers of their rights to be placed on a
11 no-call list and the various methods, including notice to the attorney general, of placing their
12 names on this no-call list. The attorney general shall have this literature developed for
13 dissemination to the public no later than January 1, 2001.

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