



HOUSE BILL No. 5501

March 9, 2000, Introduced by Reps. LaSata, Van Woerkom, Julian, Kowall, Mead, Jelinek, Rocca, Byl, Sheltroun and Birkholz and referred to the Committee on Energy and Technology.

A bill to provide for the regulation of telephone solicitation; to prescribe the powers and duties of certain state agencies and officials; and to provide for penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "Michigan telephone solicitation act".

3 Sec. 2. As used in this act:

4 (a) "Automatically dialed announcing device" means a device
5 that delivers a recorded message without the assistance of a live
6 operator for the purpose of making a consumer telephone call.

7 (b) "Consumer goods or services" means any tangible personal
8 property that is normally used for personal, family, financial,
9 or household purposes, including property intended to be attached
10 to or installed on any real property.

1 (c) "Consumer telephone call" means a call made by a
2 telephone solicitor for the purpose of soliciting a sale of
3 consumer goods or services, the extension of credit for the pur-
4 chase of consumer goods or services, or to obtain information
5 that may be used for the direct solicitation of a sale of con-
6 sumer goods or services.

7 (d) "Telephone solicitor" means an individual, partnership,
8 association, corporation, or any other legal entity that makes or
9 causes to be made a consumer telephone call.

10 (e) "Unsolicited consumer telephone call" means a consumer
11 telephone call that does not include 1 or more of the following:

12 (i) A call made in response to an express request of the
13 person called.

14 (ii) A call made primarily in connection with an existing
15 debt or contract, payment, or performance of which has not been
16 completed at the time of the call.

17 (iii) A call made to a person with whom the telephone solici-
18 ator has an existing business relationship or has had a previous
19 business relationship.

20 Sec. 3. (1) At the time a consumer telephone call is made,
21 the telephone solicitor shall do all of the following:

22 (a) Immediately identify himself or herself and the business
23 on whose behalf he or she is making the consumer telephone call.

24 (b) Within 30 seconds after beginning the conversation,
25 state the purpose of the call and allow the person called the
26 opportunity to respond. If the response is negative, the
27 telephone solicitor shall immediately discontinue the call.

1 (c) If the called party asks not to be called again, the
2 solicitor shall remove the called party's name and telephone
3 number from the solicitor's in-house calling lists.

4 (2) A telephone solicitor shall not violate any provision of
5 section 540e of the Michigan penal code, 1931 PA 328,
6 MCL 750.540e.

7 Sec. 4. A telephone solicitor shall disclose to the buyer
8 at the time of the solicitation all of the following:

9 (a) The cost of the goods or services purchased and the
10 method used to estimate the cost.

11 (b) The payment plan.

12 (c) Any extra or special charges or fees such as shipping,
13 handling, and taxes not included in the cost disclosed under sub-
14 division (a).

15 (d) All material restrictions, limitations, or conditions to
16 purchase, receive, or use the goods or services that are the
17 subject of the sales offer.

18 (e) If the seller has a policy of not making refunds, can-
19 cellations, exchanges, or repurchases, a statement informing the
20 customer of the seller's policy. If the seller does have a
21 refund, cancellation, exchange, or repurchase policy, a statement
22 of all material terms and conditions of the policy.

23 Sec. 5. A telephone solicitor shall not initiate a call to
24 a person that has stated or otherwise informed the solicitor that
25 the called person does not want to receive solicitations from the
26 seller represented by the solicitor.

1 Sec. 6. A telephone solicitor who makes unsolicited
2 consumer telephone calls shall implement an in-house system and
3 procedure to insure that the telephone solicitor does not call
4 persons who ask not to be called again.

5 Sec. 7. Automatically dialed announcing devices are subject
6 to this act and shall disconnect immediately when the called
7 party hangs up.

8 Sec. 8. A person who has suffered damages as a result of a
9 violation of this act may bring a cause of action to recover
10 actual damages or \$500.00, whichever is greater, plus costs and
11 reasonable attorney fees.

12 Sec. 9. (1) The attorney general shall investigate any com-
13 plaints received concerning violations of this act.

14 (2) If the attorney general has probable cause to believe
15 that a telephone solicitor has engaged, is engaging, or is about
16 to engage in a method, act, or practice that violates this act,
17 the attorney general may bring an action to restrain the
18 defendant by temporary or permanent injunction from engaging in
19 the method, act, or practice. The action may be brought in the
20 circuit court of the county where the defendant is established or
21 conducts business or in the circuit court of Ingham county.

22 (3) If the court finds that the defendant knowingly violated
23 this act or an order issued under subsection (2), the court may
24 assess the defendant a civil penalty of not more than
25 \$25,000.00.

1 (4) The remedies allowed under this act are in addition to
2 the remedies available under the Michigan consumer protection
3 act, 1976 PA 331, MCL 445.901 to 445.922.