

CHAPTER 208

AN ACT concerning unsolicited telemarketing sales calls and amending P.L.2003, c.76 (C.56:8-119 et seq.).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 2 of P.L.2003, c.76 (C.56:8-120) is amended to read as follows:

C.56:8-120 Definitions relative to telemarketing calls.

2. As used in this act:

"Customer" means an individual who is a resident of this State and a prospective recipient of a telemarketing sales call.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety.

"Local exchange telephone company" means a telecommunications carrier authorized by the Board of Public Utilities to provide local telecommunications services.

"Merchandise" means merchandise as defined in subsection (c) of section 1 of P.L.1960, c.39 (C.56:8-1), including an extension of credit.

"No telemarketing call list" or "no call list" means a list of telephone numbers of customers in this State who desire not to receive unsolicited telemarketing sales calls.

"Telemarketer" means any entity, whether an individual proprietor, corporation, partnership, limited liability corporation or any other form of business organization, whether on behalf of itself or others, who makes residential telemarketing sales calls to a customer when the customer is in this State or any person who directly controls or supervises the conduct of a telemarketer.

"Telemarketing" means any plan, program or campaign which is conducted by telephone to encourage the purchase or rental of, or investment in, merchandise, but does not include the solicitation of sales through media other than a telephone call.

"Telemarketing sales call" means a telephone call made by a telemarketer to a customer as part of a plan, program or campaign to encourage the purchase or rental of, or investment in, merchandise, except for continuing services. A telephone call made to an existing customer for the sole purpose of collecting on accounts or following up on contractual obligations shall not be deemed a telemarketing sales call.

"Unsolicited telemarketing sales call" means any telemarketing sales call other than a call made:

- (1) in response to an express written request of the customer called; or
- (2) to an existing customer, which shall include the ability to collect on accounts and follow up on contractual obligations, unless the customer has stated to the telemarketer that the customer no longer desires to receive the telemarketing sales calls of the telemarketer.

2. Section 9 of P.L.2003, c.76 (C.56:8-127) is amended to read as follows:

C.56:8-127 Establishment, maintenance of no telemarketing call list, use of national registry.

9. The division shall establish and maintain a no telemarketing call list and may utilize for this purpose, in any manner the director deems appropriate, the national do-not-call registry as maintained by the Federal Trade Commission. The division may contract with a private vendor to establish and maintain the no call list, provided:

a. the private vendor meets standards established by the division by regulations that require that the vendor:

- (1) is financially sound;
- (2) has the capacity to perform the service required;
- (3) has a record of past performance; and
- (4) does not have a conflict of interest with a telemarketer or an association thereof; and

b. the contract requires the vendor to provide the list in a printed hard copy format, and in any other format, as prescribed by the division.

3. Section 10 of P.L.2003, c.76 (C.56:8-128) is amended to read as follows:

C.56:8-128 Requirements relative to telemarketing sales calls.

10. a. No telemarketer shall make or cause to be made any unsolicited telemarketing sales call to any customer whose telephone number is included on the no telemarketing call list established pursuant to section 9 of this act, except for a call made within three months of the date the customer's telephone number was first included on the no call list but only if the telemarketer had at the time of the call not yet obtained a no call list which included the customer's telephone number and the no call list used by the telemarketer was issued less than three months prior to the time the call was made.

b. A telemarketer making a telemarketing sales call shall, within the first 30 seconds of the call, identify the telemarketer's name, the person on whose behalf the call is being made, and the purpose of the call.

c. A telemarketer shall not make or cause to be made any unsolicited telemarketing sales call to any customer between the hours of 9 p.m. and 8 a.m., local time, at the customer's location.

d. A telemarketer shall not intentionally use any method that blocks a caller identification service from displaying caller identification information or otherwise circumvents a customer's use of a telephone caller identification service.

4. Section 11 of P.L.2003, c.76 (C.56:8-129) is amended to read as follows:

C.56:8-129 Inclusion on list, notice to customers of existence of list, updating; directory information.

11. a. A customer who desires to be included on the no telemarketing call list shall notify the division by calling a toll-free number provided or denominated by the division, or in any other manner and at a time prescribed by the division. A customer who is included on the no call list shall be removed from the no call list upon the customer's written request. The no call list shall be updated not less than quarterly and the division shall, if the no call list is not readily accessible through other means, make the no call list available to registered telemarketers for a fee that the division shall prescribe.

b. A local exchange telephone company shall include, in every telephone directory published after the effective date of this act, notice concerning the provisions of this act as those provisions relate to the rights of customers with respect to telemarketers and the no telemarketing call list. A local exchange telephone company shall also enclose, at least semiannually, in every telephone bill, a notice concerning the provisions of this act as those provisions relate to the rights of customers with respect to telemarketers and the no telemarketing call list.

5. Section 16 of P.L.2003, c.76 (C.56:8-134) is amended to read as follows:

C.56:8-134 Rules, regulations.

16. The division, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall promulgate rules and regulations necessary to implement this act, which shall include, but not be limited to:

a. provisions governing the availability and distribution of the no call list established pursuant to section 9 of this act;

b. any other matters relating to the no call list established pursuant to section 9 of this act that the division deems necessary; and

c. such procedures as may be most effective to ensure that the no call list is up-to-date and accurately reflects the telephone numbers of persons wishing to be on the no call list and procedures to identify telephone numbers that have been reallocated to persons other than those who have indicated that they wish to be on the no call list. Such procedures may include, but not be limited to, establishing a means of matching the no call list with the names and numbers of persons with current listings supplied by the local exchange telephone companies, or establishing a requirement for re-enrollment to the list from time to time.

6. This act shall take effect immediately.

Approved January 8, 2004.