

56:8-120

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2003 **CHAPTER:** 208
NJSA: 56:8-120 ("No not call" –clarifies certain provisions)
BILL NO: S2776 (Substituted for A3944)

SPONSOR(S): Codey and others

DATE INTRODUCED: December 4, 2003

COMMITTEE: **ASSEMBLY:** ----

SENATE: Commerce

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** December 15, 2003

SENATE: December 11, 2003

DATE OF APPROVAL: January 8, 2003

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (Original version of bill enacted)

S2776

[SPONSOR'S STATEMENT:](#) (Begins on page 5 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: [Yes](#)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

A3944

[SPONSOR'S STATEMENT:](#) (Begins on page 5 of original bill) [Yes](#)

Bill and Sponsors Statement identical to S2776

COMMITTEE STATEMENT: **ASSEMBLY:** [Yes](#)

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

[GOVERNOR'S PRESS RELEASE ON SIGNING:](#) [Yes](#)

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext. 103 or <mailto:refdesk@njstatelib.org>.

REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

Yes

“N.J. doubles solicitation protection,” 1-9-2004 Home News & Tribune, p.A3

“Telemarketing ban law signed,” 1-9-2004 The Times, p.A8

“McGreevey sings laws to strengthen 'do not call' list, “ 1-9-2004 Courier News, p.A3

P.L. 2003, CHAPTER 208, *approved January 8, 2004*

Senate, No. 2776

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

3

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

6

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

9 2. As used in this act:

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

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

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

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

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

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

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

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

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

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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

3 (1) in response to an express written request of the customer
4 called;

5 or

6 (2) to an existing customer, which shall include the ability to
7 collect on accounts and follow up on contractual obligations, unless
8 the customer has stated to the telemarketer that the customer no
9 longer desires to receive the telemarketing sales calls of the
10 telemarketer.

11 (cf: P.L.2003, c.76, s.2)

12

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

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

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

22 (1) is financially sound;

23 (2) has the capacity to perform the service required;

24 (3) has a record of past performance; and

25 (4) does not have a conflict of interest with a telemarketer or an
26 association thereof; and

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

30 (cf: P.L.2003, c.76, s.9)

31

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

34 10. a. No telemarketer shall make or cause to be made any
35 unsolicited telemarketing sales call to any customer [more than 45
36 days after the customer's] whose telephone number [appears] is
37 included on the no telemarketing call list established pursuant to
38 section 9 of this act, except for a call made within three months of the
39 date the customer's telephone number was first included on the no call
40 list but only if the telemarketer had at the time of the call not yet
41 obtained a no call list which included the customer's telephone number
42 and the no call list used by the telemarketer was issued less than three
43 months prior to the time the call was made.

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

1 call.

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

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

9 (cf: P.L.2003, c.76, s.10)

10

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

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

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

32 (cf: P.L.2003, c.76, s.11)

33

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

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

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

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

44 c. such procedures as may be most effective to ensure that the no
45 call list is up-to-date and accurately reflects the [names and]
46 telephone numbers of persons wishing to be on the no call list and

1 procedures to identify telephone numbers that have been reallocated
2 to persons other than those who have indicated that they wish to be on
3 the no call list. Such procedures may include, but not be limited to,
4 establishing a means of matching the no call list with the names and
5 numbers of persons with current listings supplied by the local
6 exchange telephone companies, or establishing a requirement for
7 re-enrollment to the list from time to time.

8 (cf: P.L.2003, c.76, s.16)

9
10 6. This act shall take effect immediately.

11 12 13 STATEMENT

14
15 This bill amends P.L.2003, c.76 (C.56:8-119 et seq.), which
16 established New Jersey's "no telemarketing call list," to clarify certain
17 provisions of the law.

18 Section 1 of the bill amends the definition of the State's "no
19 telemarketing call list" to remove the requirement that the list contain
20 names of customers in order to protect customer privacy, to prevent
21 the list from being used by marketers for mail solicitations and to
22 reduce expenses involved with adapting the national "Do-Not-Call
23 Registry" maintained by the Federal Trade Commission (the "national
24 registry") which includes only customer telephone numbers.

25 Section 1 also amends the definition of "telemarketing sales call"
26 to include current statutory terms, i.e., "plan, program or campaign"
27 that are part of the existing definition of "telemarketing," in order to
28 clarify that a business making a random or sporadic call to a customer
29 is not required to register with the Division of Consumer Affairs (the
30 "division") as a telemarketer. The amendment also incorporates into
31 the definition of "telemarketing sales call" a provision from the
32 definition of "unsolicited telemarketing sales call" to clarify that a call
33 to collect on accounts or to follow up on contractual obligations does
34 not constitute a telemarketing sales call.

35 Section 2 of the bill authorizes the division to establish the State
36 "no call list" by adapting portions of the national registry containing
37 New Jersey residents. This clarification provides clear authority for
38 the division to proceed in this way to establish the State's "no call list,"
39 avoids duplication of work which has already been done by the federal
40 government and allows New Jersey residents who have already signed
41 up for the national registry to be included as part of the State "no call
42 list" without requiring such residents to sign up separately for the
43 State list.

44 Section 3 of the bill provides a more reasonable "grace period" for
45 telemarketers, similar to the approach under federal law establishing
46 the national registry, by not holding a telemarketer responsible for a

1 call if the telemarketer could not reasonably have known the call was
2 in violation of the law.

3 Section 4 of the bill amends the updating procedures relevant to the
4 State's "no call list" to enable the division to rely on the federal toll-
5 free number as an acceptable means of signing up for the State's "no
6 call list" thereby eliminating the need for customers to sign up on two
7 different lists and avoiding duplication of a system that has already
8 been established by the federal government. In addition, the
9 amendments in section 4 would eliminate the requirement that the
10 division sell the "no call list" to telemarketers if the list is available
11 from the federal government.

12 Section 5 of the bill deletes the requirement for New Jersey's "no
13 call list" to include the names of the customers in addition to their
14 telephone numbers since the national registry does not include a listing
15 of customer names.

16

17

18

19

20 Clarifies various provisions of law establishing the State's "no
21 telemarketing call list."

SENATE, No. 2776

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED DECEMBER 4, 2003

Sponsored by:

Senator RICHARD J. CODEY

District 27 (Essex)

Senator SHIRLEY K. TURNER

District 15 (Mercer)

Assemblywoman LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Assemblyman JEFF VAN DREW

District 1 (Cape May, Atlantic and Cumberland)

Assemblyman JACK CONNERS

District 7 (Burlington and Camden)

Assemblyman NEIL M. COHEN

District 20 (Union)

Co-Sponsored by:

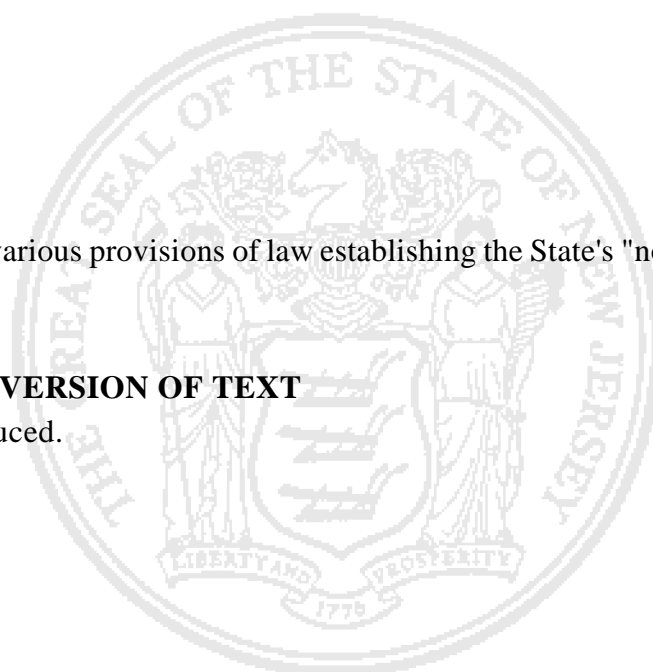
Senators Coniglio, Geist, Gill and Sarlo

SYNOPSIS

Clarifies various provisions of law establishing the State's "no telemarketing call list."

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/16/2003)

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

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 2 of P.L.2003, c.76 (C.56:8-120) is amended to read as
8 follows:

9 2. As used in this act:

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

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

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

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

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

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

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

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

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

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

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (1) in response to an express written request of the customer
2 called;

3 or

4 (2) to an existing customer, which shall include the ability to
5 collect on accounts and follow up on contractual obligations, unless
6 the customer has stated to the telemarketer that the customer no
7 longer desires to receive the telemarketing sales calls of the
8 telemarketer.

9 (cf: P.L.2003, c.76, s.2)

10

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

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

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

20 (1) is financially sound;

21 (2) has the capacity to perform the service required;

22 (3) has a record of past performance; and

23 (4) does not have a conflict of interest with a telemarketer or an
24 association thereof; and

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

28 (cf: P.L.2003, c.76, s.9)

29

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

32 10. a. No telemarketer shall make or cause to be made any
33 unsolicited telemarketing sales call to any customer [more than 45
34 days after the customer's] whose telephone number [appears] is
35 included on the no telemarketing call list established pursuant to
36 section 9 of this act, except for a call made within three months of the
37 date the customer's telephone number was first included on the no call
38 list but only if the telemarketer had at the time of the call not yet
39 obtained a no call list which included the customer's telephone number
40 and the no call list used by the telemarketer was issued less than three
41 months prior to the time the call was made.

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

46 c. A telemarketer shall not make or cause to be made any

1 unsolicited telemarketing sales call to any customer between the hours
2 of 9 p.m. and 8 a.m., local time, at the customer's location.

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

7 (cf: P.L.2003, c.76, s.10)

8

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

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

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

30 (cf: P.L.2003, c.76, s.11)

31

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

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

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

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

42 c. such procedures as may be most effective to ensure that the no
43 call list is up-to-date and accurately reflects the [names and]
44 telephone numbers of persons wishing to be on the no call list and
45 procedures to identify telephone numbers that have been reallocated
46 to persons other than those who have indicated that they wish to be on

1 the no call list. Such procedures may include, but not be limited to,
2 establishing a means of matching the no call list with the names and
3 numbers of persons with current listings supplied by the local
4 exchange telephone companies, or establishing a requirement for
5 re-enrollment to the list from time to time.

6 (cf: P.L.2003, c.76, s.16)

7

8 6. This act shall take effect immediately.

9

10

11

STATEMENT

12

13 This bill amends P.L.2003, c.76 (C.56:8-119 et seq.), which
14 established New Jersey's "no telemarketing call list," to clarify certain
15 provisions of the law.

16 Section 1 of the bill amends the definition of the State's "no
17 telemarketing call list" to remove the requirement that the list contain
18 names of customers in order to protect customer privacy, to prevent
19 the list from being used by marketers for mail solicitations and to
20 reduce expenses involved with adapting the national "Do-Not-Call
21 Registry" maintained by the Federal Trade Commission (the "national
22 registry") which includes only customer telephone numbers.

23 Section 1 also amends the definition of "telemarketing sales call"
24 to include current statutory terms, i.e., "plan, program or campaign"
25 that are part of the existing definition of "telemarketing," in order to
26 clarify that a business making a random or sporadic call to a customer
27 is not required to register with the Division of Consumer Affairs (the
28 "division") as a telemarketer. The amendment also incorporates into
29 the definition of "telemarketing sales call" a provision from the
30 definition of "unsolicited telemarketing sales call" to clarify that a call
31 to collect on accounts or to follow up on contractual obligations does
32 not constitute a telemarketing sales call.

33 Section 2 of the bill authorizes the division to establish the State
34 "no call list" by adapting portions of the national registry containing
35 New Jersey residents. This clarification provides clear authority for
36 the division to proceed in this way to establish the State's "no call list,"
37 avoids duplication of work which has already been done by the federal
38 government and allows New Jersey residents who have already signed
39 up for the national registry to be included as part of the State "no call
40 list" without requiring such residents to sign up separately for the
41 State list.

42 Section 3 of the bill provides a more reasonable "grace period" for
43 telemarketers, similar to the approach under federal law establishing
44 the national registry, by not holding a telemarketer responsible for a
45 call if the telemarketer could not reasonably have known the call was
46 in violation of the law.

1 Section 4 of the bill amends the updating procedures relevant to the
2 State's "no call list" to enable the division to rely on the federal toll-
3 free number as an acceptable means of signing up for the State's "no
4 call list" thereby eliminating the need for customers to sign up on two
5 different lists and avoiding duplication of a system that has already
6 been established by the federal government. In addition, the
7 amendments in section 4 would eliminate the requirement that the
8 division sell the "no call list" to telemarketers if the list is available
9 from the federal government.

10 Section 5 of the bill deletes the requirement for New Jersey's "no
11 call list" to include the names of the customers in addition to their
12 telephone numbers since the national registry does not include a listing
13 of customer names.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 2776

STATE OF NEW JERSEY

DATED: DECEMBER 4, 2003

The Senate Commerce Committee reports favorably Senate Bill No. 2776.

This bill amends P.L.2003, c.76 (C.56:8-119 et seq.), which established New Jersey's "no telemarketing call list," to clarify certain provisions of the law.

Section 1 of the bill amends the definition of the State's "no call list" to remove the requirement that the list contain names of customers in order to protect customer privacy, to prevent the list from being used by marketers for mail solicitations and to reduce expenses involved with adopting the national "Do-Not-Call Registry" maintained by the Federal Trade Commission (the "national registry") which includes only customer telephone numbers.

Section 1 also amends the definition of "telemarketing sales call" to include current statutory terms, i.e., "plan, program or campaign" that are part of the existing definition of "telemarketing," in order to clarify that a business making a random or sporadic call to a customer is not required to register with the Division of Consumer Affairs (the "division") as a telemarketer. The amendment also incorporates into the definition of "telemarketing sales call" a provision from the definition of "unsolicited telemarketing sales call" to clarify that a call to collect on accounts or to follow up on contractual obligations does not constitute a telemarketing sales call.

Section 2 of the bill authorizes the division to establish the State "no call list" by adopting portions of the national registry containing New Jersey residents. This clarification provides clear authority for the division to proceed in this way to establish the State's "no call list," avoids duplication of work which has already been done by the federal government and allows New Jersey residents who have already signed up for the national registry to be included as part of the State "no call list" without requiring such residents to sign up separately for the State list.

Section 3 of the bill provides a more reasonable "grace period" for telemarketers, similar to the approach under federal law establishing the national registry, by not holding a telemarketer responsible for a call if the telemarketer could not reasonably have known the call was in violation of the law.

Section 4 of the bill amends the updating procedures relevant to

the State's "no call list" to enable the division to rely on the federal toll-free number as an acceptable means of signing up for the State's "no call list" thereby eliminating the need for customers to sign up on two different lists and avoiding duplication of a system that has already been established by the federal government. In addition, the amendments in section 4 would eliminate the requirement that the division sell the "no call list" to telemarketers if the list is available from the federal government.

Section 5 of the bill deletes the requirement for New Jersey's "no call list" to include the names of the customers in addition to their telephone numbers since the national registry does not include a listing of customer names.

ASSEMBLY, No. 3944

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED DECEMBER 11, 2003

Sponsored by:

Assemblywoman LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Assemblyman JEFF VAN DREW

District 1 (Cape May, Atlantic and Cumberland)

Assemblyman JACK CONNERS

District 7 (Burlington and Camden)

Assemblyman NEIL M. COHEN

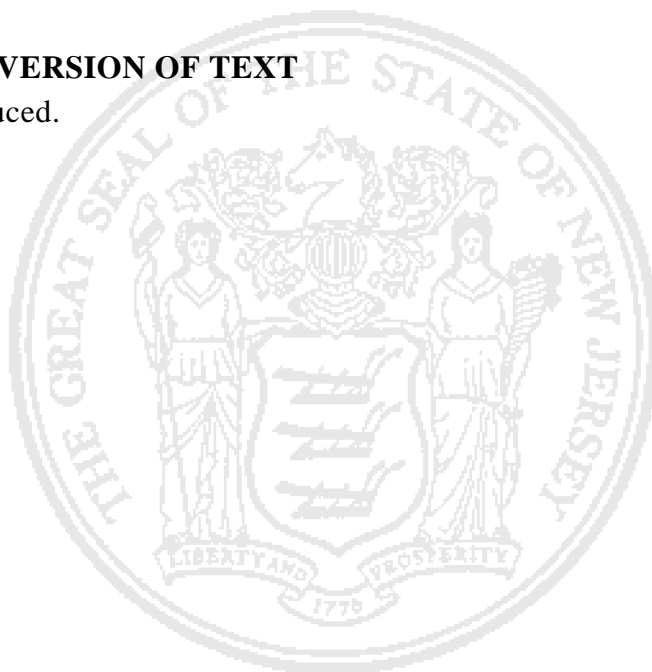
District 20 (Union)

SYNOPSIS

Clarifies various provisions of law establishing the State's "no telemarketing call list."

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/16/2003)

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2 P.L.2003, c.76 (C.56:8-119 et seq.).

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
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26 corporation, partnership, limited liability corporation or any other form
27 of business organization, whether on behalf of itself or others, who
28 makes residential telemarketing sales calls to a customer when the
29 customer is in this State or any person who directly controls or
30 supervises the conduct of a telemarketer.

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

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

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

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (1) in response to an express written request of the customer
2 called;

3 or

4 (2) to an existing customer, which shall include the ability to
5 collect on accounts and follow up on contractual obligations, unless
6 the customer has stated to the telemarketer that the customer no
7 longer desires to receive the telemarketing sales calls of the
8 telemarketer.

9 (cf: P.L.2003, c.76, s.2)

10

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

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

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

20 (1) is financially sound;

21 (2) has the capacity to perform the service required;

22 (3) has a record of past performance; and

23 (4) does not have a conflict of interest with a telemarketer or an
24 association thereof; and

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

28 (cf: P.L.2003, c.76, s.9)

29

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

32 10. a. No telemarketer shall make or cause to be made any
33 unsolicited telemarketing sales call to any customer [more than 45
34 days after the customer's] whose telephone number [appears] is
35 included on the no telemarketing call list established pursuant to
36 section 9 of this act, except for a call made within three months of the
37 date the customer's telephone number was first included on the no call
38 list but only if the telemarketer had at the time of the call not yet
39 obtained a no call list which included the customer's telephone number
40 and the no call list used by the telemarketer was issued less than three
41 months prior to the time the call was made.

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

46 c. A telemarketer shall not make or cause to be made any

1 unsolicited telemarketing sales call to any customer between the hours
2 of 9 p.m. and 8 a.m., local time, at the customer's location.

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

7 (cf: P.L.2003, c.76, s.10)

8

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

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

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

30 (cf: P.L.2003, c.76, s.11)

31

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

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

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

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

42 c. such procedures as may be most effective to ensure that the no
43 call list is up-to-date and accurately reflects the [names and]
44 telephone numbers of persons wishing to be on the no call list and
45 procedures to identify telephone numbers that have been reallocated
46 to persons other than those who have indicated that they wish to be on

1 the no call list. Such procedures may include, but not be limited to,
2 establishing a means of matching the no call list with the names and
3 numbers of persons with current listings supplied by the local
4 exchange telephone companies, or establishing a requirement for
5 re-enrollment to the list from time to time.

6 (cf: P.L.2003, c.76, s.16)

7

8 6. This act shall take effect immediately.

9

10

11

STATEMENT

12

13 This bill amends P.L.2003, c.76 (C.56:8-119 et seq.), which
14 established New Jersey's "no telemarketing call list," to clarify certain
15 provisions of the law.

16 Section 1 of the bill amends the definition of the State's "no
17 telemarketing call list" to remove the requirement that the list contain
18 names of customers in order to protect customer privacy, to prevent
19 the list from being used by marketers for mail solicitations and to
20 reduce expenses involved with adapting the national "Do-Not-Call
21 Registry" maintained by the Federal Trade Commission (the "national
22 registry") which includes only customer telephone numbers.

23 Section 1 also amends the definition of "telemarketing sales call" to
24 include current statutory terms, i.e., "plan, program or campaign" that
25 are part of the existing definition of "telemarketing," in order to clarify
26 that a business making a random or sporadic call to a customer is not
27 required to register with the Division of Consumer Affairs (the
28 "division") as a telemarketer. The amendment also incorporates into
29 the definition of "telemarketing sales call" a provision from the
30 definition of "unsolicited telemarketing sales call" to clarify that a call
31 to collect on accounts or to follow up on contractual obligations does
32 not constitute a telemarketing sales call.

33 Section 2 of the bill authorizes the division to establish the State
34 "no call list" by adapting portions of the national registry containing
35 New Jersey residents. This clarification provides clear authority for
36 the division to proceed in this way to establish the State's "no call list,"
37 avoids duplication of work which has already been done by the federal
38 government and allows New Jersey residents who have already signed
39 up for the national registry to be included as part of the State "no call
40 list" without requiring such residents to sign up separately for the
41 State list.

42 Section 3 of the bill provides a more reasonable "grace period" for
43 telemarketers, similar to the approach under federal law establishing
44 the national registry, by not holding a telemarketer responsible for a
45 call if the telemarketer could not reasonably have known the call was
46 in violation of the law.

1 Section 4 of the bill amends the updating procedures relevant to the
2 State's "no call list" to enable the division to rely on the federal toll-
3 free number as an acceptable means of signing up for the State's "no
4 call list" thereby eliminating the need for customers to sign up on two
5 different lists and avoiding duplication of a system that has already
6 been established by the federal government. In addition, the
7 amendments in section 4 would eliminate the requirement that the
8 division sell the "no call list" to telemarketers if the list is available
9 from the federal government.

10 Section 5 of the bill deletes the requirement for New Jersey's "no
11 call list" to include the names of the customers in addition to their
12 telephone numbers since the national registry does not include a listing
13 of customer names.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3944

STATE OF NEW JERSEY

DATED: DECEMBER 11, 2003

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3944.

Assembly Bill No. 3944 amends P.L.2003, c.76 (C.56:8-119 et seq.), which provided for the registration of telemarketers who make unsolicited telemarketing sales calls and established New Jersey's "no telemarketing call list," to clarify certain provisions of that law.

Section 1 of the bill amends the definition of the State's "no telemarketing call list" to remove the requirement that the list contain names of customers in order to protect customer privacy, to prevent the list from being used by marketers for mail solicitations and to reduce expenses involved with adapting the national "Do-Not-Call Registry" maintained by the Federal Trade Commission (the "national registry") which includes only customer telephone numbers.

Section 1 also amends the definition of "telemarketing sales call" to include current statutory terms, i.e., "plan, program or campaign" that are part of the existing definition of "telemarketing," in order to clarify that a business making a random or sporadic call to a customer is not required to register with the Division of Consumer Affairs in the Department of Law and Public Safety (the "division") as a telemarketer. The amendment also incorporates into the definition of "telemarketing sales call" a provision from the definition of "unsolicited telemarketing sales call" to clarify that a call to collect on accounts or to follow up on contractual obligations does not constitute a telemarketing sales call.

Section 2 of the bill authorizes the division to establish the State "no call list" by adapting portions of the national registry containing New Jersey residents. This clarification provides clear authority for the division to proceed in this way to establish the State's "no call list," avoids duplication of work which has already been done by the federal government and allows New Jersey residents who have already signed up for the national registry to be included as part of the State "no call list" without requiring such residents to sign up separately for the State list.

Section 3 of the bill provides a more reasonable "grace period" for telemarketers, similar to the approach under federal law establishing the national registry, by not holding a telemarketer responsible for a call if the telemarketer could not reasonably have known the call was

in violation of the law.

Section 4 of the bill amends the updating procedures relevant to the State's "no call list" to enable the division to rely on the federal toll-free number as an acceptable means of signing up for the State's "no call list" thereby eliminating the need for customers to sign up on two different lists and avoiding duplication of a system that has already been established by the federal government. In addition, the amendments in section 4 eliminate the requirement that the division sell the "no call list" to telemarketers if the list is available from the federal government.

Section 5 of the bill deletes the requirement for New Jersey's "no call list" to include the names of the customers in addition to their telephone numbers, as the national registry does not include a listing of customer names.

FISCAL IMPACT:

This bill was not certified as requiring a fiscal note; the bill has no direct impact on State revenues or expenditures.

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?	?	?	?	?

Press Releases

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RELEASE: January 08, 2004

[Previous Screen](#)

Promise Made: Stronger Protection for NJ Consumers Promise Kept: Toughest 'Do Not Call' Law in the Nation

(TRENTON) — At an AARP “Senior Town Hall” meeting today, Governor James E. McGreevey took two significant steps to make good on his promise to protect New Jersey consumers with the strongest Do Not Call legislation in the nation.

“Yet again, we are making good on our promises to New Jersey residents to have the strongest consumer safeguards possible in place to improve their quality of life and ensure corporations are held accountable,” McGreevey said at the Town Hall meeting at the Trenton War Memorial.

“No single issue galvanizes consumers as much as the disturbing telemarketing sales call during dinner or other private moments with our families,” the Governor said. “We have responded to these concerns by providing New Jersey residents with the strongest protections against these unwanted calls in the nation. I strongly urge New Jersey residents to call, 1-888-382-1222, or visit <http://www.donotcall.gov/> to register today.”

During the meeting, McGreevey signed S-2776, which amends New Jersey’s Do Not Call law to provide the Division of Consumer Affairs with the discretion to utilize the federal Do Not Call registry. The legislation was sponsored by Senate President Richard Codey, Senator Shirley K. Turner and Assembly members Linda Greenstein and Jeff Van Drew.

“Utilizing the federal registry will save millions of dollars a year and make it easier to sign up for the Do Not Call program,” McGreevey said. “New Jersey residents can now make one toll-free call to get on the Do Not Call registry, which is administered on a national basis, and they will be covered by New Jersey's stronger law.”

“When we approved the original telemarketing ban, I declared that we were hanging up on telemarketers for good,” said Codey (D-Essex). “With today's bill signing, not only are we hanging up on them, but we're getting the federal government to screen all of our calls. By joining the federal enrollment mechanism with the State's enhanced telemarketing restrictions, frustrated New Jerseyans have another level of protection from annoying and potentially unscrupulous telemarketers.”

“This new law allows us to streamline the process for fed-up telephone consumers to obtain the heightened protections outlined by the original telemarketing law, while at the same time eliminating the cost of maintaining a separate database to the State of New Jersey,” said Turner (D-Mercer). “Now, with one phone call, New Jerseyans can truly rid themselves of telemarketers once and for all.”

AARP New Jersey State Director Jim Dieterle, said: “AARP is pleased to have led the effort toward gaining this ‘best-in-nation’ telemarketing privacy state law. We know from surveying our 1.3 million New Jersey members that this is just the kind of positive social change our members want and expect from AARP. We appreciate the key role Governor McGreevey played in helping make the soon-to-be-experienced ‘telemarketing sounds of silence’ a reality.”

McGreevey also announced the filing of proposed regulations that will implement the provisions of New Jersey’s Do Not Call law, which imposes tough restrictions on telemarketers who do business in New Jersey. The proposed rules, filed with the Office of Administrative Law on Jan. 2, 2004, are scheduled to appear in the New Jersey Register on February 2.

The Division of Consumer Affairs will hold a public hearing on the proposed rules on February 25 in the auditorium at Seton Hall Law School, 1 Newark Center, Newark, at 10 a.m. Copies of the proposed rules are available from the Division.

The New Jersey Do Not Call law requires, among other things, that telemarketers register annually with the Division of Consumer Affairs, disclose whether their principals have been convicted of a crime, and refrain from calling telephone numbers on the Do Not Call list. The law also imposes fines of up to \$10,000 for the first offense and up to \$20,000 for each subsequent violation.

“Consumers will benefit from a streamlined, efficient registration process when seeking to fend off overbearing telemarketers by joining the state and federal do-not-call registries,” said Greenstein (D-Middlesex/Mercer). “Utilizing consumer information already compiled by the FTC will not compromise the stringent regulations governing the state’s impending anti-telemarketing registry.”

“When consumers sign-up on the no-call registry, they will have peace of mind that personally identifying information will not be passed along and used for unintended purposes,” said Van Drew (D-Cape May/Cumberland/Atlantic). “New Jersey residents will not be asked to compromise their privacy in exchange for relief from annoying telemarketing calls.”

