

48:17-28

LEGISLATIVE HISTORY CHECKLIST
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(Recorded telephone messages)

NJSA: 48:17-28

LAWS OF: 1997 CHAPTER: 345

BILL NO: A1825

SPONSOR(S): Impreveduto

DATE INTRODUCED: May 2, 1996

COMMITTEE: ASSEMBLY: Consumer Affairs

SENATE: ---

AMENDED DURING PASSAGE: Yes Amendments during passage denoted by
First reprint enacted superscript numbers

DATE OF PASSAGE: ASSEMBLY: June 23, 1997

SENATE: January 8, 1998

DATE OF APPROVAL: January 12, 1998

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes

SENATE: No

FISCAL NOTE: No

VE TO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

See newspaper clippings--attached:

"Whtman signs bill banning taped sales," 1-13-98, Atlantic City Press.

KBP:pp

P.L. 1997, CHAPTER 345, *approved January 12, 1998*
Assembly, No. 1825 (*First Reprint*)

1 AN ACT concerning recorded telephone messages and amending
2 P.L.1993, c.252.

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.1993, c.252 (C.48:17-28) is amended to read
8 as follows:

9 2. A caller ¹within the State¹ shall not use a telephone or telephone
10 line to contact a subscriber ¹within the State¹ to deliver a recorded
11 message **[for the purpose of delivering commercial advertisement to**
12 **the subscriber] other than for emergency purposes**, unless the recorded
13 message is introduced by an operator who shall obtain the subscriber's
14 consent before playing the recorded message, or unless a prior or
15 current ¹**[business]**¹ relationship exists between the caller and the
16 subscriber.

17 As used in this section, "emergency purposes" means calls made
18 necessary in any situation affecting the ¹immediate¹ health and safety
19 of consumers ¹; and "recorded message" shall not include automated
20 recorded telephone operator introductions for the purposes of
21 accepting a call or message¹.

22 (cf: P.L.1993, c.252, s.2)

23
24 2. This act shall take effect immediately.

25
26
27
28
29 Prohibits certain recorded telephone messages.

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ACP committee amendments adopted September 16, 1996.

ASSEMBLY, No. 1825

STATE OF NEW JERSEY

INTRODUCED MAY 2, 1996

By Assemblymen IMPREVEDUTO and MORAN

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8 as follows:

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10 subscriber to deliver a recorded message **[for the purpose of delivering**
11 **commercial advertisement to the subscriber]** other than for emergency
12 purposes, unless the recorded message is introduced by an operator
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14 message, or unless a prior or current business relationship exists
15 between the caller and the subscriber.

16 As used in this section, "emergency purposes" means calls made
17 necessary in any situation affecting the health and safety of consumers.
18 (cf: P.L.1993, c.252, s.2)

19

20 2. This act shall take effect immediately.

21

22

23

STATEMENT

24

25 This bill prohibits the making of intrastate telephone calls to deliver
26 any recorded message other than a call made for emergency purposes,
27 unless the recorded message is introduced by a live operator who
28 obtains the consent of the person called, or unless a prior or current
29 business relationship exists between the caller and the person called.
30 The bill changes the current law which prohibits only the making of
31 intrastate telephone calls to deliver a recorded commercial message.
32 In the case of Lysaght v. State of N.J., 837 F.Supp. 646 (D.N.J. 1993)
33 the enforcement of the current law was enjoined because the court
34 held that the law was likely to violate the First Amendment of the

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

Matter underlined thus is new matter.

1 United States Constitution.

2 The bill makes the State law similar to the federal "Telephone
3 Consumer Protection Act of 1991," 47 U.S.C. §227 (b)(1), which
4 prohibits the making of interstate telephone calls to deliver recorded
5 messages without the prior consent of the party called, unless the call
6 is initiated for emergency purposes or is exempted by rule or order of
7 the Federal Communications Commission. The constitutionality of the
8 federal law was upheld in the case of Moser v. F.C.C. 46 F.3d. 970
9 (9th Cir. 1995).

10

11

12

13

14 Prohibits certain recorded telephone messages.

[Passed Both Houses]

[First Reprint]

ASSEMBLY, No. 1825

STATE OF NEW JERSEY

INTRODUCED MAY 2, 1996

By Assemblymen IMPREVEDUTO, MORAN
and Senator Connors

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2 P.L.1993, c.252.

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7 1. Section 2 of P.L.1993, c.252 (C.48:17-28) is amended to read
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13 recorded message is introduced by an operator who shall obtain the
14 subscriber's consent before playing the recorded message, or unless a
15 prior or current ¹**[business]**¹ relationship exists between the caller and
16 the subscriber.

17 As used in this section, "emergency purposes" means calls made
18 necessary in any situation affecting the ¹immediate¹ health and safety
19 of consumers ¹; and "recorded message" shall not include automated
20 recorded telephone operator introductions for the purposes of
21 accepting a call or message¹.

22 (cf: P.L.1993, c.252, s.2)

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24 2. This act shall take effect immediately.

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

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Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ACP committee amendments adopted September 16, 1996.

ASSEMBLY CONSUMER AFFAIRS AND REGULATED
PROFESSIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1825

with committee amendments

STATE OF NEW JERSEY

DATED: AUGUST 15, 1996

The Assembly Consumer Affairs and Regulated Professions Committee reports favorably and with committee amendments Assembly Bill No. 1825.

As amended, this bill prohibits the making of intrastate telephone calls to deliver any recorded message, other than a call made for emergency purposes, unless the recorded message is introduced by a live operator who obtains the consent of the person called, or unless a prior or current relationship exists between the caller and the person called. Automated recorded telephone operator introductions for the purpose of accepting a call or message, however, are excluded from this prohibition.

The bill amends current State law to prohibit only the making of intrastate telephone calls to deliver a recorded commercial message. In the case of Lysaght v. State of N.J., 837 F.Supp. 646 (D.N.J.1993) the enforcement of the current law was enjoined because the court held that the law was likely to violate the First Amendment of the United States Constitution.

The bill makes the State law similar to the federal "Telephone Consumer Protection Act of 1991," 47 U.S.C. §227 (b)(1), which prohibits the making of interstate telephone calls to deliver recorded messages without the prior consent of the party called, unless the call is initiated for emergency purposes or is exempted by rule or order of the Federal Communications Commission. The constitutionality of the federal law was upheld in the case of Moser v. F.C.C., 46 F.3d. 970 (9th Cir. 1995).

The amendments exclude automated recorded telephone operator introductions for the purpose of accepting a call or message from the bill's provisions. The amendments also delete the word "business" from describing the relationship between caller and subscriber as this law, as amended by the bill, no longer applies only to commercial recorded messages. In addition, the amendments clarify that an emergency purpose is one immediately affecting the health and safety of consumers and that the provisions of the law apply only to intrastate telephone calls.

The Press

OF ATLANTIC CITY

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STATE BRIEFS

TRENTON

Whitman signs bill banning taped sales

From Press staff and wire reports

Gov. Christie Whitman signed a bill Monday that bans recorded telephone sales calls.

The legislation (A-1825) prohibits recorded telephone sales calls unless consent from a telephone subscriber is obtained beforehand.

"N.J. consumers are fed up with recorded telephone sales messages," said the bill's sponsor, Sen. Leonard T. Connors, R-Ocean, Burlington and Atlantic. "This law is designed to increase privacy and to protect consumers against annoying, intrusive recorded commercial messages."

The measure was also sponsored by Assemblymen Jeffrey Moran and Christopher Connors, also both R-Ocean, Burlington and Atlantic.

The federal Telephone Consumer Protection Act of 1991 prohibits interstate telephone calls to deliver recorded messages without prior consent of the party being called.

In 1993, New Jersey passed a similar law banning such intrastate calls. However, that law was struck down as unconstitutional because it only targeted commercial speech.

The new law broadens that scope, banning all recorded messages. Only those transmitted for emergency purposes are exempt.

Dairy farmers should like results of milk bill

The Assembly on Monday provided sweet news to dairy farmers who say they are trying to keep their business from turning sour.

The lower house passed a bill that would allow dairy farmers to join a compact with other northeastern states and get paid more for their milk. The bill passed, 41-28, after a personal plea from Assembly Speaker Jack Collins, himself a part-time farmer. The bill now advances to Gov. Christie Whitman.

Dairy farmers said the bill was needed to keep them in business. Opponents of the bill, however, say consumers would pay up to 20 cents a gallon more for milk.

If allowed to join the compact, New Jersey dairy farmers would be guaranteed a price that is higher than the federal government's minimum for milk. The bill anticipates that New York and Pennsylvania will join the compact, currently comprised of the six New England states. New Jersey would not join unless New York joins.

Senate targets hospitals' status

The Senate passed a bill Monday requiring New Jersey hospitals converting to for-profit companies to reimburse the public and promise to maintain the same services they provided as a nonprofit organization.

The bill now heads to Gov. Christie Whitman's office.

The bill, dubbed the Community Health Care Assets Protection Act, would establish protections for consumers.

"If a for-profit company wants to take over a New Jersey community hospital they need to pay the full price back to the community and agree to quality care standards and public accountability," said Anthony Wright, program director for New Jersey Citizen Action.

Nearly all New Jersey hospitals are currently nonprofit organizations. But, in a growing trend, hospitals around the country are going for-profit, mostly as a way to compete in a deregulated market.

The bill would compel those who want to acquire or convert nonprofit hospitals into for-profit entities to pay the fair market value of their institution to an independent charitable foundation to serve the community. The money would be used to improve health care in the communities where the hospitals are located.

The bill also prevents hospitals from shutting down a service, like a neonatal unit or burn center, if it is the only one in the area. They would also have to continue to provide charity care to people who do not have health insurance.

Rent-to-own bill fails in the Assembly

A bill that would set regulations for rent-to-own operations

failed in the Assembly on Monday.

The bill cleared the state Senate last Thursday, but only 37 Assembly members supported it Monday evening. That's four votes shy of what is needed for passage.

The bill's sponsor, Assemblyman Guy Gregg, R-Morris, yanked it from consideration after failing to sway lawmakers during a one-hour break that ended at 9:20 p.m.

Sponsors said the bill would give New Jersey the nation's toughest rent-to-own rules, while consumer groups said it would legalize what New Jersey courts have called consumer fraud.

The measure would define and regulate rental-purchase agreements in which consumers rent items such as furniture or television sets and then have the option to buy.

Man who fell from bridge won't be sought further

A man who fell off the New Hope-Lambertville Free Bridge early Sunday remained missing Monday and no further search was immediately planned, a bridge commission official said.

"The problem is the river is up real high, and is real dirty, murky," said Joseph Catania, executive director of the Delaware River Bridge Commission, which is heading the investigation.

Catania identified the man only as a 22-year-old, but authorities had earlier said the man was from Freehold in Monmouth County.

MOUNT HOLLY

Father charged in death of his 6-month-old

A father was charged with murder Monday in the scalding death of his 6-month-old son who was burned over 90 percent of his body, authorities said.

Charges against William Couch, 29, of Burlington City, were upgraded after the baby died over the weekend from severe burns, said Michael Riley, first assistant Burlington County Prosecutor.

Couch was expected to appear in Superior Court on Tuesday for an initial appearance.