

Accompanying the tenth recommendation of the Executive Office of Consumer Affairs and Business Regulation (House, No. 34). Government Regulations.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-One.

AN ACT REGULATING CERTAIN PREMIUM TELEPHONE SERVICES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 93 of the General Laws as appearing in the 1988 Official
2 Edition is hereby amended by adding at the end thereof, the
3 following new section: —

4 Section 105. Telephone promoter: Any person or entity,
5 wherever located, which advertises, promotes, solicits or offers the
6 use of a premium telephone service to callers. Telephone promoter
7 shall not include any local or long distance telephone company
8 or directory publisher which solely provides or lists a premium
9 telephone service number on behalf of a fully independent other.

10 Premium telephone service: Any telephone number beginning
11 with 900, 550, 976, 940, 700, or other telephone number which
12 imposes a charge in excess of the regular local or long distance
13 rate whether for the provision or receipt of information, opinions,
14 entertainment, merchandise, services, or otherwise.

15 Prize: Any prize, gift, award, incentive, premium, or other
16 inducement to encourage callers or prospective callers to call or
17 remain on the line of a premium telephone service.

18 Free period: The period of time at the beginning of a premium
19 telephone service call where required disclosures are made, and
20 no charges to the caller are assessed.

21 Any telephone promoter which offers Massachusetts residents
22 the use of a premium telephone service shall clearly and
23 conspicuously disclose all mandatory charges associated with

24 making any calls and the following information in the manner
25 prescribed:

26 (i) The charge for each minute of use, including the first minute
27 and subsequent minutes if they differ; in the case of a flat rate
28 call, the total charge for which the caller is responsible; and any
29 other mandatory charges, including but not limited to any
30 minimum charges.

31 (ii) In print, billboard, television, and any other visual media,
32 the price disclosure required by subsection (i) shall be no smaller
33 than one half the height of the largest numerals or letters in the
34 telephone number shown, and shall be located immediately below
35 such number. For television, such disclosure shall be made each
36 time and for as long a period as the telephone number is displayed,
37 and shall be stated orally at least once at normal speaking pace
38 and volume.

39 (iii) For radio and any other aural media including telephone
40 solicitations, the disclosure required by subsection (i) shall be
41 stated at least once immediately following the statement of the
42 number at normal speaking pace and volume.

43 (iv) Any telephone promoter which offers a prize where chance
44 determines or appears to determine what the prize is or whether
45 the caller will receive it, must disclose in the free period at alternate
46 method of participating in the promotion without purchase
47 necessary. Where winning a prize is determined by the caller's
48 response to a multiple choice question or similar device, the prize
49 shall be deemed to be determined by chance.

50 (v) Any telephone promoter which offers a premium telephone
51 service, shall disclose during the free period the average time it
52 takes to provide the service and to complete the call.

53 (vi) During the free period of any premium telephone service
54 call, the disclosures required by subsection (i), and subsections (iv)
55 and (v) if applicable, shall be made clearly and conspicuously, and
56 the caller shall then be informed and given seven seconds at the
57 end of the free period after the completion of the required
58 disclosures in which to hang up to avoid any and all charges.

59 No entity shall knowingly accept an advertisement, or continue
60 to provide service to a telephone promoter, which fails to comply
61 with the provisions of this section.

62 Any telephone promoter which fails to comply with any
63 provision of this section shall be fined \$500 for each violation
64 payable to the Secretary of Consumer Affairs and Business
65 Regulation or her designee within 30 days of issuance, and shall
66 forfeit the right to collect any charges whatsoever from any caller
67 who did not receive all the required disclosures in the manner
68 provided herein. Said Secretary or her designee may issue
69 guidelines or promulgate regulations further defining unfair or
70 deceptive practices of premium telephone services and for the
71 implementation and interpretation of this section. Said Secretary
72 may exclude non-commercial premium telephone services from
73 any of the requirements of this section. Any violation of this section
74 shall constitute any unfair or deceptive practice under the
75 provisions of Chapter 93A.

