

By Ms. Fargo, a petition (accompanied by bill, Senate, No. 44) of Susan C. Fargo, Anne M. Paulsen, Richard T. Moore and other members of the General Court for legislation relative to telephone solicitation. Commerce and Labor.

The Commonwealth of Massachusetts

In the Year Two Thousand and One.

AN ACT RELATIVE TO TELEPHONE SOLICITATION.

1 Whereas, The deferred operation of this act would tend to
2 defeat its purpose, which is to forthwith regulate telephone solici-
3 tation, therefore it is hereby declared to be an emergency law,
4 necessary for the immediate preservation of the public conve-
5 nience.

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 93A of the General Laws is hereby amended by adding
2 the following section:—

3 Section 12. (a) The following words shall have the following
4 meanings unless the context clearly requires otherwise:

5 “Consumer”, an individual who is a resident of the common-
6 wealth and a prospective recipient of telemarketing calls or who
7 would be required to pay for goods or services offered through
8 telemarketing.

9 “Office”, the office of consumer affairs and business regula-
10 tion.

11 “Telephone solicitor”, a person, organization, firm, association,
12 corporation or affiliate thereof doing business in the common-
13 wealth for the purposes of soliciting a sale of goods or services.

14 “Unsolicited telemarketing call”, a telephone call other than a
15 call made in response to an expressed written or verbal request or
16 in connection with an established business relationship, including
17 contact regarding existing debt or contract.

18 (b) The office shall establish and maintain a statewide registry
19 “Do Not Call” list for residents of the commonwealth who do not

20 wish to receive unsolicited telemarketing calls. The list shall be
21 updated not less than quarterly. The office may contract with a
22 private vendor to establish and maintain such list.

23 (c) A resident of the commonwealth who wants to be included
24 on such list shall notify the office by a written request to be placed
25 on the "Do Not Call" list to include: name, mailing address, tele-
26 phone number and signature, or in any other additional manner
27 that the office may prescribe. A person may remove his name
28 from the list by written request.

29 (d) No telephone solicitor doing business in the commonwealth
30 shall make unsolicited sales calls to an individual or phone
31 number appearing on the "Do Not Call" list more than 30 days
32 after the quarterly list is published. No person shall be held liable
33 for violating this section if: (1) the telephone solicitor can demon-
34 strate that the telemarketing call is in response to an express
35 written or verbal request of the customer; (2) the call was the
36 result of error; or the sale of goods and services cannot be com-
37 pleted and payment is not required at the time of the call until fur-
38 ther arrangements can be made between the telemarketer and the
39 customer, as in the case of when a site visit, sample of product or
40 estimate is required.

41 (e) The office may adopt regulations to carry out the provisions
42 of this section. Such regulations may include, but shall not be lim-
43 ited to: (1) provisions governing the manner and requirements
44 which customers register for the "Do Not Call" list; (2) the
45 charging of a reasonable fee to customers or telephone solicitors
46 calculated to defray the costs of this section.

47 (f) A company that provides local telephone directories to cus-
48 tomers in the commonwealth shall inform its customers of the
49 provisions of this section, by publishing a conspicuous notice in,
50 or as an attachment to, such local telephone directories.

51 (a) A telephone solicitor found in violation of this chapter may
52 be subject to a civil penalty of up to \$2,000 per violation.

53 (h) The provisions of this section shall be in addition to, rather
54 than in lieu of all existing laws and regulations. Nothing contained
55 in this section shall be construed or interpreted to limit or infringe
56 upon any claim, right or cause of action or rights granted to con-
57 sumers by state or federal law.