

As Introduced

**124th General Assembly
Regular Session
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S. B. No. 301

SENATORS Hagan, Ryan, Shoemaker, Herington, Mallory

A B I L L

To enact sections 4719.21 to 4719.29 of the Revised Code to prohibit a telephone solicitor from blocking the disclosure of the telephone number from which a residential telephone solicitation is made, to prohibit a telephone solicitor from making a telephone solicitation to a residential telephone number that appears on the "do-not-call list" to be developed and maintained by a nonprofit organization under contract with the Attorney General, to impose other requirements on telephone solicitors, and to provide for enforcement by the Attorney General under the Consumer Sales Practices Act. 1 2 3 4 5 6 7 8 9 10 11 12 13

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4719.21, 4719.22, 4719.23, 4719.24, 4719.25, 4719.26, 4719.27, 4719.28, and 4719.29 of the Revised Code be enacted to read as follows: 14 15 16

Sec. 4719.21. As used in sections 4719.21 to 4719.29 of the Revised Code: 17 18

(A) "Do-not-call list" means the list of residential telephone subscribers maintained by the list administrator in 19 20

accordance with section 4719.24 of the Revised Code. 21

(B) "List administrator" means the organization under 22
contract with the attorney general to develop and maintain the 23
do-not-call list. 24

(C) "Telephone solicitation" has the same meaning as in 25
division (A) of section 4719.01 of the Revised Code. 26

(D) "Telephone solicitation call" means a telephone 27
solicitation made to a residential telephone subscriber, unless 28
any of the following applies: 29

(1) The solicitation is in reference to an existing debt, 30
contract, payment, or performance. 31

(2) The telephone solicitor has an established business 32
relationship with the residential telephone subscriber. For 33
purposes of division (D)(2) of this section, "established business 34
relationship" means a relationship formed or continued within the 35
immediately preceding twelve-month period by a voluntary two-way 36
communication, with or without an exchange of consideration, on 37
the basis of an application, purchase, or other transaction by the 38
residential telephone subscriber, or on the basis of an inquiry by 39
the residential telephone subscriber if the residential telephone 40
subscriber consented to the continuance of the business 41
relationship. 42

(3) The solicitation is made on behalf of an organization 43
granted tax-exempt status under section 501(c)(3), (5), or (8) of 44
the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 45
501, as amended, or on behalf of a veterans' organization 46
chartered by the United States or its duly appointed foundation. 47

(4) The solicitation is made on behalf of a political 48
candidate or a political party. 49

(E) "Telephone solicitor" has the same meaning as in division 50

(A) of section 4719.01 of the Revised Code, but also includes any individual who is employed, appointed, or authorized by a telephone solicitor to make telephone solicitations.

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Sec. 4719.22. No telephone solicitor shall take any action with the primary intent to do either of the following:

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(A) Prevent the transmission of a telephone solicitor's name or telephone number to any recipient of a telephone solicitation call when the equipment or service used by the telephone solicitor is capable of creating and transmitting the telephone solicitor's name or telephone number;

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(B) Circumvent, bypass, or disable any product or service used by a residential telephone subscriber to screen telephone calls.

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Sec. 4719.23. No telephone solicitor shall initiate or cause to be initiated a telephone solicitation call to a residential telephone number more than thirty days after the number first appears on a quarterly do-not-call list issued by the list administrator.

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Sec. 4719.24. (A)(1) The attorney general shall contract with a nonprofit organization that has been in existence for at least ten years to develop and maintain a do-not-call list consisting of the names, addresses, and telephone numbers of those residential telephone subscribers who have requested inclusion on the list in accordance with procedures prescribed by rule under division (B) of this section. The do-not-call list shall be updated quarterly. A listing on the do-not-call list shall be maintained for a minimum of five years after the listing is included, unless the telephone number is no longer valid for the residential telephone subscriber.

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(2) The list administrator shall impose fees for copies of the do-not-call list to cover the total cost incurred by the list administrator in the production, preparation, and distribution of that list. 80
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(3) The list administrator shall provide a copy of each quarterly do-not-call list to the attorney general at no charge. 84
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(B) The attorney general shall adopt rules in accordance with Chapter 119. of the Revised Code to carry out the purposes of this section. 86
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(C) If the attorney general, within ninety days after the effective date of this section, has not entered into a contract with a list administrator after a good faith effort to do so, the attorney general may contract with any nonprofit organization to carry out the purposes of this section regardless of the number of years the organization has been in existence. 89
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Sec. 4719.25. (A) Each telephone solicitor that makes telephone solicitation calls shall obtain the quarterly do-not-call lists issued by the list administrator or shall utilize a service provider that obtains and uses those lists. 95
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(B) A telephone solicitor shall not use a do-not-call list for any purpose other than to remove residential telephone subscribers from telephone sales call lists. 99
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Sec. 4719.26. (A) Each company that provides a local telephone directory to residential telephone subscribers in this state shall include in the directory a notice describing the do-not-call list, providing complete information on procedures a residential telephone subscriber should follow to have the subscriber's telephone number placed on the list, and disclosing how often renewal is necessary. 102
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(B) Each company that provides telephone service to residential telephone subscribers in this state shall place, or cause to be placed, the notice described in division (A) of this section in billing statements mailed to the company's residential telephone subscribers. 109
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Sec. 4719.27. A telephone solicitor that makes residential telephone solicitations using an artificial or prerecorded voice message transmitted by an auto dialer or prerecorded message player shall not provide, as the telephone number at which the telephone solicitor may be contacted, a "900" number or any other number for which charges exceed local or long-distance transmission charges. 114
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Sec. 4719.28. (A) A violation of, or failure to comply with, any provision of sections 4719.22 to 4719.27 of the Revised Code is an unfair or deceptive act or practice in violation of section 1345.02 of the Revised Code. All powers and remedies available to the attorney general to enforce sections 1345.01 to 1345.13 of the Revised Code are available to the attorney general to enforce sections 4719.22 to 4719.27 of the Revised Code. 121
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(B) The attorney general shall remit ten per cent of any civil penalty collected under this section to the person filing the complaint that lead to the imposition of the civil penalty. However, the amount of this remittance shall not exceed one hundred dollars. 128
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(C) On or before the thirtieth day of November, the attorney general annually shall submit to the general assembly a report detailing investigations and enforcement actions taken under this section during the preceding fiscal year. The report shall include the number of complaints received, the nature of those complaints, the number of investigations and enforcement actions instituted by 133
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the attorney general, a summary of the results of those 139
investigations and enforcement actions, and the amount of civil 140
penalties collected. 141

Sec. 4719.29. It is an affirmative defense in an action 142
brought under section 4719.28 of the Revised Code for a violation 143
of section 4719.23 of the Revised Code that the defendant 144
established and implemented written procedures to comply with 145
section 4719.23 of the Revised Code, that the defendant trained 146
the defendant's personnel in those procedures, that the defendant 147
has maintained a list of residential telephone subscribers who may 148
not be contacted, and that any subsequent call was the result of 149
error. 150

Section 2. Section 1 of this act shall take effect sixty days 151
after the effective date of this act. 152