



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB3135

Introduced 2/8/2010, by Sen. Dale A. Righter - Chris Lauzen

#### SYNOPSIS AS INTRODUCED:

815 ILCS 305/20  
815 ILCS 402/5  
815 ILCS 402/10

from Ch. 134, par. 120

Amends the Automatic Telephone Dialers Act and the Restricted Call Registry Act. Provides that the Automatic Telephone Dialers Act applies to electioneering autodialer telephone calls but does not apply to other telephone calls made by an autodialer and placed on behalf of a political organization. Prohibits electioneering autodialer telephone calls to telephone service subscribers who have registered their telephone number or numbers on the Restricted Call ("Do Not Call") Registry. Defines "electioneering autodialer telephone call" to mean any voice communication over a telephone line, through the use of an autodialer or autodialer system, that refers to a clearly identified political candidate, political party, or question of public policy and is an appeal to vote for or against a clearly identified candidate, political party, or question of public policy. Effective immediately.

LRB096 20032 DRJ 35533 b

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Automatic Telephone Dialers Act is amended  
5 by changing Section 20 as follows:

6 (815 ILCS 305/20) (from Ch. 134, par. 120)

7 Sec. 20. Exemptions.

8 (a) Except as provided in subsection (b), the provisions of  
9 this Act shall not apply to the following types of telephone  
10 calls made by an autodialer:

11 (1) calls made in response to an express request of the  
12 person called;

13 (2) calls made to any person with whom the telephone  
14 solicitor has a prior or existing business relationship;

15 (3) a telephone call placed on behalf of any ~~political,~~  
16 charitable, public opinion polling, research survey, or  
17 radio or television broadcast rating organization.

18 (a-5) The provisions of this Act apply to electioneering  
19 autodialer telephone calls as defined in Section 5 of the  
20 Restricted Call Registry Act but do not apply to other  
21 telephone calls made by an autodialer and placed on behalf of a  
22 political organization.

23 (b) Notwithstanding the provisions of subsection (a) or

1 (a-5), all calls made by an autodialer must be made in  
2 compliance with the requirements of subsection (d) of Section  
3 15.

4 (Source: P.A. 91-182, eff. 1-1-00.)

5 Section 10. The Restricted Call Registry Act is amended by  
6 changing Sections 5 and 10 as follows:

7 (815 ILCS 402/5)

8 Sec. 5. Definitions. As used in this Act:

9 (a) "Residential subscriber" means a person or spouse who  
10 has subscribed to either residential telephone service from a  
11 local exchange company or public mobile services, as defined by  
12 Section 13-214 of the Public Utilities Act, a guardian of the  
13 person or the person's spouse, or an individual who has power  
14 of attorney from or an authorized agent of the person or the  
15 person's spouse.

16 (b) "Established business relationship" means the  
17 existence of an oral or written transaction, agreement,  
18 contract, or other legal state of affairs involving a person or  
19 entity and an existing customer under which both parties have a  
20 course of conduct or established pattern of activity for  
21 commercial or mercantile purposes and for the benefit or profit  
22 of both parties. A pattern of activity does not necessarily  
23 mean multiple previous contacts. The established business  
24 relationship must exist between the existing customer and the

1 person or entity directly, and does not extend to any related  
2 business entity or other business organization of the person or  
3 entity or related to the person or entity or the person or  
4 entity's agent including but not limited to a parent  
5 corporation, subsidiary partnership, company or other  
6 corporation or affiliate.

7 (c) "Existing customer" means an individual who has either:

8 (1) entered into a transaction, agreement, contract,  
9 or other legal state of affairs between a person or entity  
10 and a residential subscriber under which the payment or  
11 exchange of consideration for any goods or services has  
12 taken place within the preceding 18 months or has been  
13 arranged to take place at a future time; or

14 (2) opened or maintained a debit account, credit card  
15 account, or other credit or discount program offered by or  
16 in conjunction with the person or entity and has not  
17 requested the person or entity to close such account or  
18 terminate such program.

19 (d) "Registry" means the Restricted Call Registry  
20 established under this Act.

21 (e) "Telephone solicitation" means any voice communication  
22 over a telephone line from a live operator, through the use of  
23 an autodialer or autodialer system, as defined in Section 5 of  
24 the Automatic Telephone Dialers Act, or by other means for the  
25 purpose of encouraging the purchase or rental of, or investment  
26 in, property, goods, or services, or for the purposes of

1 soliciting charitable contributions but does not include  
2 communications:

3 (1) to any residential subscriber with that  
4 subscriber's prior express invitation or permission when a  
5 voluntary 2-way communication between a person or entity  
6 and a residential subscriber has occurred with or without  
7 an exchange of consideration. A telephone solicitation is  
8 presumed not to be made at the express request of a  
9 subscriber if one of the following occurs, as applicable:

10 (A) The telephone solicitation is made 30 business  
11 days after the last date on which the subscriber  
12 contacted a business with the purpose of inquiring  
13 about the potential purchase of goods or services.

14 (B) The telephone solicitation is made 30 business  
15 days after the last date on which the subscriber  
16 consented to be contacted.

17 (C) The telephone solicitation is made 30 business  
18 days after a product or service becomes available where  
19 the subscriber has made a request to the business for  
20 that product or service that is not then available, and  
21 requests a call when the product or service becomes  
22 available;

23 (2) by or on behalf of any person or entity with whom a  
24 residential subscriber has an established business  
25 relationship which has not been terminated in writing by  
26 either party and which is related to the nature of the

1 established business relationship;

2 (3) by or on behalf of any person or entity with whom a  
3 residential subscriber is an existing customer, unless the  
4 customer has stated to the person or entity or the person  
5 or entity's agent that he or she no longer wishes to  
6 receive the telemarketing sales calls of the person or  
7 entity, or unless the nature of the call is unrelated to  
8 the established business relationship with the existing  
9 customer;

10 (4) by or on behalf of an organization that is exempt  
11 from federal income taxation under Section 501(c) of the  
12 Internal Revenue Code, but only if the person making the  
13 telephone solicitation immediately discloses all of the  
14 following information upon making contact with the  
15 consumer:

16 (A) the caller's true first and last name; and

17 (B) the name, address, and telephone number of the  
18 organization;

19 (5) by or on behalf of an individual licensed under the  
20 Real Estate License Act of 2000 or as an insurance producer  
21 under the Illinois Insurance Code who either:

22 (A) is setting or attempting to set a face to face  
23 appointment for actions relating to that individual's  
24 real estate or insurance business; or

25 (B) is encouraging or attempting to encourage the  
26 purchase or rental of, or investment in, property,

1 goods, or services, which cannot be completed, and for  
2 which payment or authorization of payment is not  
3 required, until after a written or electronic  
4 agreement is signed by the residential subscriber; or

5 (6) until July 1, 2005, by or on behalf of any entity  
6 over which the Federal Communications Commission or the  
7 Illinois Commerce Commission has regulatory authority to  
8 the extent that, subject to that authority, the entity is  
9 required to maintain a license, permit, or certificate to  
10 sell or provide telecommunications service, as defined in  
11 Section 13-203 of the Public Utilities Act, while the  
12 entity is engaged in telephone solicitation for  
13 inter-exchange telecommunications service, as defined in  
14 Section 13-205 of the Public Utilities Act, or local  
15 exchange telecommunications service, as defined in Section  
16 13-204 of the Public Utilities Act or to the extent,  
17 subject to the regulatory authority of the Federal  
18 Communications Commission, the entity is defined by Title  
19 47 Section 522(5) of the United States Code, or providers  
20 of information services as defined by Title 47 Section  
21 153(20) of the United States Code.

22 (f) "Electioneering autodialer telephone call" means any  
23 voice communication over a telephone line, through the use of  
24 an autodialer or autodialer system as defined in Section 5 of  
25 the Automatic Telephone Dialers Act, that:

26 (1) refers to (i) a clearly identified candidate or

1 candidates who will appear on the ballot for nomination for  
2 election, election, or retention, (ii) a clearly  
3 identified political party, or (iii) a clearly identified  
4 question of public policy that will appear on the ballot;

5 (2) is targeted to the relevant electorate; and

6 (3) is susceptible to no reasonable interpretation  
7 other than as an appeal to vote for or against a clearly  
8 identified candidate for nomination for election,  
9 election, or retention, a political party, or a question of  
10 public policy.

11 (Source: P.A. 92-795, eff. 8-9-02.)

12 (815 ILCS 402/10)

13 Sec. 10. Prohibited calls.

14 (a) Beginning October 1, 2003, it is a violation of this  
15 Act for any person or entity to make or cause to be made any  
16 telephone solicitation calls to any residential subscriber  
17 more than 45 days after the person or entity obtains the  
18 Registry or any update of the Registry on which the residential  
19 subscriber's telephone number or numbers first appear.

20 (b) On and after the effective date of this amendatory Act  
21 of the 96th General Assembly, it is a violation of this Act for  
22 any person or entity to make or cause to be made any  
23 electioneering autodialer telephone calls to any residential  
24 subscriber more than 45 days after the person or entity obtains  
25 the Registry or any update of the Registry on which the



1 residential subscriber's telephone number or numbers first  
2 appear.

3 (Source: P.A. 92-795, eff. 8-9-02; 93-49, eff. 6-30-03.)

4 Section 99. Effective date. This Act takes effect upon  
5 becoming law.