

1 AMENDMENT TO HOUSE BILL 3407

2 AMENDMENT NO. _____. Amend House Bill 3407 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Restricted Call Registry Act is amended
5 by changing Sections 10, 20, 25, 30, 35, and 40 as follows:

6 (815 ILCS 402/10)

7 Sec. 10. Prohibited calls. Beginning October July 1,
8 2003, it is a violation of this Act for any ne person or
9 entity to may make or cause to be made any telephone
10 solicitation calls to any residential subscriber more than 45
11 days after the person or entity obtains the Registry or any
12 update of the Registry on which the residential subscriber's
13 telephone number or numbers first appear ~~on-the-Registry~~.

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

15 (815 ILCS 402/20)

16 Sec. 20. Registry~~-establishment-and-maintenance~~.

17 (a) The Illinois Commerce Commission shall establish and
18 provide for the operation of a Restricted Call Registry,
19 which shall contain a list of the telephone numbers of
20 residential subscribers who do not wish to receive telephone
21 solicitation calls. The national "do-not-call" registry

1 established and maintained by the Federal Trade Commission,
 2 pursuant to 16 C.F.R. 310.4 (b)(1)(iii)(B), shall serve as
 3 the Registry provided by this Act. The-~~Illinois-Commerce~~
 4 ~~Commission-may-contract-with-a-private--vendor--to--establish~~
 5 ~~and-maintain-the-Registry-if-the-contract-requires-the-vendor~~
 6 ~~to-provide~~

7 (b) Residential subscribers may cause their telephone
 8 number or numbers to appear on the Registry in a printed-hard
 9 copy-format, in an electronic-format, and in any manner other
 10 format prescribed by the Illinois Commerce Commission.

11 (c) Any person or entity conducting telephone
 12 solicitation calls as defined by Section 5(e) of this Act
 13 within the State of Illinois shall purchase the Restricted
 14 Call Registry and updates no less frequently than every 3
 15 months exclusively from the Federal Trade Illinois--Commerce
 16 Commission. Failure to do so prior to conducting telephone
 17 solicitation calls is a violation subject to the penalties
 18 provided for in Section 35 of this Act.

19 (d)(b)--No--later--than--January--1,--2003, The Illinois
 20 Commerce Commission may shall adopt rules consistent with
 21 this Act that the Illinois Commerce Commission deems
 22 necessary and appropriate to fully implement this Act. The
 23 rules--shall--include,--at--a--minimum,--methods-by-which-any
 24 person-or-entity--desiring--to--make--telephone--solicitation
 25 calls--may-obtain-access-to-the-Registry-to-avoid-calling-the
 26 telephone-numbers-of-residential-subscribers-included-in--the
 27 Registry.

28 (e)--The-fee-for-obtaining-the-Registry-and-updates-shall
 29 be--set--forth--in--rules--adopted--by--the-Illinois-Commerce
 30 Commission.--The-fee-may-not-exceed-\$1,000--annually--and--may
 31 not--exceed--the--costs--incurred--by--the--Commission-in-the
 32 preparation, maintenance, production, and distribution of the
 33 Registry.--All-copies-requested-in-a-printed-hard-copy--format
 34 shall--be--assessed--a-per-page-fee-to-be-determined-by-rules

1 adopted-by-the-Illinois-Commerce-Commission.

2 (d)--The-Illinois-Commerce-Commission--shall--update--the
3 Registry--and-make-information-in-the-Registry-available-on-a
4 quarterly-basis-in-an-electronic-format-that-can-be-sorted-by
5 individual-fields-and,if-deemed-appropriate-by-the--Illinois
6 Commerce-Commission,--in-one-or-more-other-formats.

7 (e)--If--the-Federal-Communications-Commission-or-Federal
8 Trade-Commission-establishes-a-single--national--database--of
9 telephone--numbers--of--subscribers--who--object-to-receiving
10 telephone-solicitations,--which-restricts-both-inter-state-and
11 intra-state-calls-and--at--a--minimum--covers--all--telephone
12 solicitations---covered---by---this--Act,--this--State--shall
13 discontinue-the-Registry.

14 (e)(f) Information pertaining to residential subscribers
15 Information in the Registry is confidential and shall be
16 afforded reasonable privacy protection except as necessary
17 for compliance with Sections 10 and 25 and this Section or in
18 a proceeding or action under Section 35 or 40. The
19 information is not a public record under the Freedom of
20 Information Act.

21 (g)--The-Illinois-Commerce-Commission-shall--periodically
22 obtain--subscription--listings--of-residential-subscribers-in
23 this-State-who-have-arranged-to-be-included-in--any--national
24 do-not-call-list-and-add-these-names-to-the-Registry.

25 (f)(h) A person or entity that obtains the Registry
26 shall not use the Registry for any purpose other than to
27 comply with this Act. These unlawful purposes include, but
28 are not limited to, causing a subscriber to participate in
29 and be included in the Registry without the subscriber's
30 knowledge or consent, selling or leasing the Registry to a
31 person other than a telephone solicitor, selling or leasing
32 by a telephone solicitor of the Registry, and a telephone
33 solicitor, either directly or indirectly, persuading a
34 subscriber with whom it has an established business

1 relationship to place his or her telephone number in the
2 Registry, if the solicitation has the effect of preventing
3 competitors from contacting that solicitor's customers.

4 (g)(i) No person or entity that sells, leases,
5 exchanges, or rents telephone solicitation lists, except for
6 directory assistance and telephone directories sold by
7 telephone companies or their affiliates, shall include in
8 those lists those telephone numbers that appear in the
9 current Registry.

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

11 (815 ILCS 402/25)

12 Sec. 25. Notice of establishment of Registry.
13 Enrollment. (a) The Illinois Commerce Commission shall
14 provide notice to residential subscribers of the
15 establishment of the Registry.

16 (b) ~~The Illinois Commerce Commission shall establish any~~
17 ~~method deemed appropriate for a residential subscriber to~~
18 ~~notify the Illinois Commerce Commission that the residential~~
19 ~~subscriber wishes to have its telephone number included in or~~
20 ~~remain on the Registry.~~

21 (c) ~~The Commission may, by rule, set an initial fee~~
22 ~~which shall not exceed \$5 per residential subscriber for~~
23 ~~inclusion on the Restricted Call Registry. The Commission~~
24 ~~shall review the revenues and expenditures of the Restricted~~
25 ~~Call Registry on a biennial basis and shall, by rule, reduce~~
26 ~~the fee accordingly if revenues exceed expenditures. The~~
27 ~~Commission may adopt rules and procedures governing the~~
28 ~~acceptance of payment by credit card and may enter into such~~
29 ~~agreements as necessary to accept payment by credit card.~~

30 (d) ~~A residential subscriber's telephone number shall be~~
31 ~~deleted from the Registry upon the residential subscriber's~~
32 ~~written request.~~

33 (e) ~~Enrollment in the Registry is effective from the~~

1 start-of-the-quarter-following-the-date-of-enrollment--for--a
 2 term---of---5--years--or--until--the--residential--subscriber
 3 disconnects-or-changes-his-or-her--telephone--number,--unless
 4 the--subscriber--complies-with-the-notice-provision-contained
 5 in-this-Section,--whichever--occurs--first,---The--residential
 6 subscriber--shall-be-permitted-to-extend-their-enrollment-for
 7 additional-5-year-periods-and-shall-not-be-subject-to-any-fee
 8 for--this---extension,---The---residential---subscriber---is
 9 responsible-for-notifying-the-Illinois-Commerce-Commission-of
 10 any--changes--in--his--or--her-telephone-number.-The-Illinois
 11 Commerce-Commission-shall-use--its--best--efforts--to--notify
 12 enrolled-residential-subscribers-before-the-end-of-the-5-year
 13 enrollment--term--of--the--option-to-extend-their-enrollment.
 14 Residential-subscribers-who-do-not-indicate-their--desire--to
 15 extend--their--enrollment--before--the-end-of-the-5-year-term
 16 shall-be-given--a--one--quarter--grace--period--before--being
 17 removed-from-the-Registry.

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

19 (815 ILCS 402/30)

20 Sec. 30. Public notification. The Illinois Commerce
 21 Commission shall work with local exchange telecommunications
 22 companies to notify disseminate---to their customers
 23 information about the availability of and instructions for
 24 requesting information educational--literature from the
 25 Illinois Commerce Commission. The---Illinois---Commerce
 26 Commission-may-enter-into-agreements-with-these-companies-for
 27 the---dissemination--of--the--educational--literature. Local
 28 exchange telecommunications companies shall provide this
 29 notice disseminate-the-educational-literature at least once
 30 per year in a message contained in customers' bills and
 31 include or a notice in the information section of all
 32 telephone directories distributed to customers and shall
 33 include on their website a link to the ICC's web page for the

1 Registry. The Illinois Commerce Commission shall include, on
 2 its Internet web site, information to customers regarding
 3 their right to be included in the Registry and the various
 4 methods, ~~including notice to the Illinois Commerce~~
 5 ~~Commission,~~ of being included in the Registry. The Illinois
 6 Commerce Commission shall develop language to be used by
 7 local exchange telecommunications carriers and shall make
 8 information available on its web site ~~shall have this~~
 9 ~~literature developed for dissemination to the public~~ no later
 10 than July March 1, 2003.

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

12 (815 ILCS 402/35)

13 Sec. 35. Violation; relief.

14 (a) The Illinois Commerce Commission may initiate
 15 administrative proceedings in accordance with rules adopted
 16 under this Act relating to a knowing and willful violation of
 17 Section 10.

18 (b) If it is determined after a hearing that a person
 19 has knowingly and willfully violated one or more provisions
 20 of this Section, the Illinois Commerce Commission may assess
 21 a fine not to exceed \$1,000 for the first violation and not
 22 to exceed \$2,500 for a second or subsequent violation. Each
 23 individual violation of Section 10 of this Act shall be a
 24 separate and distinct offense under this Section. In
 25 imposing a penalty under this Section, the Commission shall,
 26 at a minimum, consider the following factors:

- 27 (1) whether the offense was knowing or willful;
- 28 (2) whether the entity committing the offense has a
 29 prior history of non-compliance with this Act;
- 30 (3) the offender's relative ability to pay a
 31 penalty;
- 32 (4) whether the offender has or has not cooperated
 33 with the Commission in pursuing the investigation; and

1 (5) such other special, mitigating or aggravating
2 circumstances as the Commission may find to exist.

3 (c) Any proceeding conducted under this Section is
4 subject to the Illinois Administrative Procedure Act.

5 (d) Nothing in this Section may be construed to restrict
6 any right that any person may have under any other law or at
7 common law.

8 (e) No action or proceeding may be brought under this
9 Section:

10 (1) more than one year after the person bringing
11 the action knew or should have known of the occurrence of
12 the alleged violation; or

13 (2) more than one year after the termination of any
14 proceeding or action arising out of the same violation or
15 violations by the State of Illinois, whichever is later.

16 (f) The remedies, duties, prohibitions, and penalties in
17 this Act are not exclusive and are in addition to all other
18 causes of action, remedies, and penalties provided by law.

19 (g) There is created in the State Treasury a special
20 fund to be known as the Restricted Call Registry Fund. All
21 fees--and fines collected in the administration and
22 enforcement of this Act shall be deposited into the Fund.
23 Moneys in the Fund shall, subject to appropriation, be used
24 by the Illinois Commerce Commission for implementation,
25 administration, and enforcement of this Act.

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

27 (815 ILCS 402/40)

28 Sec. 40. Exemption.

29 (a) A person or entity may not be held liable for
30 violating this Act if:

31 (1) the person or entity has obtained copies of the
32 Registry and updates in compliance with this Act each
33 updated--Registry--from--the--Illinois--Commerce--Commission

1 and has established and implemented written policies and
2 procedures related to the requirements of this Act;

3 (2) the person or entity has trained its personnel
4 in the requirements of this Act;

5 (3) the person or entity maintains records
6 demonstrating compliance with subdivisions (1) and (2) of
7 this Section and the requirements of this Act; and

8 (4) any subsequent telephone solicitation is the
9 result of unintentional error.

10 (b) A person or entity that has entered into a contract
11 with another person or entity to make telephone solicitations
12 on its behalf is not liable for a violation of this Act by
13 the person or entity making telephone solicitations under the
14 contract if the person or entity on whose behalf the
15 telephone solicitations were made has provided written
16 notification to the person or entity making telephone
17 solicitations under the contract that it is necessary to
18 comply with the provisions of this Act when making telephone
19 solicitations.

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

21 Section 99. Effective date. This Act takes effect upon
22 becoming law."