

1 AMENDMENT TO SENATE BILL 1309

2 AMENDMENT NO. _____. Amend Senate Bill 1309 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the No
5 Call Registry Act.

6 Section 5. Definitions. As used in this Act:

7 (a) "Residential subscriber" means a person or spouse
8 who has subscribed to residential telephone service from a
9 local exchange company, a guardian of the person or the
10 person's spouse, or an individual who has power of attorney
11 from or an authorized agent of the person or the person's
12 spouse.

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

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

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

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

14 (2) opened or maintained a debit account, credit
15 card account, or other revolving credit or discount
16 program offered by 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 No Call Registry established
20 under this Act.

21 (e) "Telephone solicitation" means any voice
22 communication over a telephone line from a live operator,
23 through the use of an autodialer or autodialer system, as
24 defined in Section 5 of the Automatic Telephone Dialers Act,
25 or by other means for the purpose of encouraging the purchase
26 or rental of, or investment in, property, goods, or services,
27 but does not include communications:

28 (1) to any residential subscriber with that
29 subscriber's prior express invitation or permission when
30 a voluntary 2-way communication between a person or
31 entity and a residential subscriber has occurred with or
32 without an exchange of consideration;

33 (2) by or on behalf of any person or entity with
34 whom a residential subscriber has an established business

1 relationship which has not been terminated in writing by
2 either party and which is related to the nature of the
3 established business relationship;

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

12 (4) by or on behalf of an entity organized under
13 Section 501(c)(3), 501(c)(4), or 501(c)(6) of the
14 Internal Revenue Code, while the entity is engaged in
15 fundraising to support the charitable or not-for-profit
16 purpose for which the entity was established;

17 (5) by or on behalf of a person licensed by the
18 State of Illinois to carry out a trade, occupation, or
19 profession who either:

20 (A) is setting or attempting to set a face to
21 face appointment for actions relating to that
22 licensed trade, occupation, or profession within
23 this State; or

24 (B) is encouraging or attempting to encourage
25 the purchase or rental of, or investment in,
26 property, goods, or services, which cannot be
27 completed, and for which payment or authorization of
28 payment is not required, until after a written or
29 electronic agreement is signed by the residential
30 subscriber; or

31 (6) until July 1, 2005, by or on behalf of any
32 entity over which the Federal Communications Commission
33 or the Illinois Commerce Commission has regulatory
34 authority to the extent that, subject to that authority,

1 the entity is required to maintain a license, permit, or
2 certificate to sell or provide telecommunications
3 service, as defined in Section 13-203 of the Public
4 Utilities Act, while the entity is engaged in telephone
5 solicitation for inter-exchange telecommunications
6 service, as defined in Section 13-205 of the Public
7 Utilities Act, or local exchange telecommunications
8 service, as defined in Section 13-204 of the Public
9 Utilities Act.

10 Section 10. Prohibited calls. Beginning July 1, 2002, no
11 person or entity may make or cause to be made any telephone
12 solicitation calls to any residential subscriber more than 45
13 days after the residential subscriber's telephone number or
14 numbers first appear on the Registry.

15 Section 15. Complaints. The Illinois Commerce Commission
16 shall receive telephone solicitation complaints from
17 residential subscribers to object to such calls. Complaints
18 shall be taken by any means deemed appropriate by the
19 Illinois Commerce Commission. Complaints against persons or
20 entities that are licensed, certificated, or permitted by a
21 State or federal agency shall be forwarded for investigation
22 by the Illinois Commerce Commission to the appropriate agency
23 if the respective agency has the power to investigate such
24 matters. All other complaints shall be investigated by the
25 Illinois Commerce Commission. The standards for referrals and
26 investigations shall be set forth in rules adopted by the
27 Illinois Commerce Commission.

28 Section 20. Registry; establishment and maintenance.

29 (a) The Illinois Commerce Commission shall establish and
30 provide for the operation of a No Call Registry, which shall
31 contain a list of the telephone numbers of residential

1 subscribers who do not wish to receive telephone solicitation
2 calls. The Illinois Commerce Commission may contract with a
3 private vendor to establish and maintain the Registry if the
4 contract requires the vendor to provide the Registry in a
5 printed hard copy format, in an electronic format, and in any
6 other format prescribed by the Illinois Commerce Commission.

7 (b) No later than January 1, 2002, the Illinois
8 Commerce Commission shall adopt rules consistent with this
9 Act that the Illinois Commerce Commission deems necessary and
10 appropriate to fully implement this Act. The rules shall
11 include, at a minimum, methods by which any person or entity
12 desiring to make telephone solicitation calls may obtain
13 access to the Registry to avoid calling the telephone numbers
14 of residential subscribers included in the Registry.

15 (c) The fee for obtaining the Registry shall be set
16 forth in rules adopted by the Illinois Commerce Commission.
17 The fee may not exceed \$500 annually. All copies requested in
18 a printed hard copy format shall be assessed a per page fee
19 to be determined by rules adopted by the Illinois Commerce
20 Commission.

21 (d) The Illinois Commerce Commission shall update the
22 Registry and make information in the Registry available on a
23 quarterly basis in an electronic format and, if deemed
24 appropriate by the Illinois Commerce Commission, in one or
25 more other formats.

26 (e) If the Federal Communications Commission or Federal
27 Trade Commission establishes a single national database of
28 telephone numbers of subscribers who object to receiving
29 telephone solicitations under Title 47, Section 227(c)(3) of
30 the United States Code, this State shall discontinue the
31 Registry.

32 (f) Information in the Registry is confidential and
33 shall be afforded reasonable privacy protection except as
34 necessary for compliance with Sections 10 and 25 and this

1 Section or in a proceeding or action under Section 35 or 40.
2 The information is not a public record under the Freedom of
3 Information Act.

4 (g) The Illinois Commerce Commission shall periodically
5 obtain subscription listings of residential subscribers in
6 this State who have arranged to be included in any national
7 do-not-call list and add those names to the Registry.

8 Section 25. Enrollment.

9 (a) The Illinois Commerce Commission shall provide
10 notice to residential subscribers of the establishment of the
11 Registry.

12 (b) The Illinois Commerce Commission shall establish any
13 method deemed appropriate for a residential subscriber to
14 notify the Illinois Commerce Commission that the residential
15 subscriber wishes to be included in the Registry.

16 (c) There shall be no cost to a residential subscriber
17 for inclusion in the Registry.

18 (d) A residential subscriber in the Registry shall be
19 deleted from the Registry upon the residential subscriber's
20 written request.

21 (e) Enrollment in the Registry is effective from the
22 start of the quarter following the date of enrollment for a
23 term of 5 years or until the residential subscriber
24 disconnects or changes his or her telephone number, whichever
25 occurs first. The residential subscriber is responsible for
26 notifying the Illinois Commerce Commission of any changes in
27 his or her telephone number. The Illinois Commerce Commission
28 shall use its best efforts to notify enrolled residential
29 subscribers before the end of the 5-year enrollment term of
30 the option to re-enroll. Residential subscribers who do not
31 re-enroll before the end of the 5-year term shall be removed
32 from the Registry.

1 Section 30. Public notification. The Illinois Commerce
2 Commission shall work with local exchange telecommunications
3 companies to disseminate to their customers information about
4 the availability of and instructions for requesting
5 educational literature from the Illinois Commerce Commission.
6 The Illinois Commerce Commission may enter into agreements
7 with those companies for the dissemination of the educational
8 literature. Telecommunications companies shall disseminate
9 the educational literature at least once per year in both a
10 message contained in customers' bills and a notice in the
11 information section of all telephone directories distributed
12 to customers. The Illinois Commerce Commission shall include,
13 on its Internet web site, information to customers regarding
14 their right to be included in the Registry and the various
15 methods, including notice to the Illinois Commerce
16 Commission, of being included in the Registry. The Illinois
17 Commerce Commission shall have this literature developed for
18 dissemination to the public no later than March 1, 2002.

19 Section 35. Violation; relief.

20 (a) The Illinois Commerce Commission may initiate
21 administrative proceedings in accordance with rules adopted
22 under this Act relating to a knowing and willful violation of
23 Section 10.

24 (b) If it is determined after a hearing that a person
25 has knowingly and willfully violated one or more provisions
26 of this Section, the Illinois Commerce Commission may assess
27 a fine not to exceed \$2,500 for each violation.

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

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

33 (e) No action or proceeding may be brought under this

1 Section:

2 (1) more than one year after the person bringing
3 the action knew or should have known of the occurrence of
4 the alleged violation; or

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

8 (f) The remedies, duties, prohibition, and penalties in
9 this Act are not exclusive and are in addition to all other
10 causes of action, remedies, and penalties provided by law.

11 (g) There is created in the State treasury a special
12 fund to be known as the No Call Registry Fund. All fees and
13 fines collected in the administration and enforcement of this
14 Act shall be deposited into the Fund. Moneys in the Fund
15 shall, subject to appropriation, be used by the Illinois
16 Commerce Commission for implementation, administration, and
17 enforcement of this Act.

18 Section 40. Exemption. A person or entity may not be held
19 liable for violating this Act if:

20 (1) the person or entity has obtained copies of the
21 Registry and each updated Registry and has established
22 and implemented written policies and procedures related
23 to the requirements of this Act;

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

26 (3) the person or entity maintains records
27 demonstrating compliance with subdivisions (1) and (2) of
28 this Section and the requirements of this Act; and

29 (4) any subsequent telephone solicitation is the
30 result of error.

31 Section 90. The State Finance Act is amended by adding
32 Section 5.545 as follows:

1 (30 ILCS 105/5.545 new)

2 Sec. 5.545. The No Call Registry Fund.

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