

1 AN ACT concerning business transactions.

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

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 no 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
22 established and maintained by the Federal Trade Commission,
23 pursuant to 16 C.F.R. 310.4 (b)(1)(iii)(B), shall serve as
24 the Registry provided by this Act. ~~The--Illinois--Commeree~~
25 ~~Commission--may--contract--with-a-private-vendor-to-establish~~
26 ~~and-maintain-the-Registry-if-the-contract-requires-the-vendor~~
27 ~~to-provide~~

28 (b) Residential subscribers may cause their telephone
29 number or numbers to appear on the Registry in a ~~printed-hard~~
30 ~~copy-format,-in-an-electronic-format,-and-in~~ any manner other

1 format prescribed by the Illinois Commerce Commission.

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

10 (d)(b) ~~No later than January 1, 2003,~~ The Illinois
11 Commerce Commission may ~~shall~~ adopt rules consistent with
12 this Act that the Illinois Commerce Commission deems
13 necessary and appropriate to fully implement this Act. The
14 ~~rules shall include, at a minimum, methods by which any~~
15 ~~person or entity desiring to make telephone solicitation~~
16 ~~calls may obtain access to the Registry to avoid calling the~~
17 ~~telephone numbers of residential subscribers included in the~~
18 ~~Registry.~~

19 (e) ~~The fee for obtaining the Registry and updates shall~~
20 ~~be set forth in rules adopted by the Illinois Commerce~~
21 ~~Commission. The fee may not exceed \$1,000 annually and may~~
22 ~~not exceed the costs incurred by the Commission in the~~
23 ~~preparation, maintenance, production, and distribution of the~~
24 ~~Registry. All copies requested in a printed hard copy format~~
25 ~~shall be assessed a per page fee to be determined by rules~~
26 ~~adopted by the Illinois Commerce Commission.~~

27 (d) ~~The Illinois Commerce Commission shall update the~~
28 ~~Registry and make information in the Registry available on a~~
29 ~~quarterly basis in an electronic format that can be sorted by~~
30 ~~individual fields and, if deemed appropriate by the Illinois~~
31 ~~Commerce Commission, in one or more other formats.~~

32 (e) ~~If the Federal Communications Commission or Federal~~
33 ~~Trade Commission establishes a single national database of~~
34 ~~telephone numbers of subscribers who object to receiving~~

1 telephone-solicitations, which restricts both inter-state and
 2 intra-state calls and at a minimum covers all telephone
 3 solicitations covered by this Act, this State shall
 4 discontinue the Registry.

5 (e)(f) Information pertaining to residential subscribers

6 Information in the Registry is confidential and shall be
 7 afforded reasonable privacy protection except as necessary
 8 for compliance with Sections 10 and 25 and this Section or in
 9 a proceeding or action under Section 35 or 40. The
 10 information is not a public record under the Freedom of
 11 Information Act.

12 (g) The Illinois Commerce Commission shall periodically

13 obtain subscription listings of residential subscribers in
 14 this State who have arranged to be included in any national
 15 do not call list and add these names to the Registry.

16 (f)(h) A person or entity that obtains the Registry

17 shall not use the Registry for any purpose other than to
 18 comply with this Act. These unlawful purposes include, but
 19 are not limited to, causing a subscriber to participate in
 20 and be included in the Registry without the subscriber's
 21 knowledge or consent, selling or leasing the Registry to a
 22 person other than a telephone solicitor, selling or leasing
 23 by a telephone solicitor of the Registry, and a telephone
 24 solicitor, either directly or indirectly, persuading a
 25 subscriber with whom it has an established business
 26 relationship to place his or her telephone number in the
 27 Registry, if the solicitation has the effect of preventing
 28 competitors from contacting that solicitor's customers.

29 (g)(i) No person or entity that sells, leases,

30 exchanges, or rents telephone solicitation lists, except for
 31 directory assistance and telephone directories sold by
 32 telephone companies or their affiliates, shall include in
 33 those lists those telephone numbers that appear in the
 34 current Registry.

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

2 (815 ILCS 402/25)

3 Sec. 25. Notice of establishment of Registry.

4 Enrollment. (a) The Illinois Commerce Commission shall
5 provide notice to residential subscribers of the
6 establishment of the Registry.

7 (b) ~~The Illinois Commerce Commission shall establish any~~
8 ~~method deemed appropriate for a residential subscriber to~~
9 ~~notify the Illinois Commerce Commission that the residential~~
10 ~~subscriber wishes to have its telephone number included in or~~
11 ~~remain on the Registry.~~

12 (c) ~~The Commission may, by rule, set an initial fee~~
13 ~~which shall not exceed \$5 per residential subscriber for~~
14 ~~inclusion on the Restricted Call Registry. The Commission~~
15 ~~shall review the revenues and expenditures of the Restricted~~
16 ~~Call Registry on a biennial basis and shall, by rule, reduce~~
17 ~~the fee accordingly if revenues exceed expenditures. The~~
18 ~~Commission may adopt rules and procedures governing the~~
19 ~~acceptance of payment by credit card and may enter into such~~
20 ~~agreements as necessary to accept payment by credit card.~~

21 (d) ~~A residential subscriber's telephone number shall be~~
22 ~~deleted from the Registry upon the residential subscriber's~~
23 ~~written request.~~

24 (e) ~~Enrollment in the Registry is effective from the~~
25 ~~start of the quarter following the date of enrollment for a~~
26 ~~term of 5 years or until the residential subscriber~~
27 ~~disconnects or changes his or her telephone number, unless~~
28 ~~the subscriber complies with the notice provision contained~~
29 ~~in this Section, whichever occurs first. The residential~~
30 ~~subscriber shall be permitted to extend their enrollment for~~
31 ~~additional 5-year periods and shall not be subject to any fee~~
32 ~~for this extension. The residential subscriber is~~
33 ~~responsible for notifying the Illinois Commerce Commission of~~

1 any-changes-in-his-or--her--telephone--number.---The--Illinois
 2 Commerce--Commission--shall--use--its--best-efforts-to-notify
 3 enrolled-residential-subscribers-before-the-end-of-the-5-year
 4 enrollment-term-of-the-option--to--extend--their--enrollment.
 5 Residential--subscribers--who-do-not-indicate-their-desire-to
 6 extend-their-enrollment-before-the-end--of--the--5-year--term
 7 shall--be--given--a--one--quarter--grace--period-before-being
 8 removed-from-the-Registry.

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

10 (815 ILCS 402/30)

11 Sec. 30. Public notification. The Illinois Commerce
 12 Commission shall work with local exchange telecommunications
 13 companies to notify disseminate---to their customers
 14 information about the availability of and instructions for
 15 requesting information educational--literature from the
 16 Illinois Commerce Commission. The---Illinois---Commerce
 17 Commission-may-enter-into-agreements-with-these-companies-for
 18 the--dissemination--of--the--educational--literature. Local
 19 exchange telecommunications companies shall provide this
 20 notice disseminate--the-educational-literature at least once
 21 per year in a message contained in customers' bills and
 22 include or a notice in the information section of all
 23 telephone directories distributed to customers and shall
 24 include on their website a link to the ICC's web page for the
 25 Registry. The Illinois Commerce Commission shall include, on
 26 its Internet web site, information to customers regarding
 27 their right to be included in the Registry and the various
 28 methods,--including---notice---to---the---Illinois---Commerce
 29 Commission, of being included in the Registry. The Illinois
 30 Commerce Commission shall develop language to be used by
 31 local exchange telecommunications carriers and shall make
 32 information available on its web site shall--have--this
 33 literature-developed-for-dissemination-to-the-public no later

1 than July March 1, 2003.

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

3 (815 ILCS 402/35)

4 Sec. 35. Violation; relief.

5 (a) The Illinois Commerce Commission may initiate
6 administrative proceedings in accordance with rules adopted
7 under this Act relating to a knowing and willful violation of
8 Section 10.

9 (b) If it is determined after a hearing that a person
10 has knowingly and willfully violated one or more provisions
11 of this Section, the Illinois Commerce Commission may assess
12 a fine not to exceed \$1,000 for the first violation and not
13 to exceed \$2,500 for a second or subsequent violation. Each
14 individual violation of Section 10 of this Act shall be a
15 separate and distinct offense under this Section. In
16 imposing a penalty under this Section, the Commission shall,
17 at a minimum, consider the following factors:

18 (1) whether the offense was knowing or willful;

19 (2) whether the entity committing the offense has a
20 prior history of non-compliance with this Act;

21 (3) the offender's relative ability to pay a
22 penalty;

23 (4) whether the offender has or has not cooperated
24 with the Commission in pursuing the investigation; and

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

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

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

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

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

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

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

10 (g) There is created in the State Treasury a special
11 fund to be known as the Restricted Call Registry Fund. All
12 fees---and fines collected in the administration and
13 enforcement of this Act shall be deposited into the Fund.
14 Moneys in the Fund shall, subject to appropriation, be used
15 by the Illinois Commerce Commission for implementation,
16 administration, and enforcement of this Act.

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

18 (815 ILCS 402/40)

19 Sec. 40. Exemption.

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

22 (1) the person or entity has obtained copies of the
23 Registry and updates in compliance with this Act each
24 ~~updated-Registry-from-the--Illinois--Commeree--Commission~~
25 and has established and implemented written policies and
26 procedures related to the requirements of this Act;

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

29 (3) the person or entity maintains records
30 demonstrating compliance with subdivisions (1) and (2) of
31 this Section and the requirements of this Act; and

32 (4) any subsequent telephone solicitation is the
33 result of unintentional error.

1 (b) A person or entity that has entered into a contract
2 with another person or entity to make telephone solicitations
3 on its behalf is not liable for a violation of this Act by
4 the person or entity making telephone solicitations under the
5 contract if the person or entity on whose behalf the
6 telephone solicitations were made has provided written
7 notification to the person or entity making telephone
8 solicitations under the contract that it is necessary to
9 comply with the provisions of this Act when making telephone
10 solicitations.

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

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.