

AN ACT concerning business transactions.

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

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

(815 ILCS 402/10)

Sec. 10. Prohibited calls. Beginning ~~October~~ July 1,
2003, it is a violation of this Act for any no person or
entity to may make or cause to be made any telephone
solicitation calls to any residential subscriber more than 45
days after the person or entity obtains the Registry or any
update of the Registry on which the residential subscriber's
telephone number or numbers first appear ~~on-the-Registry~~.

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

(815 ILCS 402/20)

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

(a) The Illinois Commerce Commission shall establish and
provide for the operation of a Restricted Call Registry,
which shall contain a list of the telephone numbers of
residential subscribers who do not wish to receive telephone
solicitation calls. The national "do-not-call" registry
established and maintained by the Federal Trade Commission,
pursuant to 16 C.F.R. 310.4 (b)(1)(iii)(B), shall serve as
the Registry provided by this Act. ~~The--Illinois--Commeree~~
~~Commission--may--contract--with-a-private-vendor-to-establish~~
~~and-maintain-the-Registry-if-the-contract-requires-the-vendor~~
~~to-provide~~

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

format prescribed by the Illinois Commerce Commission.

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

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

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

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

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

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

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

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

~~(f)(h)~~ A person or entity that obtains the Registry shall not use the Registry for any purpose other than to comply with this Act. These unlawful purposes include, but are not limited to, causing a subscriber to participate in and be included in the Registry without the subscriber's knowledge or consent, selling or leasing the Registry to a person other than a telephone solicitor, selling or leasing by a telephone solicitor of the Registry, and a telephone solicitor, either directly or indirectly, persuading a subscriber with whom it has an established business relationship to place his or her telephone number in the Registry, if the solicitation has the effect of preventing competitors from contacting that solicitor's customers.

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

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

(815 ILCS 402/25)

Sec. 25. Notice of establishment of Registry.

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

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

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

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

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

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

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

(815 ILCS 402/30)

Sec. 30. Public notification. The Illinois Commerce
Commission shall work with local exchange telecommunications
companies to notify disseminate---to their customers
informatien about the availability of and instructions for
requesting information educational--literature from the
Illinois Commerce Commission. The---Illinois---Commeree
Commission-may-enter-into-agreements-with-these-companies-for
the--dissemination--of--the--educational--literature. Local
exchange telecommunications companies shall provide this
notice disseminate--the-educational-literature at least once
per year in a message contained in customers' bills or a
notice in the information section of all telephone
directories distributed to customers and shall include on
their website a link to the ICC's web page for the Registry.
The Illinois Commerce Commission shall include, on its
Internet web site, information to customers regarding their
right to be included in the Registry and the various methods,
including--notice--to--the--Illinois--Commeree-Commission, of
being included in the Registry. The Illinois Commerce
Commission shall develop language to be used by local
exchange telecommunications carriers and shall make
information available on its web site shall--have--this
literature-developed-for-dissemination-to-the-public no later

than July March 1, 2003.

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

(815 ILCS 402/35)

Sec. 35. Violation; relief.

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

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

(1) whether the offense was knowing or willful;

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

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

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

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

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

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

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

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

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

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

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

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

(815 ILCS 402/40)

Sec. 40. Exemption.

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

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

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

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

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

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

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

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