

FIRST REGULAR SESSION

HOUSE BILL NO. 191

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES JONES (117) (Sponsor), SCHAD, PORTWOOD, WHORTON,
HARRIS (110), SANDER, WETER, KOMO, BIVINS, McGHEE AND FRAME (Co-sponsors).

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D. ADAM CRUMBLISS, Chief Clerk

0563L.01I

AN ACT

To repeal sections 407.1095, 407.1101, and 407.1110, RSMo, and to enact in lieu thereof three
new sections relating to the telemarketing no-call list.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 407.1095, 407.1101, and 407.1110, RSMo, are repealed and three
2 new sections enacted in lieu thereof, to be known as sections 407.1095, 407.1100, and 407.1101,
3 to read as follows:

407.1095. As used in sections 407.1095 to [407.1110] **407.1107**, the following words
2 and phrases mean:

3 (1) **"Automatic dialing announcing device" or "ADAD", a device or system of**
4 **devices which is used, whether alone or in conjunction with other equipment, for the**
5 **purposes of automatically selecting or dialing telephone numbers and disseminating**
6 **recorded messages to the numbers selected or dialed;**

7 (2) **"Caller", a person, corporation, firm, partnership, association, or legal or**
8 **commercial entity who contacts or attempts to contact a subscriber in this state by using**
9 **a live operator or an automatic dialing announcing device;**

10 (3) **"Caller identification service", a type of telephone service which permits telephone**
11 **subscribers to see the telephone number of incoming telephone calls;**

12 [(2)] (4) **"Residential subscriber", a person who has subscribed to residential telephone**
13 **service from a local exchange company or the other persons living or residing with such person;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended
to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 [(3)] (5) "Telephone solicitation", any voice communication over a telephone line from
15 a live operator, through the use of ADAD equipment or by other means for the purpose of
16 encouraging the purchase or rental of, or investment in, property, goods or services, but does not
17 include communications:

18 (a) To any residential subscriber with that subscriber's prior express invitation or
19 permission;

20 (b) By or on behalf of any person or entity with whom a residential subscriber has had
21 a business contact within the past one hundred eighty days or a current business or personal
22 relationship;

23 (c) By or on behalf of an entity organized pursuant to Chapter 501(c)(3) of the United
24 States Internal Revenue Code, while such entity is engaged in fund-raising to support the
25 charitable purpose for which the entity was established provided that a bona fide member of such
26 exempt organization makes the voice communication;

27 (d) By or on behalf of any entity over which a federal agency has regulatory authority
28 to the extent that:

29 a. Subject to such authority, the entity is required to maintain a license, permit or
30 certificate to sell or provide the merchandise being offered through telemarketing; and

31 b. The entity is required by law or rule to develop and maintain a no-call list;

32 (e) By a natural person responding to a referral, or working from his or her primary
33 residence, or a person licensed by the state of Missouri to carry out a trade, occupation or
34 profession who is setting or attempting to set an appointment for actions relating to that licensed
35 trade, occupation or profession within the state or counties contiguous to the state.

**407.1100 1. A caller shall not use an automatic dialing announcing device in
2 making any telephone call to a residential subscriber who has provided notice to the
3 attorney general of such subscriber's objection to receiving telephone solicitations unless:**

4 **(1) The subscriber has knowingly or voluntarily requested, consented to, permitted,
5 or authorized receipt of the message; or**

6 **(2) The message is immediately preceded by a live operator who obtains the
7 subscriber's consent before the message is delivered and where the operator at the
8 beginning of the message discloses:**

9 **(a) The name of the business, firm, organization, association, partnership, or entity
10 for which the message is being made;**

11 **(b) The purpose of the message and whether it intends to solicit payment or
12 commitment of funds; and**

13 **(c) If applicable, the identity or kinds of goods or service the message is promoting.**

14 **2. A caller shall not use an automatic dialing announcing device unless the device**
15 **is designed and operated to disconnect within ten seconds after the subscriber terminates**
16 **the telephone call.**

17 **3. The provisions of this section shall not apply to:**

18 **(1) Telephone calls from school districts to students, parents, or employees;**

19 **(2) Telephone calls to subscribers with whom the caller has a current business or**
20 **personal relationship; or**

21 **(3) Telephone calls advising employees of work schedules.**

 407.1101. 1. The attorney general shall establish and provide for the operation of a
2 database to compile a list of telephone numbers of residential subscribers who object to receiving
3 telephone solicitations. The attorney general shall have such database in operation no later than
4 July 1, 2001.

5 2. No later than January 1, 2001, the attorney general shall promulgate rules and
6 regulations governing the establishment of a state no-call database as he or she deems necessary
7 and appropriate to fully implement the provisions of sections 407.1095 to [407.1110] **407.1107.**
8 The rules and regulations shall include those which:

9 (1) Specify the methods by which each residential subscriber may give notice to the
10 attorney general or its contractor of his or her objection to receiving such solicitations or
11 revocation of such notice. There shall be no cost to the subscriber for joining the database;

12 (2) Specify the length of time for which a notice of objection shall be effective and the
13 effect of a change of telephone number on such notice;

14 (3) Specify the methods by which such objections and revocations shall be collected and
15 added to the database;

16 (4) Specify the methods by which any person or entity desiring to make telephone
17 solicitations will obtain access to the database as required to avoid calling the telephone numbers
18 of residential subscribers included in the database, including the cost assessed to that person or
19 entity for access to the database;

20 (5) Specify such other matters relating to the database that the attorney general deems
21 desirable.

22 3. If the Federal Communications Commission establishes a single national database of
23 telephone numbers of subscribers who object to receiving telephone solicitations pursuant to 47
24 U.S.C., Section 227(c)(3), the attorney general shall include that part of such single national
25 database that relates to Missouri in the database established pursuant to this section.

26 4. Information contained in the database established pursuant to this section shall be used
27 only for the purpose of compliance with section 407.1098 and this section or in a proceeding or

28 action pursuant to section 407.1107. Such information shall not be considered a public record
29 pursuant to chapter 610, RSMo.

30 5. In April, July, October and January of each year, the attorney general shall be
31 encouraged to obtain subscription listings of consumers in this state who have arranged to be
32 included on any national do-not-call list and add those names to the state do-not-call list.

33 6. The attorney general may utilize moneys appropriated from general revenue and
34 moneys appropriated from the merchandising practices revolving fund established in section
35 407.140 for the purposes of establishing and operating the state no-call database.

36 7. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
37 is created under the authority delegated in sections 407.1095 to [407.1110] **407.1107** shall
38 become effective only if it complies with and is subject to all of the provisions of chapter 536,
39 RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are
40 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536,
41 RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently
42 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
43 after August 28, 2000, shall be invalid and void.

2 [407.1110. The attorney general shall establish an advisory group
3 composed of government entities, local telecommunications companies,
4 businesses, and senior citizen and other community advocates to compile and
5 promote a list of educational literature to help consumers understand their options
6 with regard to telephone solicitations. The attorney general shall work with local
7 exchange telecommunications companies to disseminate to their residential
8 subscribers information about the availability of and instructions about how to
9 request educational literature from the attorney general. The attorney general
10 may enter into agreements with those companies for the purpose of dissemination
11 of the educational literature. The attorney general shall include on his or her
12 Internet web site information that informs residential subscribers of their rights
13 to be placed on a no-call list and the various methods, including notice to the
14 attorney general, of placing their names on this no-call list. The attorney general
15 shall have this literature developed for dissemination to the public no later than
January 1, 2001.]

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