

2013 -- H 5877

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LC02004
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO BUSINESSES AND PROFESSIONS - TELEPHONE SALES SOLICITATION
ACT

Introduced By: Representative Stephen R. Ucci

Date Introduced: March 13, 2013

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 5-61-3.5 of the General Laws in Chapter 5-61 entitled "Telephone
2 Sales Solicitation Act" is hereby amended to read as follows:

3 **5-61-3.5. Do not call lists.** -- (a) No salesperson, telemarketer or telephonic seller shall
4 make or cause to be made any unsolicited telephonic sales calls to any residential, ~~mobile~~ or
5 telephonic paging device telephone number unless the salesperson, telemarketer or telephonic
6 seller has instituted procedures for maintaining a list of persons who do not wish to receive
7 telephonic sales calls made by or on behalf of that person, in compliance with 47 C.F.R 64 or 16
8 C.F.R 310. ~~Additionally, no person or entity conducting business in this state shall transmit or~~
9 ~~cause to be transmitted a text message advertisement to a cellular telephone or pager equipped~~
10 ~~with short message capability or any similar capability allowing the transmission of text~~
11 ~~messages. A text message advertisement is a message, the principal purpose of which is to~~
12 ~~promote the sale of goods or services to the recipient, consisting of advertising material for the~~
13 ~~lease, sale, rental, gift, offer, or disposition of realty, goods, services, or extension of credit.~~

14 ~~(1) This section shall apply when a text message advertisement is transmitted to a~~
15 ~~telephone number assigned for a cellular telephone or pager service to a Rhode Island resident.~~

16 ~~(2) This section shall not apply to text messages transmitted at the direction of a person~~
17 ~~or entity offering cellular telephone or pager service if the subscriber is offered an option not to~~
18 ~~receive those text messages.~~

1 ~~(3) This section shall not apply to text messages transmitted by a business that has an~~
2 ~~existing relationship with the subscriber if the subscriber is offered an option not to receive text~~
3 ~~messages from that business.~~

4 ~~(4) This section shall not apply to text messages transmitted by an affiliate of a business~~
5 ~~that has an existing relationship with the subscriber, but only if the subscriber has provided~~
6 ~~consent to the business with which he or she has the relationship to receive text messages from~~
7 ~~affiliates of that business. "Affiliate" means any company that controls, is controlled by, or is~~
8 ~~under the common control with, another company.~~

9 ~~(5) This act shall not impose an obligation on a person or entity offering cellular or pager~~
10 ~~service to control the transmission of a text message unless the message is transmitted at the~~
11 ~~direction of that person or entity.~~

12 (b) Any person who violates any provision of this section is guilty of a misdemeanor,
13 and upon conviction shall be punished by a fine of not more than five hundred dollars (\$500) per
14 violation.

15 SECTION 2. Chapter 5-61 of the General Laws entitled "Telephone Sales Solicitation
16 Act" is hereby amended by adding thereto the following section:

17 **5-61-3.7. Cellular or mobile phone solicitation prohibited.** – (a) No salesperson
18 telemarketer or telephonic seller shall make or cause to be made any unsolicited telephonic sales
19 calls to any mobile or cellular telephone number. Additionally, no person or entity shall transmit
20 or cause to be transmitted an unsolicited text message advertisement to a cellular telephone or
21 pager equipped with short message capability or any similar capability allowing the transmission
22 of text messages. A text message advertisement is a message, the principal purpose of which is to
23 promote the sale of goods or services to the recipient, consisting of advertising material for the
24 lease, sale, rental, gift, offer, or disposition of realty, goods, services, or extension of credit.

25 (1) This section shall apply when a text message advertisement is transmitted to a
26 telephone number assigned for a cellular telephone or pager service of a Rhode Island resident.

27 (2) This section shall not apply to text messages transmitted at the direction of a person or
28 entity offering cellular telephone or pager service if the subscriber is offered an option not to
29 receive those text messages.

30 (3) This section shall not apply to text messages transmitted by a business that has an
31 existing relationship with the subscriber if the subscriber is offered an option not to receive text
32 messages from that business.

33 (4) This section shall not apply to text messages transmitted by an affiliate of a business
34 that has an existing relationship with the subscriber, but only if the subscriber has provided

1 consent to the business with which he or she has the relationship to receive text messages from
2 affiliates of that business. "Affiliate" means any company that controls, is controlled by, or is
3 under the common control with, another company.

4 (5) This act shall not impose an obligation on a person, entity offering cellular, or pager
5 service to control the transmission of a text message unless the message is transmitted at the
6 direction of that person or entity.

7 (b) Any person who violates any provision of this section is guilty of a misdemeanor, and
8 upon conviction shall be punished by a fine of not more than five hundred dollars (\$500) per
9 violation, in addition, said person shall be responsible for the reimbursement of any charges or
10 costs incurred by the subscriber as a result of said violation.

11 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS - TELEPHONE SALES SOLICITATION
ACT

- 1 This act would prohibit unsolicited telephonic sales calls to any cellular or mobile
- 2 telephone.
- 3 This act would take effect upon passage.

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