2013 -- S 0173

S T A T E   O F   R H O D E   I S L A N D

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: Senators Lombardo, Conley, Nesselbush, Jabour, and McCaffrey

Date Introduced: February 06, 2013

Referred To: Senate Corporations

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

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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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