

AN ACT

relating to the regulation of certain telemarketing calls.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 44.101, Business & Commerce Code, is amended by amending Subsections (b) and (c) and adding Subsection (d) to read as follows:

(b) The commission may contract with a private vendor to maintain the Texas no-call list if:

(1) the private vendor has maintained a ~~[national]~~ no-call list database ~~[for more than two years]~~ containing the names and telephone numbers of consumers ~~[in this state]~~ who have previously requested to be added to a ~~[the vendor's national]~~ no-call list; and

(2) the contract requires the vendor to publish the Texas portion of the national no-call list in an electronic format to any telemarketer who agrees to use the Texas no-call list only for the purposes of updating the no-call list of that telemarketer by including in its list persons with whom the telemarketer does not have an established business relationship.

(c) The Texas no-call list is a combined list consisting of ~~[must contain]~~ the name and telephone numbers of each consumer in this state who has requested to be on that list and of each person in the portion of the national do-not-call registry maintained by the United States government that relates to this state. The Texas

1 no-call list shall be updated and published on January 1, April 1,
2 July 1, and October 1 of each year. An entry on the Texas no-call
3 list expires on the third anniversary of the date the entry is first
4 published on the list. An entry may be renewed for successive
5 three-year periods. The telephone number of the consumer on the
6 Texas no-call list may be deleted from the list on the consumer's
7 written request or if the telephone number of the consumer is
8 changed. The commission may charge a person a reasonable amount not
9 to exceed \$3 for a request to place a telephone number on the Texas
10 no-call list [~~established by the commission~~] or to renew an entry on
11 the list, except that the commission shall provide for a method of
12 placement or renewal of an entry by use of the Internet at no
13 charge. The commission shall develop and make available an
14 Internet website at which a person may request that a telephone
15 number be placed on the Texas no-call list [~~a form to be used by~~
16 ~~customers to request to be on the Texas no-call list~~] and shall
17 provide a toll-free telephone number and a mailing [~~Internet mail~~]
18 address that persons may call or write to obtain a copy of a [~~the~~]
19 form to request placement of a telephone number on the Texas no-call
20 list. A private for-profit publisher of a residential telephone
21 directory that is distributed to the public at minimal or no cost
22 shall include in the directory a prominently displayed Internet
23 website address, toll-free number, and mailing [~~Internet mail~~]
24 address established by the commission through which a person may
25 request placement of a telephone number on the Texas no-call list or
26 order a copy of the form to make this request.

27 (d) The commission or its designee may provide information

1 on the Texas no-call list to the administrator of the national
2 do-not-call registry and may allow placement of the names and
3 telephone numbers contained on the Texas no-call list in the
4 national do-not-call registry.

5 SECTION 2. Section 552.141, Government Code, as added by
6 Chapter 401, Acts of the 78th Legislature, Regular Session, 2003,
7 is amended to read as follows:

8 Sec. 552.141. EXCEPTION: TEXAS NO-CALL LIST. The Texas
9 no-call list created under Subchapter C, Chapter 44 [~~43~~], Business
10 & Commerce Code, and any information provided to or received from
11 the administrator of the national do-not-call registry maintained
12 by the United States government, as provided by Section 44.101,
13 Business & Commerce Code, [as added by Chapter 1429, Acts of the
14 77th Legislature, Regular Session, 2001,] is excepted from the
15 requirements of Section 552.021.

16 SECTION 3. Sections 39.1025(a) and (b), Utilities Code, are
17 amended to read as follows:

18 (a) A person may not make or cause to be made a telephone
19 solicitation to a nonresidential electric [~~an electricity~~]
20 customer who has given notice to the commission of the customer's
21 objection to receiving telephone solicitations relating to the
22 customer's choice of retail electric providers.

23 (b) The commission shall establish and provide for the
24 operation of a database to compile a list of nonresidential
25 electric customers who object to receiving telephone
26 solicitations. The commission may operate the database or contract
27 with another entity to operate the database.

1 SECTION 4. A residential electric customer who on the
2 effective date of this Act is enrolled on the list compiled under
3 Section 39.1025, Utilities Code, remains on the list until the
4 customer's enrollment expires. If the residential electric
5 customer applies to renew enrollment on that list after the
6 effective date of this Act, the customer shall be enrolled on the
7 Texas no-call list established under Subchapter C, Chapter 44,
8 Business & Commerce Code.

9 SECTION 5. This Act takes effect immediately if it receives
10 a vote of two-thirds of all the members elected to each house, as
11 provided by Section 39, Article III, Texas Constitution. If this
12 Act does not receive the vote necessary for immediate effect, this
13 Act takes effect September 1, 2005.

President of the Senate

Speaker of the House

I certify that H.B. No. 210 was passed by the House on March 31, 2005, by the following vote: Yeas 147, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 210 was passed by the Senate on May 12, 2005, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor