

By: Turner of Tarrant, Johnson, et al.

H.B. No. 411

A BILL TO BE ENTITLED

1 AN ACT
2 relating to prohibiting certain telemarketing calls by a credit
3 access business; adding a provision subject to criminal penalties.

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

5 SECTION 1. Section 304.004, Business & Commerce Code, is
6 amended to read as follows:

7 Sec. 304.004. INAPPLICABILITY OF CHAPTER TO CERTAIN CALLS.
8 This chapter does not apply to a call made:

9 (1) by a consumer:

10 (A) as the result of a solicitation by a seller or
11 telemarketer; or

12 (B) in response to general media advertising by a
13 direct mail solicitation that clearly, conspicuously, and
14 truthfully makes all disclosures required by federal or state law;

15 (2) in connection with:

16 (A) an established business relationship; or

17 (B) a business relationship that has been
18 terminated, if the call is made before the later of:

19 (i) the publication date of the first Texas
20 no-call list in which the consumer's telephone number appears; or

21 (ii) the first anniversary of the date of
22 termination;

23 (3) between a telemarketer and a business, other than
24 by a facsimile solicitation, unless the business has informed the

1 telemarketer that the business does not wish to receive a
2 telemarketing call from the telemarketer;

3 (4) to collect a debt; or

4 (5) by a state licensee, other than a credit access
5 business licensed under Subchapter G, Chapter 393, Finance Code,
6 if:

7 (A) the call is not made by an automated
8 telephone dialing system;

9 (B) the solicited transaction is not completed
10 until a face-to-face sales presentation by the seller occurs and
11 the consumer is not required to pay or authorize payment until after
12 the presentation; and

13 (C) the consumer has not informed the
14 telemarketer that the consumer does not wish to receive a
15 telemarketing call from the telemarketer.

16 SECTION 2. Subchapter G, Chapter 393, Finance Code, is
17 amended by adding Section 393.6245 to read as follows:

18 Sec. 393.6245. TELEMARKETING. (a) Except as provided by
19 Subsection (b), a credit access business or a representative of a
20 credit access business may not make a telemarketing call, as
21 defined by Section 304.002, Business & Commerce Code, to a consumer
22 whose name and telephone number are on the Texas no-call list
23 maintained under Subchapter B, Chapter 304, Business & Commerce
24 Code.

25 (b) A credit access business or a representative of the
26 business may make a telemarketing call to a consumer described by
27 Subsection (a) who is or has been a party to a contract with the

1 business if the call is made during the term of the contract or
2 before the first anniversary of the date on which the contract was
3 terminated, unless a consumer who is no longer under contract with
4 the business requests that the business or representative stop
5 calling the consumer.

6 SECTION 3. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2015.