

ASSEMBLY, No. 1446

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

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District 26 (Essex, Morris and Passaic)

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District 40 (Bergen, Essex, Morris and Passaic)

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SYNOPSIS

Prohibits telemarketers from making certain unsolicited telemarketing sales calls.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 7/16/2020)

1 **AN ACT** prohibiting telemarketers from making certain unsolicited
2 telemarketing sales calls and amending P.L.2003, c.76.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. Section 2 of P.L.2003, c.76 (C.56:8-120) is amended to read
8 as follows:

9 2. As used in **[this act]** P.L.2003, c.76 (C.56:8-119 et seq.):

10 "Autodialed telephone call" means:

11 a. a telephone call made using equipment that makes a series of
12 telephone calls to stored telephone numbers, including telephone
13 numbers stored on a list, or to telephone numbers produced using a
14 random or sequential telephone number generator, except that the
15 term does not include a telephone call made using only equipment
16 that the caller demonstrates requires substantial additional human
17 intervention to dial or place a telephone call after a human initiates
18 the telephone call or series of telephone calls; or

19 b. a telephone call made using an artificial or prerecorded voice
20 message.

21 "Customer" means an individual who is a resident of this State
22 and a prospective recipient of a telemarketing sales call.

23 "Director" means the Director of the Division of Consumer
24 Affairs in the Department of Law and Public Safety.

25 "Division" means the Division of Consumer Affairs in the
26 Department of Law and Public Safety.

27 "Local exchange telephone company" means a
28 telecommunications carrier authorized by the Board of Public
29 Utilities to provide local telecommunications services.

30 "Merchandise" means merchandise as defined in subsection (c)
31 of section 1 of P.L.1960, c.39 (C.56:8-1), including an extension of
32 credit.

33 "No telemarketing call list" or "no call list" means a list of
34 telephone numbers of customers in this State who desire not to
35 receive unsolicited telemarketing sales calls whether the
36 telemarketer is a human initiating an unsolicited telemarketing sales
37 call or the telemarketer uses another means of making an
38 unsolicited telemarketing sales call, including, but not limited to,
39 making an autodialed telephone call.

40 "Telemarketer" means any entity, whether an individual
41 proprietor, corporation, partnership, limited liability corporation, or
42 any other form of business organization, whether on behalf of itself
43 or others, who makes residential telemarketing sales calls to a
44 customer when the customer is in this State or any person who
45 directly controls or supervises the conduct of a telemarketer.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 "Telemarketing" means any plan, program, or campaign which is
2 conducted by telephone to encourage the purchase or rental of, or
3 investment in, merchandise, but does not include the solicitation of
4 sales through media other than a telephone call.

5 "Telemarketing sales call" means a telephone call, including an
6 autodialed telephone call, made by a telemarketer to a customer as
7 part of a plan, program, or campaign to encourage the purchase or
8 rental of, or investment in, merchandise, except for continuing
9 services. A telephone call made to an existing customer for the sole
10 purpose of collecting on accounts or following up on contractual
11 obligations shall not be deemed a telemarketing sales call.

12 "Telephone call mitigation technology" means technology that
13 identifies an incoming telephone call as being, or as likely being, an
14 autodialed telephone call and blocks the telephone call, diverts the
15 telephone call to the called person's answering system, or otherwise
16 prevents the telephone call from being completed to the called
17 person, except that the technology permits a telephone call so
18 identified to be completed when the telephone call is identified as
19 being made by a law enforcement or public safety entity, or when
20 the telephone call is identified as originating from a caller with
21 respect to whom the called person has provided prior express
22 consent to receive a telephone call and has not revoked that consent.

23 "Unsolicited telemarketing sales call" means any telemarketing
24 sales call other than a call made:

25 **[(1)]** a. in response to an express written request of the customer
26 called; or

27 **[(2)]** b. to an existing customer, which shall include the ability
28 to collect on accounts and follow up on contractual obligations,
29 unless the customer has stated to the telemarketer that the customer
30 no longer desires to receive the telemarketing sales calls of the
31 telemarketer.

32 (cf: P.L.2003, c.208, s.1)
33

34 2. Section 10 of P.L.2003, c.76 (C.56:8-128) is amended to
35 read as follows:

36 10. a. **[No]** A telemarketer shall not make or cause to be made
37 any unsolicited telemarketing sales call to any customer whose
38 telephone number is included on the no telemarketing call list
39 established pursuant to section 9 of **[this act]** P.L.2003, c.76
40 (C.56:8-127), except for a telephone call made within three months
41 of the date the customer's telephone number was first included on
42 the no call list but only if the telemarketer had at the time of the
43 telephone call not yet obtained a no call list which included the
44 customer's telephone number and the no call list used by the
45 telemarketer was issued less than three months prior to the time the
46 telephone call was made.

47 b. A telemarketer making a telemarketing sales call shall,
48 within the first 30 seconds of the telephone call, accurately identify

1 the telemarketer's name, the person on whose behalf the telephone
2 call is being made, and the purpose of the telephone call.

3 c. A telemarketer shall not make or cause to be made any
4 unsolicited telemarketing sales call to any customer between the
5 hours of **【9】 9:00** p.m. and **【8】 8:00** a.m., local time, at the
6 customer's location.

7 d. (1) A telemarketer shall not intentionally use any method
8 that blocks a caller identification service from displaying caller
9 identification information or otherwise circumvents a customer's
10 use of a telephone caller identification service, including, but not
11 limited to, the use of any technology or method which displays a
12 telephone number or name not associated with the telemarketer or
13 intentionally designed to misrepresent the telemarketer's identity.

14 (2) A telemarketer shall not intentionally use any method that
15 prevents a customer from using any telephone call mitigation
16 technology.

17 e. If a customer terminates a telephone call within five seconds
18 of receiving an unsolicited telemarketing sales call, a telemarketer
19 shall not make another unsolicited telemarketing sales call to a
20 telephone number associated with that customer.

21 (cf: P.L.2005, c.289, s.1)

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23 3. This act shall take effect 180 days after the date of
24 enactment.

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27 STATEMENT

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29 This bill prohibits a telemarketer from making an “autodialed
30 telephone call,” as that term is used in the bill, as an unsolicited
31 telemarketing sales call to a customer on the State’s no
32 telemarketing call list. The bill also prohibits a telemarketer from
33 employing any technology that prevents a customer from using a
34 “telephone call mitigation technology,” as that term is used in the
35 bill, to block the completion of an “autodialed telephone call.” The
36 bill provides that if a customer terminates a telephone call within
37 five seconds of receiving an unsolicited telemarketing sales call, a
38 telemarketer is not to make another unsolicited telemarketing sales
39 call to a telephone number associated with that customer.

40 The bill amends existing law to prevent telemarketers from using
41 technology to circumvent the State’s law regarding telemarketing
42 calls and the State’s no telemarketing call list.