



Synopsis of House Committee Amendments^{*}

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Sub. S.B. 28

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(H. Civil and Commercial Law)

The House Committee eliminated all of the provisions of the Senate-passed version of the bill, the Analysis of which contained the following dot points summarizing that version of the bill:

- Requires the Attorney General to provide for a do-not-call registry for residential telephone subscribers, either by directly developing, operating, and maintaining the registry or by accepting a national do-not-call registry maintained by a federal agency.
- If the Attorney General chooses to develop a registry, authorizes the Attorney General to contract with a private entity for its operation and maintenance.
- For a registry operated by the Attorney General or a contractor, requires telephone solicitors to pay a reasonable fee to obtain a copy of or access to it, and provides that the fees must be used to pay costs of registry development, operation, and maintenance.
- Prohibits a telephone solicitor or its representative from (1) making an unsolicited telephone solicitation to a telephone number more than 90 days after the number appears on the registry, (2) making a telephone solicitation call other than between the hours of 8 a.m. and 9 p.m. local time at the subscriber's location, and (3) subject to certain exceptions, abandoning a telephone solicitation call by failing to connect the call to a live person within two seconds after the completed greeting by the answering party.
- Requires a telephone solicitor to (1) maintain its own do-not-call list of persons who request not to be called on behalf of a particular entity, (2) promptly disclose the solicitor's name, entity on whose behalf the call is made, and any goods or services being sold, and (3) if using a prerecorded or artificial message player, include a toll-free number that the called party can call in order to be placed on the solicitor's do-not-call list.

^{*} This synopsis does not address amendments that may have been adopted on the House floor.

- Generally prohibits the possession, disclosure, or use of any registry, do-not-call list, or information in connection with a telephone number on the registry or list or the associated subscriber for any purpose other than complying with the bill's requirements, applicable federal law, or a lawful order or subpoena.
- Requires local telephone directory providers to include in their directories a notice describing the registry and do-not-call lists maintained by telephone solicitors and procedures for having a telephone number placed on the registry or list.
- Provides for investigation and enforcement by the Attorney General of the bill's requirements and prohibitions and the rules adopted by the Attorney General to implement the bill.
- Requires a court to impose a civil penalty for a violation of the court's order in an action brought by the Attorney General or for a violation of the bill's requirements or prohibitions or a rule adopted by the Attorney General, and creates a Telephone Solicitation Protection Fund in the state treasury as repository of civil penalties.
- Provides for a private cause of action for injunctive relief or monetary damages or both for any residential telephone service subscriber who has received a prohibited telephone solicitation call.

The House Committee replaced the provisions of the Senate-passed version of the bill that it eliminated, as described above, with new provisions described in the dot points of the Analysis of the bill, as reported by H. Civil and Commercial Law, as follows:

- Specifically prohibits any seller or telemarketer from engaging in any act or practice in violation of any provision of the federal Telemarketing and Consumer Fraud and Abuse Prevention Act, the federal Telephone Consumer Protection Act of 1991, any amendment or reenactment of either of those Acts, any rule adopted pursuant to either of the Acts, or any amendment of that rule.
- Authorizes the Attorney General (the AG) to investigate any alleged violation of any provision of the federal act or rule described in the preceding dot point and, for purposes of the investigation, to administer oaths, subpoena witnesses, adduce evidence, and require the production of any relevant matter, and specifies the rights and duties of persons subpoenaed by the AG.
- Authorizes the AG to suspend the investigation to permit the person being investigated to cease and desist from any suspected violation of the applicable federal act or rule or to terminate an investigation upon

acceptance of a written assurance of voluntary compliance from a person who is suspected of such a violation.

- Generally authorizes the AG to bring in the appropriate court of common pleas in Ohio or in the appropriate district court of the United States, but not in both courts, a civil action for injunctive relief or damages, or both, pursuant to the federal act or rule on behalf of Ohio residents subjected to telemarketing acts or practices in violation of the bill, and prevents the AG from pleading a violation of both the bill and the applicable federal act or rule in the action.
- In an action instituted by the AG as described above, permits the recovery of damages or civil penalties that do not exceed any maximum allowable amounts specified in the applicable federal act or rule and permits that recovery under the bill or the applicable federal act or rule, but not under both the bill and the federal act or rule.
- Requires the AG, in any proceedings under the bill, to recognize any exemptions recognized by the Federal Communications Commission (FCC) under the Telephone Consumer Protection Act of 1991, any amendment or reenactment of that Act, any rule adopted pursuant to that Act, or any amendment of that rule.
- During the pendency of a civil action instituted by or on behalf of the Federal Trade Commission (FTC) or the FCC for a violation of an applicable federal act or rule, prohibits the AG from instituting any civil action against any defendant named in the FTC or FCC complaint for any violation alleged in that complaint.
- If a civil action is instituted by or on behalf of the FTC or FCC as described in the preceding dot point, the civil action is litigated to its conclusion, and the FTC or FCC recovered damages or civil penalties or obtained relief, prohibits the AG from instituting any civil action under the bill for any violation within the same time period that is alleged in the FTC or FCC action and in which the FTC or FCC recovered the damages or civil penalties or obtained the relief.
- Creates the Telephone Solicitation Protection Fund in the State Treasury into which any civil penalties imposed under the bill are to be deposited to be used to pay the costs of the Office of the AG in investigating any violation of, and in enforcing, the above described federal acts or rules or the bill.