

**PROHIBIT REQUIRING CUSTOMER'S  
PHONE NUMBERS**

**House Bill 5961 (Substitute H-1\*)  
First Analysis (9-29-98)**

**Sponsor: Rep. George Mans  
Committee: Consumer Protection**

***THE APPARENT PROBLEM:***

One of the drawbacks of living in an age of ever-advancing technology is a declining sense of privacy or even of the opportunity to isolate oneself. Due to satellite systems and advancing technology, people can contact you by phone almost anyplace in the world. Every day, smaller and more powerful phones are being built and it seems that the number of people using cell phones, beepers, or car phones is increasing exponentially. In spite of this increase in accessibility, not everyone enjoys receiving phone calls wherever they are at any time, day or night. In fact, many people have differing views of how easy it should be to just "dial them up" depending on where they are - while one may want to be easily reached while at work, many people would prefer to limit outside access while they are at home. In response to this desire to limit the access of others to people's home phones, a number of new developments, such as caller ID, have been produced. One of the more common and oldest methods of limiting unwanted callers from reaching a person's home is the unlisted phone number. Unfortunately, an unlisted phone number is only effective if it can be kept relatively private. One way a person's phone number may end up being widely disseminated is by providing the number to a business as part of a transaction. Once the business has the person's name and phone number, the business can then turn around and sell the number to other businesses; for example, telemarketing firms. Once this happens, the privacy sought by obtaining the unlisted phone number is lost. In order to protect those consumers who would prefer not to be required to provide their unlisted phone numbers as part of a retail transaction, legislation has been introduced to prohibit businesses from requiring the provision of an unlisted phone number as a condition of completing a sale.

***THE CONTENT OF THE BILL:***

House Bill 5961 would amend the Michigan Consumer Protection Act's definition of methods, acts, or practices that are considered unfair, unconscionable, or deceptive in the conduct of trade or commerce. In addition to the behaviors that are currently considered unfair, unconscionable, or deceptive, the bill would prohibit businesses from requiring a consumer to provide his or her unlisted telephone number as a condition of sale for goods that were ordered on and to be immediately delivered to the consumer on the seller's premises. However, businesses would still be allowed to require a phone number when the consumer was paying by check. The prohibition would not apply to banks, savings and loan associations, savings banks, or credit unions that were chartered under state or federal law and maintained a principal office or branch in this state; nor would it apply to an entity affiliated with such institutions.

MCL 445.903

***FISCAL IMPLICATIONS:***

Fiscal information is not available. (9-28-98)

***ARGUMENTS:***

***For:***

As a response to the ever increasing encroachment of the outside world upon a person's privacy, many people have attempted to limit the access of the outside world, particularly when they are at home. When a person who has an unlisted phone number provides his or her number to a business, the individual has likely given up the privacy that he or she had hoped to purchase through the use of an unlisted line.

Unfortunately, businesses are increasingly engaging in the practice of requesting a customer's phone number as part of the consumer transaction. Once the phone number has been provided to a business it is no longer private; many businesses sell the phone numbers and other information about their customers as a marketing database. Although it is well within the rights of a would-be customer to refuse a business' request for a phone number, many people fail to realize this or are unwilling to raise a fuss about the infringement upon their privacy. The bill would provide protection for those people who have gone to the trouble and expense of obtaining an unlisted phone number. There is little good reason to place the desire of the business to collect people's phone numbers above the desire of citizens for a degree of privacy within their own homes.

The bill provides protection for people with unlisted phone numbers while still allowing the collection of such numbers in cases like loan applications. The information requested goes far beyond the need for identifying the writer of a check or person using the credit card. Some businesses keep track of customers by phone numbers, others may use zip codes. By keeping track of customers buying habits and preferences, businesses are able to create customer lists - either to sell to other businesses, or as a marketing tool of their own. The more information they have the more useful the list.

**Against:**

Contrary to what many may believe, retailers do not collect customers' phone numbers solely for the purpose of selling them to telemarketers or other marketing purposes. Many retailers use customers' phone numbers for legitimate purposes and having a customer's phone number is the most efficient way to contact that person should the need arise. For example, some retailers may use the phone number to double check the customer's identity, pharmacists may need to immediately contact a person about medication they received, some retailers may choose to contact a consumer who has bounced a check rather than to contact that person by mail, or when a customer leaves behind a wallet, purse, or even the item they purchased, a retailer who has the customer's phone number could call the customer.

**Response:**

Even if there are legitimate uses, those persons who have gone through the trouble and expense of obtaining an unlisted number should not be *forced* to provide their phone number. A person with an unlisted number should have the right to protect the private nature of that number and should not be forced to avoid retail transactions in order to protect it.

**Rebuttal:**

Customers cannot be *forced* to provide their phone numbers - they can always walk away from any transaction where a business conditions the completion of the transaction on the provision of the phone number. The customer may take his or her patronage elsewhere, and if enough customers do so, businesses will stop asking for phone numbers rather than lose business to their competitors.

**POSITIONS:**

The National Federation of Independent Business - Michigan opposes the bill. (9-28-98)

The Direct Marketing Association opposes the bill. (9-28-98)

The Michigan Financial Services Association opposes the bill. (9-28-98)

The Michigan League of Community Banks does not oppose the bill. (9-28-98)

Analyst: W. Flory

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.