

HOUSE BILL No. 4126

January 31, 2001, Introduced by Rep. Kolb and referred to the Committee on Energy and Technology.

A bill to amend 1971 PA 227, entitled
"An act to prescribe the rights and duties of parties to home solicitation sales,"
by amending the title and section 1a (MCL 445.111a).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

An act to prescribe the rights and duties of parties to home solicitation sales AND CERTAIN TELEPHONE SOLICITATIONS.

Sec. 1a. (1) A ~~home solicitation sale shall not be made by telephonic solicitation using~~ PERSON SHALL NOT MAKE A TELEPHONE SOLICITATION THAT CONSISTS in whole or in part OF a recorded message.

(2) A TELEPHONE SOLICITOR SHALL NOT USE TELEPHONE EQUIPMENT OR TELECOMMUNICATIONS NETWORK ELEMENTS THAT BLOCK OR OTHERWISE INTERFERE WITH THE CALLER ID FUNCTION ON THE TELEPHONE OF A

1 RESIDENTIAL TELEPHONE SUBSCRIBER TO WHOM A TELEPHONE SOLICITATION
2 IS MADE SO THAT THE TELEPHONE NUMBER OF THE CALLER IS NOT DIS-
3 PLAYED ON THE TELEPHONE OF THE RESIDENTIAL TELEPHONE SUBSCRIBER.

4 (3) A LOCAL EXCHANGE PROVIDER OR INTEREXCHANGE TOLL PROVIDER
5 SHALL NOT PROVIDE ANY NETWORK ELEMENT OR SERVICE TO A TELEPHONE
6 SOLICITOR THAT WOULD BLOCK OR OTHERWISE INTERFERE WITH, ON A PER
7 LINE BASIS, THE DISPLAY OF THE TELEPHONE SOLICITOR'S NAME AND
8 TELEPHONE NUMBER ON A RESIDENTIAL SUBSCRIBER'S CALLER ID
9 EQUIPMENT. LOCAL EXCHANGE PROVIDERS AND INTEREXCHANGE PROVIDERS
10 SHALL MODIFY THEIR TARIFFS TO REFLECT THE REQUIREMENTS OF THIS
11 ACT WITHIN 60 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT
12 THAT ADDED THIS SECTION.

13 (4) AS USED IN THIS SECTION:

14 (A) "ADAD" OR "AUTOMATIC DIALING AND ANNOUNCING DEVICE"
15 MEANS ANY DEVICE OR SYSTEM OF DEVICES THAT IS USED, WHETHER ALONE
16 OR IN CONJUNCTION WITH OTHER EQUIPMENT, FOR THE PURPOSE OF AUTO-
17 MATICALLY SELECTING OR DIALING TELEPHONE NUMBERS.

18 (B) "CALLER IDENTIFICATION SERVICE" OR "CALLER ID" MEANS
19 TELEPHONE SERVICE THAT NOTIFIES TELEPHONE SUBSCRIBERS OF THE
20 TELEPHONE NUMBER OF INCOMING TELEPHONE CALLS.

21 (C) "COMMISSION" MEANS THE PUBLIC SERVICE COMMISSION IN THE
22 DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES.

23 (D) "EXISTING CUSTOMER" INCLUDES A RESIDENTIAL TELEPHONE
24 SUBSCRIBER WITH WHOM THE PERSON OR ENTITY MAKING A TELEPHONE
25 SOLICITATION HAS HAD A BUSINESS RELATIONSHIP WITHIN THE PRIOR 12
26 MONTHS.

1 (E) "GOODS" MEANS ALL TANGIBLE PROPERTY PURCHASED PRIMARILY
2 FOR PERSONAL, FAMILY, OR HOUSEHOLD USE AND NOT FOR COMMERCIAL,
3 AGRICULTURAL, OR BUSINESS USE. GOODS INCLUDE PROPERTY THAT IS
4 FURNISHED OR USED FOR THE MODERNIZATION, REHABILITATION, REPAIR,
5 ALTERATION, IMPROVEMENT, OR CONSTRUCTION OF REAL PROPERTY. GOODS
6 INCLUDE MERCHANDISE CERTIFICATES OR COUPONS ISSUED BY A RETAIL
7 SELLER THAT ARE NOT REDEEMABLE IN CASH AND THAT ARE TO BE USED IN
8 THEIR FACE AMOUNT INSTEAD OF CASH, IN EXCHANGE FOR GOODS OR SERV-
9 ICES SOLD BY THE SELLER. GOODS DO NOT INCLUDE A MOTOR VEHICLE,
10 MONEY, A THING IN ACTION, INTANGIBLE PERSONAL PROPERTY, OR THEIR
11 EQUIVALENT.

12 (F) "INTEREXCHANGE PROVIDER" MEANS A COMPANY THAT IS AUTHO-
13 RIZED BY THE COMMISSION TO PROVIDE LONG DISTANCE TOLL TELEPHONE
14 SERVICE.

15 (G) "NOT-FOR-PROFIT" MEANS AN ORGANIZATION THAT IS EXEMPT
16 FROM PAYING TAXES UNDER SECTION 501(c) OF THE INTERNAL REVENUE
17 CODE OF 1986.

18 (H) "RESIDENTIAL TELEPHONE SUBSCRIBER" MEANS A PERSON RESID-
19 ING IN THIS STATE WHO HAS RESIDENTIAL TELEPHONE SERVICE.

20 (I) "SERVICES" MEANS WORK, LABOR, ADVICE, COUNSELING, OR
21 INSTRUCTION IF PURCHASED PRIMARILY FOR PERSONAL, FAMILY, OR
22 HOUSEHOLD USE AND NOT FOR COMMERCIAL OR BUSINESS USE. SERVICES
23 DO NOT INCLUDE ANY OF THE FOLLOWING:

24 (i) WORK, LABOR, ADVICE, COUNSELING, OR INSTRUCTION FOR
25 WHICH THE COST IS FIXED BY LAW OR SUBJECT TO THE APPROVAL OR DIS-
26 APPROVAL OF THE UNITED STATES OR THIS STATE.

1 (ii) EDUCATIONAL COUNSELING OR INSTRUCTION PROVIDED BY AN
2 ACCREDITED COLLEGE OR UNIVERSITY OR A PRIMARY OR SECONDARY SCHOOL
3 PROVIDING EDUCATION REQUIRED BY THE STATE.

4 (iii) COUNSELING OR INSTRUCTION OF A KINDERGARTEN OR NURSERY
5 SCHOOL.

6 (J) "TELEPHONE SOLICITATION" MEANS ANY VOICE COMMUNICATION
7 OVER A TELEPHONE FOR THE PURPOSE OF MAKING A HOME SOLICITATION
8 SALE OR ENCOURAGING THE PURCHASE OR RENTAL OF, OR INVESTMENT IN,
9 GOODS OR SERVICES. TELEPHONE SOLICITATION DOES NOT INCLUDE ANY
10 OF THE FOLLOWING:

11 (i) ANY VOICE COMMUNICATION TO ANY RESIDENTIAL TELEPHONE
12 SUBSCRIBER WITH THAT SUBSCRIBER'S PRIOR EXPRESS INVITATION OR
13 PERMISSION.

14 (ii) ANY VOICE COMMUNICATION TO A RESIDENTIAL TELEPHONE SUB-
15 SCRIBER IF THE COMMUNICATION IS MADE ON BEHALF OF A
16 NOT-FOR-PROFIT ORGANIZATION, PROVIDED THAT A BONA FIDE MEMBER OF
17 THE EXEMPT ORGANIZATION MAKES THE VOICE COMMUNICATION.

18 (iii) ANY VOICE COMMUNICATION TO ANY RESIDENTIAL TELEPHONE
19 SUBSCRIBER WHO IS AN EXISTING CUSTOMER OF THE SOLICITOR.

20 (iv) OCCASIONAL AND ISOLATED VOICE COMMUNICATIONS TO A RESI-
21 DENTIAL TELEPHONE SUBSCRIBER PROVIDED ALL OF THE FOLLOWING CONDI-
22 TIONS ARE MET:

23 (A) A DIRECT EMPLOYEE OF THE BUSINESS MAKES THE VOICE
24 COMMUNICATION.

25 (B) THE VOICE COMMUNICATION IS NOT MADE AS PART OF A TELE-
26 COMMUNICATIONS MARKETING PLAN.

1 (C) THE BUSINESS HAS A REASONABLE BELIEF THAT THE SPECIFIC
2 PERSON WHO IS RECEIVING THE VOICE COMMUNICATION IS CONSIDERING
3 PURCHASING A GOOD OR SERVICE SOLD OR LEASED BY THE BUSINESS AND
4 THE CALL IS SPECIFICALLY DIRECTED TO THE PERSON.

5 (D) THE BUSINESS DOES NOT SELL OR ENGAGE IN TELEPHONE
6 SOLICITATIONS.

7 (E) THE BUSINESS DOES NOT MAKE MORE THAN 3 OF THE VOICE COM-
8 MUNICATIONS IN ANY 1 CALENDAR WEEK.

9 (K) "TELEPHONE SOLICITOR" MEANS ANY PERSON DOING BUSINESS IN
10 THIS STATE WHO MAKES OR CAUSES TO BE MADE A TELEPHONE SOLICITA-
11 TION FROM WITHIN OR OUTSIDE OF THIS STATE, INCLUDING, BUT NOT
12 LIMITED TO, CALLS MADE BY USE OF AUTOMATED DIALING AND ANNOUNCING
13 DEVICES OR BY A LIVE PERSON.