

HOUSE BILL No. 4863

June 5, 2001, Introduced by Reps. Bradstreet, Schauer, Thomas, Lipsey, Vander Veen, Garza, Bovin, Ruth Johnson, Jacobs, Kooiman, Stewart, Basham, Woodward, Sheltroun, Kuipers, Schermesser, Hale, Dennis and Lemmons and referred to the Committee on Energy and Technology.

A bill to amend 1975 PA 169, entitled "Charitable organizations and solicitations act," by amending section 2 (MCL 400.272) and by adding sections 17a and 17b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

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

6 (B) ~~(a)~~ "Charitable organization" means a benevolent, edu-
7 cational, philanthropic, humane, patriotic, or eleemosynary
8 organization of persons which solicits or obtains contributions
9 solicited from the public for charitable purposes. ~~A~~ THE TERM
10 INCLUDES A chapter, branch, area office, or similar affiliate or

1 person soliciting contributions within the state for a charitable
 2 organization ~~which~~ THAT has its principal place of business
 3 outside the state. ~~is a charitable organization. This~~
 4 ~~definition~~ THE TERM does not include ANY OF THE FOLLOWING:

5 (i) A duly constituted religious ~~organizations~~
 6 ORGANIZATION or a group affiliated with and forming an integral
 7 part of a religious organization ~~no part of the net income of~~
 8 ~~which inures to the direct benefit of any individual if it~~ THAT
 9 has received a declaration of current tax exempt status from the
 10 United States IF NO PART OF THE NET INCOME OF THE ORGANIZATION
 11 INURES TO THE DIRECT BENEFIT OF ANY INDIVIDUAL. ~~The~~ AN affili-
 12 ated group ~~shall~~ IS not ~~be~~ required to obtain a declaration
 13 if the parent or principal organization has obtained tax exempt
 14 status. ~~Charitable organization does not include a~~

15 (ii) A candidate or committee as defined in section ~~901 of~~
 16 ~~Act No. 116 of the Public Acts of 1954, being section 168.901 of~~
 17 ~~the Michigan Compiled Laws, or a~~ 3 OF THE MICHIGAN CAMPAIGN
 18 FINANCE ACT, 1976 PA 388, MCL 169.203.

19 (iii) A political party qualified to be on the general elec-
 20 tion ballot pursuant to section 560a of ~~Act No. 116 of the~~
 21 ~~Public Acts of 1954, as added, being section 168.560a of the~~
 22 ~~Michigan Compiled Laws~~ THE MICHIGAN ELECTION LAW, 1954 PA 116,
 23 MCL 168.560A.

24 (C) "COMMISSION" MEANS THE PUBLIC SERVICE COMMISSION.

25 (D) ~~(b)~~ "Contribution" means the promise, grant, or pay-
 26 ment of money or property of any kind or value, including
 27 promises to pay, except payments by members of an organization

1 for membership fees, dues, fines, or assessments, or for services
2 rendered to individual members, if membership in the organization
3 confers a bona fide right, privilege, professional standing,
4 honor, or other direct benefit, other than the right to vote,
5 elect officers, or hold offices, and except money or property
6 received from a governmental authority or foundation restricted
7 as to use.

8 (E) "DO-NOT-CALL LIST" MEANS A DO-NOT-CALL LIST OF INDIVIDU-
9 ALS MAINTAINED OR DESIGNATED BY THE COMMISSION UNDER SECTION 17A.

10 (F) ~~(c)~~ "Person" means an individual, organization, group,
11 association, partnership, corporation, LIMITED LIABILITY COMPANY,
12 trust, or any combination of them.

13 ~~(d) "Soliciting material" means printed or similar materi-~~
14 ~~al, including but not limited to labels, posters, television~~
15 ~~scripts, radio scripts, or recordings used in soliciting funds~~
16 ~~from the public.~~

17 ~~(e) "Solicitor" means a person who solicits on behalf of a~~
18 ~~charitable organization.~~

19 (G) ~~(f)~~ "Professional fund-raiser" means a person who for
20 compensation or other consideration plans, conducts, manages, or
21 carries on a drive or campaign of soliciting contributions for or
22 on behalf of a charitable organization, religious organization,
23 or any other person; or who engages in the business of or holds
24 himself OR HERSELF out as independently engaged in the business
25 of soliciting contributions for ~~such~~ 1 OR MORE OF THOSE
26 purposes. A bona fide officer or employee of a charitable
27 organization is not a professional fund-raiser unless his OR HER

1 salary or other compensation is computed on the basis of funds to
2 be raised or actually raised.

3 (H) ~~(g)~~ "Professional solicitor" means a person who is
4 employed or retained for compensation by a professional
5 fund-raiser to solicit contributions for charitable purposes.

6 (I) ~~(h)~~ "Prohibited transaction" is ~~that~~ ANY dealing,
7 activity, conduct, administration, or management of the charita-
8 ble organization or by any of its officers, trustees, personnel,
9 or related persons ~~which may be~~ THAT IS prohibited as consti-
10 tuting activity contrary to proper administration of the charita-
11 ble organization or conduct of a fund raising campaign or solici-
12 tation by a professional fund-raiser or solicitor.

13 (J) "SOLICITING MATERIAL" MEANS PRINTED OR SIMILAR MATERIAL,
14 INCLUDING BUT NOT LIMITED TO LABELS, POSTERS, TELEVISION SCRIPTS,
15 RADIO SCRIPTS, OR RECORDINGS USED IN SOLICITING FUNDS FROM THE
16 PUBLIC.

17 (K) "SOLICITOR" MEANS A PERSON WHO SOLICITS ON BEHALF OF A
18 CHARITABLE ORGANIZATION.

19 (L) "TELEPHONE SOLICITOR" MEANS A PROFESSIONAL FUND-RAISER
20 OR PROFESSIONAL SOLICITOR WHO MAKES OR CAUSES TO BE MADE A TELE-
21 PHONE SOLICITATION FROM WITHIN OR OUTSIDE OF THIS STATE, INCLUD-
22 ING, BUT NOT LIMITED TO, CALLS MADE BY USE OF AUTOMATED DIALING
23 AND ANNOUNCING DEVICES OR BY A LIVE PERSON.

24 (M) "TELEPHONE SOLICITATION" MEANS ANY VOICE COMMUNICATION
25 OVER A TELEPHONE TO AN INDIVIDUAL FOR THE PURPOSE OF SOLICITING A
26 CHARITABLE CONTRIBUTION. TELEPHONE SOLICITATION DOES NOT INCLUDE

1 A VOICE COMMUNICATION TO AN INDIVIDUAL WITH THAT INDIVIDUAL'S
2 PRIOR EXPRESS INVITATION OR PERMISSION.

3 SEC. 17A. (1) WITHIN 90 DAYS AFTER THE EFFECTIVE DATE OF
4 THE AMENDATORY ACT THAT ADDED THIS SECTION, THE COMMISSION SHALL
5 DO 1 OF THE FOLLOWING:

6 (A) ESTABLISH A STATE DO-NOT-CALL LIST. IF THE COMMISSION
7 ESTABLISHES A STATE DO-NOT-CALL LIST, IT SHALL PUBLISH THAT LIST
8 QUARTERLY FOR USE BY TELEPHONE SOLICITORS. THE COMMISSION MAY AT
9 ANY TIME CEASE TO MAINTAIN A LIST UNDER THIS SUBDIVISION AND MAKE
10 A DESIGNATION UNDER SUBDIVISION (B).

11 (B) INVESTIGATE ANY NATIONAL DO-NOT-CALL LISTS THEN IN EXIS-
12 TENCE AND AFTER CONSIDERATION OF EACH LIST'S ACCESSIBILITY TO
13 TELEPHONE SOLICITORS AND EASE AND COST OF REGISTRATION FOR INDI-
14 VIDUALS SEEKING INCLUSION, DESIGNATE A LIST AS THE AUTHORIZED
15 DO-NOT-CALL LIST. THE COMMISSION MAY REVIEW AND MAKE A DIFFERENT
16 DESIGNATION UNDER THIS SUBDIVISION AT ANY TIME IF THE COMMISSION
17 DETERMINES THAT AN ALTERNATIVE DO-NOT-CALL LIST PROVIDES SUPERIOR
18 ACCESSIBILITY TO TELEPHONE SOLICITORS AND EASE AND COST OF REGIS-
19 TRATION FOR INDIVIDUALS SEEKING INCLUSION OR IF THE ORGANIZATION
20 MAINTAINING A PREVIOUSLY DESIGNATED DO-NOT-CALL LIST ENGAGES IN
21 ACTIVITIES THE COMMISSION CONSIDERS CONTRARY TO THE PUBLIC
22 INTEREST. THE COMMISSION MAY AT ANY TIME DISCONTINUE A DESIGNA-
23 TION UNDER THIS SUBDIVISION AND ESTABLISH AND MAINTAIN A LIST
24 UNDER SUBDIVISION (A).

25 (2) IN DETERMINING WHETHER TO ESTABLISH OR DESIGNATE A
26 DO-NOT-CALL LIST UNDER SUBSECTION (1), OR IN DESIGNATING A
27 DO-NOT-CALL LIST UNDER SUBSECTION (1)(B), THE COMMISSION SHALL

1 CONSIDER COMMENTS FROM INDIVIDUALS, TELEPHONE SOLICITORS, OR ANY
2 OTHER PERSON.

3 (3) BEGINNING 90 DAYS AFTER THE COMMISSION ESTABLISHES OR
4 DESIGNATES A DO-NOT-CALL LIST UNDER SUBSECTION (1), A TELEPHONE
5 SOLICITOR SHALL NOT MAKE A TELEPHONE SOLICITATION TO AN INDIVID-
6 UAL WHOSE NAME IS ON THE THEN-CURRENT VERSION OF THE DO-NOT-CALL
7 LIST.

8 (4) A TELEPHONE SOLICITOR SHALL NOT USE A DO-NOT-CALL LIST
9 FOR ANY PURPOSE OTHER THAN MEETING THE REQUIREMENTS OF
10 SUBSECTION (3).

11 (5) IF THE COMMISSION ESTABLISHES AND MAINTAINS THE
12 DO-NOT-CALL LIST UNDER SUBSECTION (1), THE COMMISSION SHALL NOT
13 SELL OR TRANSFER THE DO-NOT-CALL LIST TO ANY PERSON FOR ANY PUR-
14 POSE UNRELATED TO THIS SECTION.

15 SEC. 17B. (1) AT THE BEGINNING OF A TELEPHONE SOLICITATION,
16 A TELEPHONE SOLICITOR MAKING A TELEPHONE SOLICITATION TO AN INDI-
17 VIDUAL SHALL STATE HIS OR HER NAME AND THE FULL NAME OF THE
18 ORGANIZATION OR OTHER PERSON ON WHOSE BEHALF THE CALL WAS INITI-
19 ATED AND PROVIDE A TELEPHONE NUMBER OF THE ORGANIZATION OR OTHER
20 PERSON ON REQUEST. A NATURAL PERSON MUST BE AVAILABLE TO ANSWER
21 THE TELEPHONE NUMBER AT ANY TIME WHEN TELEPHONE SOLICITATIONS ARE
22 BEING MADE.

23 (2) THE PERSON ANSWERING THE TELEPHONE NUMBER REQUIRED UNDER
24 SUBSECTION (1) SHALL PROVIDE AN INDIVIDUAL CALLING THE TELEPHONE
25 NUMBER WITH INFORMATION DESCRIBING THE ORGANIZATION OR OTHER
26 PERSON ON WHOSE BEHALF THE TELEPHONE SOLICITATION WAS MADE TO THE
27 INDIVIDUAL AND DESCRIBING THE TELEPHONE SOLICITATION.

1 (3) A TELEPHONE SOLICITOR SHALL NOT INTENTIONALLY BLOCK OR
2 OTHERWISE INTERFERE WITH THE CALLER ID FUNCTION ON THE TELEPHONE
3 OF AN INDIVIDUAL TO WHOM A TELEPHONE SOLICITATION IS MADE SO THAT
4 THE TELEPHONE NUMBER OF THE CALLER IS NOT DISPLAYED ON THE TELE-
5 PHONE OF THE INDIVIDUAL.

6 (4) A TELEPHONE SOLICITOR SHALL NOT MAKE A TELEPHONE SOLICI-
7 TATION THAT CONSISTS IN WHOLE OR IN PART OF A RECORDED MESSAGE.