

1 AMENDMENT TO SENATE BILL 1309

2 AMENDMENT NO. _____. Amend Senate Bill 1309 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the No
5 Telemarketing Sales Calls Statewide Registry Act.

6 Section 5. Definitions. As used in this Act:

7 "Commission" means the Illinois Commerce Commission.

8 "Customer" means any natural person who is a resident of
9 this State and who is or may be required to pay for or to
10 exchange consideration for goods and services offered through
11 telemarketing.

12 "Doing business in this State" means conducting
13 telephonic sales calls:

14 (i) from a location in this State; or

15 (ii) from a location outside of this State to
16 consumers residing in this State.

17 "Goods and services" means any goods and services, and
18 includes any real property or any tangible personal property
19 or services of any kind.

20 "Person" means any natural person, corporation, business
21 trust, estate, trust, partnership, limited partnership,
22 limited liability partnership, limited liability company,

1 association, or other business entity and its affiliates or
2 subsidiaries.

3 "Telemarketer" means any person who, for financial profit
4 or commercial purposes in connection with telemarketing,
5 makes telemarketing sales calls to a customer when the
6 customer is in this State or any person who directly controls
7 or supervises the conduct of a telemarketer. As used in this
8 Act, "commercial purposes" means the sale or offer for sale
9 of goods or services.

10 "Telemarketing" means any plan, program, or campaign that
11 is conducted to induce payment or the exchange of any other
12 consideration for any goods or services by use of one or more
13 telephones and that involves more than one telephone call by
14 a telemarketer in which the customer is located within this
15 State at the time of the call. "Telemarketing" does not
16 include the solicitation of sales through any media other
17 than by telephone calls.

18 "Telemarketing sales call" means a telephone call made by
19 a telemarketer to a customer for the purpose of inducing
20 payment or the exchange of any other consideration for any
21 goods or services.

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

24 (i) in response to an express written or verbal
25 request of the customer called; or

26 (ii) in connection with an established business
27 relationship, which has not been terminated by either
28 party; or

29 (iii) to an existing customer, unless the customer
30 has stated to the telemarketer that the customer no
31 longer wishes to receive the telemarketing sales calls of
32 the telemarketer; or

33 (iv) in which the sale of goods and services is not
34 completed, and payment or authorization of payment is not

1 required, until after a face-to-face sales presentation
2 by the telemarketer or a meeting between the telemarketer
3 and customer.

4 Section 10. Registry; establishment and maintenance. The
5 Commission shall establish and maintain a no telemarketing
6 sales calls statewide registry which shall contain a list of
7 customers who do not wish to receive unsolicited
8 telemarketing sales calls. The Commission may contract with a
9 private vendor to establish and maintain the registry if: (i)
10 the private vendor has maintained national no telemarketing
11 sales calls registries for more than 2 years; and (ii) the
12 contract requires the vendor to provide the no telemarketing
13 sales calls registry in a printed hard copy format and in any
14 other format prescribed by the Commission.

15 Section 15. Prohibited calls. No telemarketer or seller
16 may make or cause to be made any unsolicited telemarketing
17 sales call to any customer more than 30 days after the
18 customer's name and telephone number or numbers appear on the
19 then current quarterly no telemarketing sales calls statewide
20 registry made available by the Commission under this Act.

21 Section 20. Registry; inclusion; removal; updates.

22 (a) The Commission shall provide notice to customers of
23 the establishment of no telemarketing sales calls statewide
24 registry. Any customer who wishes to be included in the
25 registry shall notify the Commission by calling a toll-free
26 number provided by the Commission, or in any other manner and
27 at times prescribed by the Commission which may include
28 notification via the Internet. A customer in the registry
29 shall be deleted from the registry upon the customer's
30 written request. The Commission shall update the registry not
31 less than quarterly and shall make the registry available to
32 telemarketers for a fee as the Commission shall prescribe.

1 (b) Any company that provides local telephone
2 directories to customers in this State shall inform its
3 customers of the provisions of this Act by publishing a
4 notice in those local telephone directories.

5 Section 25. Rules. The Commission shall adopt rules to
6 administer this Act.

7 Section 30. Violations.

8 (a) If it is determined after a hearing that a person
9 has violated one or more provisions of this Act, the
10 Commission may assess a penalty not to exceed \$2,000 for
11 each violation.

12 (b) A proceeding conducted under subsection (a) is
13 subject to the Illinois Administrative Procedure Act.

14 (c) Nothing in this Section may be construed to restrict
15 any right which any person may have under any other law or at
16 common law.

17 Section 35. Exemption. A person may not be held liable
18 for violating this Act if:

19 (a) the person has obtained copies of the no
20 telemarketing sales calls statewide registry and each updated
21 registry and has established and implemented written policies
22 and procedures related to the requirements of this Act;

23 (b) the person has trained his or her personnel in the
24 requirements of this Act;

25 (c) the person maintains records demonstrating
26 compliance with subsections (a) and (b) of this Section and
27 the requirements of this Act; and

28 (d) any subsequent unsolicited telemarketing sales call
29 is the result of error.".