

CS for SB 511

THE STATE SENATE
Thursday, February 15, 2001

Committee Substitute for
Senate Bill No. 511

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 511 - By: LEFTWICH of the Senate and COX of the House.

An Act relating to telemarketing; creating Telemarketer Restriction Act; providing short title; defining terms; requiring the Attorney General to establish directory of consumers who do not wish to receive unsolicited telemarketing calls; permitting, pursuant to the Central Purchasing Act, contracting with a vendor to establish and maintain the registry; requiring notice of establishment of the directory and means for consumers to be included or removed; requiring quarterly updates; authorizing adoption and promulgation of rules; making telemarketing calls to registered consumers an unlawful telemarketing practice and a violation of the Oklahoma Consumer Protection Act; permitting administrative fines under certain circumstances; creating the Telemarketer Revolving Fund; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 775B.1 of Title 15, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Telemarketer Restriction Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 775B.2 of Title 15, unless there is created a duplication in numbering, reads as follows:

1 As used in the Telemarketer Restriction Act:

2 1. "Commercial purposes" means the sale or offer for sale of
3 goods or services; "commercial purposes" does not mean solicitation
4 of funds or other support for a charitable or religious activity;
5 political candidate, cause, or organization; or any activity of a
6 not-for-profit entity organized pursuant to Section 501(c)(3) of the
7 Internal Revenue Code;

8 2. "Consumer" means any natural person who is a resident of
9 this state;

10 3. "Established business relationship" means the relationship
11 between a specific telemarketer and a consumer who has, within the
12 preceding twelve (12) months, purchased goods or services from the
13 telemarketer;

14 4. "Person" means any natural person, association, partnership,
15 firm, corporation and its affiliates or subsidiaries, or other
16 business entity;

17 5. "Telemarketer" means any person who, for commercial
18 purposes, initiates a telemarketing sales call to a consumer located
19 in this state or any person who directly controls or supervises the
20 conduct of a telemarketer; and

21 6. "Telemarketing" means any plan, program, or campaign which
22 is conducted for commercial purposes, by use of one or more
23 telephones and which involves a telephone call initiated by a

1 telemarketer to a consumer located within this state at the time of
2 the call; "telemarketing" may include use of random dialing or other
3 devices for such purposes and use of recorded or simulated voices.

4 SECTION 3. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 775B.3 of Title 15, unless there
6 is created a duplication in numbering, reads as follows:

7 Not later than January 1, 2002, the Attorney General shall
8 establish, and thereafter maintain, a statewide registry which shall
9 contain a list of consumers who do not desire to receive unsolicited
10 telemarketing sales calls. The Attorney General may, pursuant to
11 the Oklahoma Central Purchasing Act, contract with a private vendor
12 to establish and maintain the registry.

13 SECTION 4. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 775B.4 of Title 15, unless there
15 is created a duplication in numbering, reads as follows:

16 The Attorney General shall publish notice to consumers of the
17 establishment of the no-telemarketing-sales-call registry. Any
18 consumer who desires to be included in the listing shall notify the
19 Attorney General by calling a toll-free number provided by the
20 Attorney General, or in any other manner, and at such times, as the
21 Attorney General may prescribe, which may include notification via
22 the Internet. The name and number, or numbers, of a consumer listed
23 in the registry shall be removed upon written request by the

1 consumer. The Attorney General shall update the registry not less
2 than quarterly and shall make the registry available to
3 telemarketers by such means and for such fees as are determined by
4 the Attorney General pursuant to the Administrative Procedures Act.

5 SECTION 5. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 775B.5 of Title 15, unless there
7 is created a duplication in numbering, reads as follows:

8 The Attorney General is authorized to adopt and promulgate rules
9 for the implementation, administration, and enforcement of the
10 Telemarketer Restriction Act.

11 SECTION 6. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 775B.6 of Title 15, unless there
13 is created a duplication in numbering, reads as follows:

14 A. No telemarketer shall make or cause to be made any
15 unsolicited telemarketing sales call to any consumer more than
16 thirty (30) days after the consumer's name and telephone number or
17 numbers first appear on the quarterly registry made available by the
18 Attorney General pursuant to the Telemarketer Restriction Act.

19 B. Willful violation of subsection A of this section shall be
20 an unlawful telemarketing practice and a violation of the Oklahoma
21 Consumer Protection Act; provided, a call to a consumer with whom
22 the caller has an established business relationship shall not be a
23 violation of the Telemarketer Restriction Act.

1 C. In lieu of bringing an action under the Oklahoma Consumer
2 Protection Act, the Attorney General may, in cases where the
3 telemarketer is able to demonstrate that the violation occurred
4 notwithstanding policies of the telemarketer that were an integral
5 part of the training of the individual or individuals responsible
6 for the violation, assess an administrative fine. The Attorney
7 General shall, pursuant to the Administrative Procedures Act, adopt
8 and promulgate rules establishing a schedule of increasing fines to
9 be assessed pursuant to this subsection for multiple and repeated
10 violations.

11 SECTION 7. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 775B.7 of Title 15, unless there
13 is created a duplication in numbering, reads as follows:

14 There is hereby created in the State Treasury a revolving fund
15 for the Office of the Attorney General, to be designated the
16 "Telemarketer Revolving Fund". The fund shall be a continuing fund,
17 not subject to fiscal year limitations, and shall consist of all
18 monies received pursuant to the provisions of the Telemarketer
19 Restriction Act. All monies accruing to the credit of the fund are
20 hereby appropriated and may be budgeted and expended by the Attorney
21 General for the purpose of implementing, administering, or enforcing
22 the provisions of the Telemarketer Restriction Act. Expenditures
23 from the fund shall be made upon warrants issued by the State

1 Treasurer against claims filed as prescribed by law with the
2 Director of State Finance for approval and payment.

3 SECTION 8. This act shall become effective July 1, 2001.

4 SECTION 9. It being immediately necessary for the preservation
5 of the public peace, health and safety, an emergency is hereby
6 declared to exist, by reason whereof this act shall take effect and
7 be in full force from and after its passage and approval.

8 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS & LABOR, dated 02-12-01 -
9 DO PASS, As Amended and Coauthorized.