

CS for SB 240

THE STATE SENATE
Monday, February 17, 2003

Committee Substitute for
Senate Bill No. 240

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 240 - By: LEFTWICH of the Senate and ASKINS of the House.

An Act relating to contracts; amending Sections 2, 4 and 6, Chapter 72, O.S.L. 2002 (15 O.S. Supp. 2002, Sections 775B.2, 775B.4 and 775B.6), which relate to the Telemarketer Restriction Act; modifying definitions; authorizing Attorney General to forward certain information; providing certain information shall be privileged and confidential; deleting specified information from registry; and providing an effective date.

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

SECTION 1. AMENDATORY Section 2, Chapter 72, O.S.L. 2002 (15 O.S. Supp. 2002, Section 775B.2), is amended to read as follows:

Section 775B.2 As used in the Telemarketer Restriction Act:

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

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

1 3. "Established business relationship" means a prior
2 relationship formed within the preceding twenty-four (24) months or
3 an existing relationship formed by a voluntary two-way communication
4 between a person or entity and a residential subscriber with or
5 without an exchange of consideration, on the basis of an inquiry,
6 application, purchase or transaction by the residential subscriber
7 regarding products or services offered by such person or entity,
8 which relationship has not been previously terminated by either
9 party;

10 4. "Person" means any natural person, association, partnership,
11 firm, corporation and its affiliates or subsidiaries, or other
12 business entity;

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

17 6. "Telemarketing" means any plan, program, or campaign which
18 is conducted for commercial purposes, by use of one or more
19 telephones and which involves a telephone call initiated by a
20 telemarketer to a consumer located within this state at the time of
21 the call; "telemarketing" may include use of random dialing or other
22 devices for such purposes and use of recorded or simulated voices.
23 "Telemarketing" does not include a telephone call which is made for

1 the sole purpose of arranging a subsequent face-to-face meeting
2 between a salesperson and the consumer.

3 SECTION 2. AMENDATORY Section 4, Chapter 72, O.S.L. 2002
4 (15 O.S. Supp. 2002, Section 775B.4), is amended to read as follows:

5 Section 775B.4 The Attorney General shall publicize notice to
6 consumers of the establishment of the no-telemarketing-sales-call
7 registry and may provide, upon request, explanatory information
8 concerning the provisions of the Telemarketer Restriction Act. Any
9 consumer who desires to be included in the listing shall notify the
10 Attorney General by calling a toll-free number provided by the
11 Attorney General, or in any other manner, and at such times, as the
12 Attorney General may prescribe, which may include notification via
13 the Internet. The ~~name and~~ number⁷, or numbers⁷, of a consumer listed
14 in the registry shall be removed from the registry either by the
15 consumer calling a toll-free number provided by the Attorney General
16 or upon written request by the consumer. The Attorney General shall
17 implement a procedure to verify a consumer request to be added or
18 removed from the registry. The Attorney General shall update the
19 registry not less than quarterly and shall make the registry
20 available to telemarketers by such means and for such fees as are
21 determined by the Attorney General pursuant to the Administrative
22 Procedures Act. The Attorney General is hereby authorized to
23 forward all consumer requests to be included in the registry to the

1 Federal Trade Commission, Federal Communications Commission, or any
2 other agency of the federal government charged with the
3 establishment and maintenance of a nationwide registry of consumers
4 who desire not to receive unsolicited telemarketing sales calls.

5 SECTION 3. AMENDATORY Section 6, Chapter 72, O.S.L. 2002
6 (15 O.S. Supp. 2002, Section 775B.6), is amended to read as follows:

7 Section 775B.6 A. No telemarketer shall make or cause to be
8 made any unsolicited telemarketing sales call to any consumer more
9 than thirty (30) days after the consumer's ~~name and~~ telephone number
10 or numbers first appear on the registry made available by the
11 Attorney General pursuant to the Telemarketer Restriction Act.

12 B. Willful violation of subsection A of this section shall be
13 an unlawful telemarketing practice and a violation of the Oklahoma
14 Consumer Protection Act; provided, a call to a consumer with whom
15 the caller has an established business relationship or a call to a
16 consumer whose ~~name and~~ number ~~have~~ has been removed from the
17 registry shall not be a violation of the Telemarketer Restriction
18 Act.

19 C. In lieu of bringing an action under the Oklahoma Consumer
20 Protection Act, the Attorney General may, in cases where the
21 telemarketer is able to demonstrate that the violation occurred
22 notwithstanding policies of the telemarketer that were an integral
23 part of the training of the individual or individuals responsible

1 for the violation, assess an administrative fine. The Attorney
2 General shall, pursuant to the Administrative Procedures Act, adopt
3 and promulgate rules establishing a schedule of increasing fines to
4 be assessed pursuant to this subsection for multiple and repeated
5 violations.

6 SECTION 4. This act shall become effective November 1, 2003.

7 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS & LABOR, dated 2-10-03 -
8 DO PASS, As Amended and Coauthored.