

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE BILL 2050

By: Morgan

4  
5 AS INTRODUCED

6 An Act relating to consumer protection; amending  
7 Section 2, Chapter 72, O.S.L. 2002, as amended by  
8 Section 1, Chapter 357, O.S.L. 2003 (15 O.S. Supp.  
9 2008, Section 775B.2), which relates to the  
10 Telemarketer Restriction Act; modifying definition of  
11 a consumer to include businesses; making certain  
12 unlawful transmission to a facsimile device a  
13 violation of the Consumer Protection Act; providing  
14 for codification; and providing an effective date.

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

16 SECTION 1. AMENDATORY Section 2, Chapter 72, O.S.L.  
17 2002, as amended by Section 1, Chapter 357, O.S.L. 2003 (15 O.S.  
18 Supp. 2008, Section 775B.2), is amended to read as follows:

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

20 1. "Commercial purposes" means relating to the sale or offer  
21 for sale of goods or services. "Commercial purposes" does not mean  
22 solicitation of funds or other support for a charitable or religious  
23 activity; political candidate, cause, or organization; or any  
24 activity of a not-for-profit entity organized pursuant to Section  
25 501(c) (3) of the Internal Revenue Code;

26 2. "Consumer" means any natural person who is a resident of  
27 this state and ~~shall not include~~ any business association,

1 partnership, firm, corporation, and its affiliates or subsidiaries,  
2 or other business entity which is located in this state;

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

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

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

19 6. "Telemarketing" means any plan, program, or campaign which  
20 is conducted for commercial purposes, by use of one or more  
21 telephones and which involves a telephone call initiated by a  
22 telemarketer to a consumer located within this state at the time of  
23 the call; "telemarketing" may include use of random dialing or other  
24 devices for such purposes and use of recorded or simulated voices.

1 "Telemarketing" does not include a telephone call which is made for  
2 the sole purpose of arranging a subsequent face-to-face meeting  
3 between a salesperson and the consumer.

4 SECTION 2. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 775A.6 of Title 15, unless there  
6 is created a duplication in numbering, reads as follows:

7 All acts and practices of intentionally making an unsolicited  
8 electronic or telephonic transmission to a facsimile device declared  
9 to be unlawful in Section 1863 of Title 21 of the Oklahoma Statutes  
10 shall, in addition, be violations of the Oklahoma Consumer  
11 Protection Act.

12 SECTION 3. This act shall become effective November 1, 2009.

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