

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 HOUSE BILL 2705

By: McNiel

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5  
6 AS INTRODUCED

7 An Act relating to consumer protection; amending 15  
8 O.S. 2011, Sections 775B.2 and 775B.6, which relate  
9 to the Telemarketer Restriction Act; deleting certain  
10 definition; modifying definition of telemarketing;  
11 deleting exemption for calls where there is an  
12 established business relationship; and providing an  
13 effective date.

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

15 SECTION 1. AMENDATORY 15 O.S. 2011, Section 775B.2, is  
16 amended to read as follows:

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

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

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

1 partnership, firm, corporation, and its affiliates or subsidiaries,  
2 or other business entity;

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. 4. "Telemarketer" means any person who, for commercial~~  
16 ~~purposes, initiates a telemarketing sales call or message,~~  
17 ~~including, but not limited to, a cellular telephone text message,~~  
18 ~~to a consumer located in this state or any person who directly~~  
19 ~~controls or supervises the conduct of a telemarketer; and~~

20 ~~6. 5. "Telemarketing" means any plan, program, or campaign~~  
21 ~~which is conducted for commercial purposes, by use of one or more~~  
22 ~~telephones or electronic messaging devices and which involves a~~  
23 ~~telephone call or message, including, but not limited to, a cellular~~  
24 ~~telephone text message, initiated by a telemarketer to a consumer~~

1 located within this state at the time of the call or message;  
2 "telemarketing" may include use of random dialing or other devices  
3 for such purposes and use of recorded or simulated voices or  
4 automated electronic text messages delivery devices. "Telemarketing"  
5 ~~does not~~ shall include a telephone call which is made for the sole  
6 purpose of arranging a subsequent face-to-face meeting between a  
7 salesperson and the consumer.

8 SECTION 2. AMENDATORY 15 O.S. 2011, Section 775B.6, is  
9 amended to read as follows:

10 Section 775B.6 A. No telemarketer shall make or cause to be  
11 made any unsolicited telemarketing sales call or message, including,  
12 but not limited to, a cellular telephone text message, to any  
13 consumer more than thirty (30) days after the consumer's telephone  
14 number or numbers first appear on the registry made available by the  
15 Attorney General pursuant to the Telemarketer Restriction Act.

16 B. Willful violation of subsection A of this section shall be  
17 an unlawful telemarketing practice and a violation of the Oklahoma  
18 Consumer Protection Act; ~~provided, a. A call to a consumer with~~  
19 ~~whom the caller has an established business relationship or a call~~  
20 or cellular telephone text message to a consumer whose number has  
21 been removed from the registry shall not be a violation of the  
22 Telemarketer Restriction Act.

23 C. In lieu of bringing an action under the Oklahoma Consumer  
24 Protection Act, the Attorney General may, in cases where the

1 telemarketer is able to demonstrate that the violation occurred  
2 notwithstanding policies of the telemarketer that were an integral  
3 part of the training of the individual or individuals responsible  
4 for the violation, assess an administrative fine. The Attorney  
5 General shall, pursuant to the Administrative Procedures Act, adopt  
6 and promulgate rules establishing a schedule of increasing fines to  
7 be assessed pursuant to this subsection for multiple and repeated  
8 violations.

9 SECTION 3. This act shall become effective November 1, 2014.

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