



Rep. Michael Crawford

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10400HB2435ham001

LRB104 05988 SPS 24045 a

1 AMENDMENT TO HOUSE BILL 2435

2 AMENDMENT NO. _____. Amend House Bill 2435 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Telephone Solicitations Act is amended by
5 changing Sections 5, 15, 20, and 25 as follows:

6 (815 ILCS 413/5)

7 Sec. 5. Definitions. For purposes of this Act:

8 "Automatic dialing and announcing" means the use of a
9 device, computer program, or system that automatically dials
10 telephone numbers and transmits a recorded or artificial voice
11 message once a connection is made, including when the recorded
12 or artificial message goes directly to the recipient's
13 voicemail.

14 "Caller ID" means the display to the recipient of the call
15 of the caller's telephone number or identity.

16 "Emergency telephone number" means any telephone number

1 which accesses or calls a fire department, law enforcement
2 agency, ambulance, hospital, medical center, poison control
3 center, rape crisis center, suicide prevention center
4 (including the 9-8-8 suicide and crisis lifeline), rescue
5 service, the 911 emergency access number provided by law
6 enforcement agencies and police departments.

7 "Existing business relationship" means a relationship
8 formed by:

9 (1) a previous purchase, contract, or service
10 agreement between the customer and the caller within the
11 preceding 12 months;

12 (2) a current subscription, account, membership, or
13 ongoing transaction for goods or services between the
14 customer and the caller; or

15 (3) an inquiry related to goods or services made by
16 the customer to the caller within the preceding 12 months.

17 "Subscriber" means:

18 (1) A person who has subscribed to telephone service
19 from a telephone company; or

20 (2) Other persons living or residing with the
21 subscribing person.

22 "Telephone solicitation" means any voice communication
23 through the use of a telephone ~~by live operators~~ for
24 soliciting the sale of goods, ~~or~~ services, or property or
25 wrongfully obtaining anything of value.

26 (Source: P.A. 95-331, eff. 8-21-07.)

1 (815 ILCS 413/15)

2 Sec. 15. Method of operation.

3 (a) No person shall solicit the sale of goods or services
4 in this State by placing a telephone call during the hours
5 between 9 p.m. and 8 a.m.

6 (a-5) No person shall initiate a telephone solicitation in
7 this State through the use of automatic dialing and
8 announcing. This subsection applies to all commercial
9 telephone solicitation intended to be received by a telephone
10 customer in this State, unless the person being contacted has
11 expressly consented to be contacted in this manner or has an
12 existing business relationship with the person initiating the
13 telephone solicitation. If a person has previously consented
14 to be contacted in a manner otherwise prohibited by this
15 subsection, the person shall be allowed to withdraw that
16 consent at any time in the same manner that the consent was
17 given. A person to whom consent has been given under this
18 subsection shall not sell, give, transfer, or assign that
19 consent to another person.

20 The provisions of this subsection shall not apply to calls
21 or alerts: (i) made through an emergency telephone number;
22 (ii) made by a unit of local, State, or federal government;
23 (iii) made by a government official acting in an official
24 capacity; (iv) made by a not-for-profit organization that is
25 exempt from taxation under Section 501 of the Internal Revenue

1 Code; (v) made by a health care provider, office, and facility
2 licensed in this State; (vi) made by a public utility or
3 telecommunications carrier in this State as defined in Section
4 3-105 of the Public Utilities Act; or (vii) otherwise
5 permitted by State or federal law.

6 (b) A live operator making a telephone solicitation
7 ~~soliciting the sale of goods or services~~ shall:

8 (1) immediately state his or her name, the name of the
9 business or organization being represented, and the
10 purpose of the call; and

11 (2) inquire at the beginning of the call whether the
12 person called consents to the solicitation; and

13 (3) if the person called requests to be taken off the
14 contact list of the business or organization, the operator
15 must refrain from calling that person again and take all
16 steps necessary to have that person's name and telephone
17 number removed from the contact records of the business or
18 organization so that the person will not be contacted
19 again by the business or organization. Compliance with
20 Section 310.4(b) of the Federal Trade Commission's
21 Telemarketing Sales Rule shall constitute compliance with
22 this subsection (b) (3) of this Section.

23 (c) A person may not initiate a telephone solicitation
24 ~~solicit the sale of goods or services by telephone~~ in a manner
25 that impedes the function of any caller ID when the telephone
26 solicitor's service or equipment is capable of allowing the

1 display of the solicitor's telephone number.

2 (Source: P.A. 90-541, eff. 6-1-98; 91-182, eff. 1-1-00.)

3 (815 ILCS 413/20)

4 Sec. 20. Exemptions.

5 (a) Except as provided in subsection (b), the ~~provisions~~
6 ~~of this Act shall not apply to telephone calls made by an~~
7 ~~autodialer.~~ The provisions of this Act do not apply to
8 telephone solicitations ~~calls~~ made by a person who is a
9 registered dealer, registered investment adviser, or
10 registered salesperson under Section 8 of the Illinois
11 Securities Law of 1953 or who is registered as a
12 broker-dealer, registered representative, or salesperson of a
13 broker-dealer under the federal securities laws, when
14 performing acts within the scope of that registration.

15 (b) Notwithstanding the provisions of subsection (a), all
16 telephone solicitations ~~calls~~ must be made in compliance with
17 the requirements of subsection (c) of Section 15.

18 (Source: P.A. 91-182, eff. 1-1-00.)

19 (815 ILCS 413/25)

20 Sec. 25. Violations.

21 (a) It is a violation of this Act to make or cause to be
22 made telephone solicitations ~~calls~~ to any emergency telephone
23 number as defined in Section 5 of this Act. It is a violation
24 of this Act to make or cause to be made telephone calls in a

1 manner that does not comply with Section 15.

2 (b) It is a violation of this Act to continue with a
3 solicitation placed by a live operator without the consent of
4 the called party.

5 (c) It is an unlawful act or practice and a violation of
6 this Act for any person engaged in telephone solicitation to
7 obtain or submit for payment a check, draft, or other form of
8 negotiable paper drawn on a person's checking, savings, or
9 other account or on a bond without the person's express
10 written consent.

11 (d) Enforcement by customer. Any customer injured by a
12 violation of this Act, other than a violation of subsection
13 (a-5) of Section 15, may bring an action for the recovery of
14 damages. Judgment may be entered for 3 times the amount at
15 which the actual damages are assessed, plus costs and
16 reasonable attorney's ~~attorney~~ fees. Any person who is subject
17 to a violation of subsection (a-5) of Section 15 may bring an
18 action for damages of \$500 per violation, plus costs and
19 reasonable attorney's fees. In the case of a class action,
20 damages awarded to the class against any defendant are not to
21 exceed \$500,000 or one percent of the net worth of the
22 defendant, whichever is less. Any damages recoverable under
23 this Section are in the alternative to, and not in addition to,
24 any damages that may be recovered under the Telephone Consumer
25 Protection Act, 47 U.S.C. 227 et seq.

26 (e) Enforcement by Attorney General. Violation of any of

1 the provisions of this Act is an unlawful practice under
2 Section 2Z of the Consumer Fraud and Deceptive Business
3 Practices Act. All remedies, penalties, and authority granted
4 to the Attorney General by that Act shall be available to him
5 for the enforcement of this Act. In any action brought by the
6 Attorney General to enforce this Act, the court may order that
7 persons who incurred actual damages be awarded the amount at
8 which actual damages are assessed.

9 (Source: P.A. 91-182, eff. 1-1-00; 91-761, eff. 1-1-01.)".