

June 11, 2002

H 1612. STOP UNWANTED TELEPHONE SOLICITATIONS. TO ESTABLISH AND MAINTAIN A NO-CALL REGISTRY FOR CONSUMERS WHO WISH TO STOP UNWANTED TELEPHONE SOLICITATION CALLS AND TO INCREASE THE PROTECTIONS FOR CONSUMERS IN TRANSACTIONS INITIATED BY TELEMARKETERS. Makes numerous changes in several statutes, to regulate telephone solicitations.

No-Call Registry. Adds new GS 75-30.2 directing the state's Attorney General to establish and maintain a No-Call Registry containing the telephone numbers of NC residential telephone subscribers who do not wish to receive telephone solicitations (as defined in the bill) at those numbers. The Attorney General is to make the No-Call Registry list available to registered telephone solicitors on a quarterly basis. Attorney General (1) may contract with an agent to operate the registry, (2) is to coordinate to the extent feasible the state registry with similar federal ones, and (3) is to produce a document that notifies consumers of the registry and how to use it; telephone companies are to distribute the document.

Telephone Solicitation. Amends GS 75-30.1 (which now places certain restrictions on unsolicited telephone solicitations) to provide that the registry and the bill's other provisions apply to telephone communications (whether live, pre-recorded, or facsimile) over a telephone line that (1) solicits or encourages the purchase or rental of or investment in property, goods, or services (as in current law; remainder is new), (2) solicit or encourage participation in a contest, sweepstakes, raffle or lottery (whether legal or illegal), or (3) solicit a donation. Provisions also apply to a call that is initiated by the residential telephone subscriber responding to an unsolicited letter, telegram, e-mail message, or other notice that states that the subscriber may have won a prize or may qualify for credit, or that the solicitor has a buyer interested in the subscriber's property. Provisions do not apply to calls (1) made with the subscriber's permission or to calls made by the subscriber, except those in which the subscriber is responding to an unsolicited letter, telegram, e-mail message, or other notice that states that the subscriber may have won a prize or may qualify for credit, or that the solicitor has a buyer interested in the subscriber's property, (2) made in connection with an existing debt or contract for which payment or performance has not been completed at the time of the call (current law: in connection with an "established business relationship"), and (3) made by a tax-exempt nonprofit organization *when calls are being placed by direct employees of the organization or volunteers without remuneration, and the caller immediately discloses his or her true first and last name and the name, address, and phone number of the organization* (italicized portion is bill's addition to current law). Makes clear that provisions apply to telephone solicitations made from outside NC. Bill amends GS 66-260 to delete lengthy list of types of callers to whom restrictions apply.

Permitted Solicitation Hours. Amends GS 75-30.1, which now limits telephone solicitations to the hours of 8:00 a.m. to 9:00 p.m., to change the hours to 10:00 a.m. to 8:00 p.m.

Contract Requirements. Adds new GS 75-30.1(g1) providing that no contract or purchase agreement secured during a telephone solicitation is valid and no money from the telephone subscriber is due, unless (1) the contract is reduced to writing and is signed by the consumer, (2) the contract complies with all laws, (3) the contract contains specified information about the seller, the price, and the goods or services sold, (4) the goods and services comply with the description, (5) the contract contains in conspicuous type: "You are not obligated to pay any money unless you sign this contract and return it to the seller," (6) the contract does not exclude representations made in the solicitation. A consumer's credit card, debit card, checking account, or other account may not be charged and no electronic draw of funds may be made until the solicitor or merchant using the solicitor receives the signed contract.

Penalties and Remedies. Amends GS 75-30.1(i) to raise the statutory damages for violations from \$500 per violation to \$5000. Adds a provision for declaring void any contract in violation of the requirements summarized above.

Automatic Dialing Solicitations. GS 75-30 currently provides that no one may make unsolicited calls by use of an automatic dialing and recorded message player, except for certain charitable, political, and polling organizations, which may use recorded messages if the call is started by a live operator who seeks the subscriber's permission to play the message. This bill amends the statute to add governmental officials to the list, and to provide that those on the list may not use automatic systems to obtain donations, sell goods or services, or obtain information

for selling goods and services. Makes violations of the automatic dialing provisions an unfair and deceptive practice under GS 75-1.1 and provides for a \$5000 penalty per violation.

Registration of Solicitors. Amends GS 66-261 and –262 to raise the registration fee for telephone solicitors from \$100 to \$1000 a year and to move the registration from the Sec'y of State to the Attorney General. Revises the information required of solicitors with respect to civil, criminal, or administrative proceedings the solicitor has been involved in.

Appropriation. Appropriates from General Fund to Dep't of Justice \$900,000 for fiscal 2002-03 to establish and maintain the registry.

Intro. by Baddour, Redwine.

Ref. to Judiciary II	GS 62, 66, 75, Approp
----------------------	-----------------------