

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1034
Committee Substitute Favorable 4/23/09
PROPOSED SENATE COMMITTEE SUBSTITUTE H1034-PCS50752-SU-69

Short Title: Allow Recorded Phone Messages/Public Safety.

(Public)

Sponsors:

Referred to:

April 6, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW AUTOMATIC DIALING AND RECORDED MESSAGE PLAYERS
3 TO BE USED TO MAKE UNSOLICITED TELEPHONE CALLS TO PROTECT THE
4 PUBLIC HEALTH, SAFETY, OR WELFARE.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 75-104 reads as rewritten:

7 "§ 75-104. Restrictions on use of automatic dialing and recorded message players.

8 (a) Except as provided in this section, no person may use an automatic dialing and
9 recorded message player to make an unsolicited telephone call.

10 (b) Notwithstanding subsection (a) of this section, a person may use an automatic
11 dialing and recorded message player to make an unsolicited telephone call only under one or
12 more of the following circumstances:

13 (1) All of the following are satisfied:

14 a. The person making the call is any of the following:

15 1. A tax-exempt charitable or civic organization.

16 2. A political party or political candidate.

17 3. A governmental official.

18 4. An opinion polling organization, radio station, television
19 station, cable television company, or broadcast rating service
20 conducting a public opinion poll.

21 b. No part of the call is used to make a telephone solicitation.

22 c. The person making the call clearly identifies the person's name and
23 contact information and the nature of the unsolicited telephone call.

24 (2) Prior to the playing of the recorded message, a live operator complies with
25 G.S. 75-102(c), states the nature and length in minutes of the recorded
26 message, and asks for and receives prior approval to play the recorded
27 message from the person receiving the call.

28 (3) The unsolicited telephone call is in connection with an existing debt or
29 contract for which payment or performance has not been completed at the
30 time of the unsolicited telephone call, and both of the following are
31 satisfied:

32 a. No part of the call is used to make a telephone solicitation.



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- 1 b. The person making the call clearly identifies the person's name and
2 contact information and the nature of the unsolicited telephone call.
- 3 (4) The unsolicited telephone call is placed by a person with whom the
4 telephone subscriber has made an appointment, provided that the call is
5 conveying information only about the appointment, or by a utility, telephone
6 company, cable television company, satellite television company, or similar
7 entity for the sole purpose of conveying information or news about network
8 outages, repairs or service interruptions, and confirmation calls related to
9 restoration of ~~service~~.service, and both of the following are satisfied:
- 10 a. No part of the call is used to make a telephone solicitation.
- 11 b. The person making the call clearly identifies the person's name and
12 contact information and the nature of the unsolicited telephone call.
- 13 (5) The person plays the recorded message in order to comply with section 16
14 C.F.R. Part 310.4(b)(4) of the Telemarketing Sales Rule.
- 15 (6) The unsolicited telephone call is placed by, or on behalf of, a health insurer
16 as defined in G.S. 58-51-115(a)(2) from whom the telephone subscriber or
17 other covered family member of the health insurer receives health care
18 coverage or the administration of such coverage, provided that the call is
19 conveying information related to the telephone subscriber or family
20 member's health care, preventive services, medication or other covered
21 ~~benefits~~.benefits, and both of the following are satisfied:
- 22 a. No part of the call is used to make a telephone solicitation.
- 23 b. The person making the call clearly identifies the person's name and
24 contact information and the nature of the unsolicited telephone call.
- 25 (7) No part of the call is used to make a telephone solicitation, the person
26 making the call clearly identifies the person's contact information and the
27 nature of the unsolicited telephone call, and the sole purpose of the
28 unsolicited telephone call is to protect the public health, safety, or welfare,
29 by informing the telephone subscriber of any of the following:
- 30 a. That the telephone subscriber has purchased a product that is subject
31 to a recall by the product's manufacturer, distributor or retailer, or by
32 the federal Consumer Product Safety Commission or another
33 government agency or department with legal authority to recall the
34 product which is the subject of the call, due to safety or health
35 concerns, provided that (i) there is a reasonable basis to believe that
36 the telephone subscriber has purchased the product, and (ii) the
37 message complies with any requirements imposed by any
38 government agency instituting the recall.
- 39 b. That the telephone subscriber may have received a prescription or
40 over-the-counter medication that is subject to a recall by the product's
41 manufacturer, distributor or retailer, or by the federal Food and Drug
42 Administration or another government agency or department with
43 legal authority to recall the product which is the subject of the call,
44 due to safety or health concerns, provided that (i) the call and its
45 message comply with the requirements of the Health Insurance
46 Portability and Accountability Act (P.L. 104-191) (HIPAA) and any
47 corresponding regulations pertaining to privacy, (ii) there is a
48 reasonable basis to believe that the telephone subscriber has
49 purchased or received the medication, and (iii) the message complies
50 with any requirements imposed by the government agency or product
51 manufacturer, distributor, or retailer instituting the recall.

1 c. That the telephone subscriber has not picked up a filled prescription
2 drug for which a valid prescription is on file with a pharmacy
3 licensed pursuant to G.S. 90-85.21 and the telephone subscriber
4 requested that the prescription be filled, provided that the call and its
5 message comply with the requirements of the Health Insurance
6 Portability and Accountability Act (P.L. 104-191) (HIPAA) and any
7 corresponding regulations pertaining to privacy."

8 **SECTION 2.** This act is effective when it becomes law.