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PROPOSED SENATE COMMITTEE SUBSTITUTE H936-PCS40743-BB-36

Short Title: Robocall Solicitation Modifications.

(Public)

Sponsors:

Referred to:

April 14, 2025

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY THE LAWS GOVERNING TELEPHONE SOLICITATIONS TO
3 ADDRESS ROBOCALLS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Article 4 of Chapter 75 of the General Statutes reads as rewritten:

6 "Article 4.

7 "Telephone Solicitations.

8 "§ 75-100. Findings.

9 ...

10 "§ 75-101. Definitions.

11 The following definitions apply in this Article:

- 12 (1) Affiliate. – A business establishment, business, or other legal entity that
13 wholly or substantially owns, is wholly or substantially owned by, or is under
14 common ownership with a telephone solicitor.
- 15 (2) ~~Automatic dialing and recorded message player. – Any automatic equipment
16 that incorporates a storage capability of telephone numbers to be called or a
17 random or a sequential number generator capable of producing numbers to be
18 called that, working alone or in conjunction with other equipment,
19 disseminates a prerecorded message to the telephone number called.~~
- 20 (3) "Do Not Call" Registry. – The registry created and maintained by the Federal
21 Trade Commission pursuant to the Telemarketing Sales Rule. It also means
22 any other telemarketing registry created by the federal government, including
23 the Federal Communications Commission. It also means any registry created
24 by the Attorney General pursuant to G.S. 75-102(n).
- 25 (4) Doing business in this State. – To make or cause to be made any telephone
26 solicitation to North Carolina telephone subscribers, whether the telephone
27 solicitations are made from a location inside North Carolina or outside North
28 Carolina.
- 29 (5) Established business relationship. – A relationship between a seller and a
30 consumer based on:
- 31 a. The consumer's purchase, rental, or lease of the seller's goods or
32 services or a financial transaction between the consumer and the seller
33 or one or more of its affiliates within the 18 months immediately
34 preceding the date of a telephone solicitation; or



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- 1 b. The consumer's inquiry or application regarding a product or service
2 offered by the seller within the three months immediately preceding
3 the date of a telephone solicitation.
- 4 (6) ~~Express invitation or permission. — Any invitation or permission that is~~
5 ~~registered by the telephone subscriber on an independent form and that~~
6 ~~contains the telephone number to which calls can be placed and the signature~~
7 ~~of the telephone subscriber. The form may be completed and signed~~
8 ~~electronically.~~
- 9 (7) Person. — Any individual, business establishment, business, or other legal
10 entity.
- 11 (7a) Prior express written consent. — An agreement that satisfies all of the
12 following conditions:
- 13 a. It is in writing.
- 14 b. It bears the signature of the person called that clearly authorizes the
15 seller to deliver or cause to be delivered to the person called telephone
16 solicitations. The term "signature" includes an electronic or digital
17 form of signature, to the extent that such form of signature is
18 recognized as a valid signature under applicable federal law or State
19 law.
- 20 c. It includes the telephone number to which the signatory authorizes
21 such telephone solicitations to be delivered.
- 22 d. It includes a clear and conspicuous disclosure informing the person
23 signing both of the following:
- 24 1. By executing the agreement, such person authorizes the seller
25 to deliver or cause to be delivered to the signatory telephone
26 solicitations.
- 27 2. The person is not required to sign the agreement (directly or
28 indirectly) or agree to enter into such an agreement as a
29 condition of purchasing any property, goods, or services.
- 30 (7b) Robocall. — A voice communication that delivers artificial, artificially
31 generated, or prerecorded voice messages, in whole or in part, including, but
32 not limited to, telephone calls utilizing soundboard technology and ringless
33 voicemail messages. "Robocall" also includes spam and scam text messages
34 received by a telephone subscriber through a messaging application.
- 35 (7c) Robocaller. — Any person doing business in this State that, directly or through
36 others, makes, attempts to make, causes to be made, or otherwise provides or
37 knows or consciously avoids knowing that they provide substantial assistance
38 or support for making robocalls.
- 39 (8) Telemarketing Sales Rule. — The federal regulation promulgated by the
40 Federal Trade Commission, 16 C.F.R. Part 310 (January 29, 2003 Edition), as
41 amended, to implement the Telemarketing and Consumer Fraud and Abuse
42 Prevention Act, 15 U.S.C. §§ 6101-6108, as amended.
- 43 (9) Telephone solicitation. — A voice or text communication, whether
44 prerecorded, live, or a facsimile, over a telephone line or wireless telephone
45 network or via a commercial mobile radio service that is made by a telephone
46 solicitor to a telephone subscriber for the purpose of soliciting or encouraging
47 the purchase or rental of, or investment in, property, goods, or services;
48 obtaining or providing information that will or may be used for that purpose;
49 soliciting or encouraging a telephone subscriber's participation in any contest,
50 sweepstakes, raffle, or lottery, whether legal or illegal; or obtaining a

charitable donation. "Telephone solicitation" also includes those transactions that are defined as "telemarketing" under the Telemarketing Sales Rule.

(10) Telephone solicitor. – Any ~~individual, business establishment, business, or other legal entity~~ person doing business in this State that, directly or through salespersons or agents, ~~makes or makes,~~ attempts to ~~make-make, causes to be made, or otherwise provides or knows or consciously avoids knowing that they provide substantial assistance or support for making telephone solicitations or causes telephone solicitations to be made.~~ solicitations. "Telephone solicitor" also includes any party defined as a "telemarketer" under the Telemarketing Sales Rule.

(11) Telephone subscriber. – An individual who subscribes to a residential telephone service from a local exchange company, a competing local provider certified to do business in North Carolina, or a wireless telephone company; or the individuals living or residing with that individual.

(12) ~~Unsolicited telephone call. — A voice or text communication, whether prerecorded, live, or a facsimile, over a telephone line or wireless telephone network or via a commercial mobile radio service that is made by a person to a telephone subscriber without prior express invitation or permission.~~

§ 75-102. Restrictions on telephone solicitations.

...

(f) No telephone solicitor shall make a telephone solicitation before 8:00 A.M. or after 9:00 P.M.

...

(h) No telephone solicitor or robocaller shall engage in threats, intimidation, or the use of profane or obscene language.

~~(i) No telephone solicitor shall cause misleading information to be transmitted to users of caller identification technologies or otherwise block or misrepresent the origin of the telephone solicitation. No provider of telephone caller identification services shall be held liable for violations of this subsection committed by other individuals or entities. It is not a violation of this subsection for a telephone solicitor to utilize the name and number of the entity the solicitation is being made on behalf of rather than the name and number of the telephone solicitor.~~

...

(k) Nothing in this section prohibits a telephone solicitor from contacting by nontelephonic notice a telephone subscriber whose telephone number appears in the "Do Not Call" Registry to obtain the telephone subscriber's ~~express invitation or permission~~ prior express written consent allowing the telephone solicitor to make telephone solicitations to the telephone subscriber. A telephone solicitor shall not contact a telephone subscriber by telephone to obtain this ~~express invitation or permission~~ prior express written consent.

(l) Nothing in this section prohibits a telephone solicitor from advertising in a general medium or contacting by nontelephonic notice a telephone subscriber whose telephone number appears in the "Do Not Call" Registry to encourage the telephone subscriber to initiate telephone calls to the telephone solicitor. A telephone solicitor shall not contact a telephone subscriber by telephone to obtain this ~~express invitation or permission~~ prior express written consent.

...

§ 75-103. Limited exceptions.

(a) G.S. 75-102(a) does not apply to any of the following telephone solicitations that are made:

(1) To any telephone subscriber with the telephone subscriber's ~~prior express invitation or permission~~ prior express written consent.

...

1 (e) In any dispute regarding whether a telephone subscriber has provided ~~an express~~
2 ~~invitation or permission prior express written consent~~ under subsection (a) of this section, the
3 telephone solicitor has the burden of proving that the telephone subscriber has provided this
4 ~~permission consent~~ by producing the original document, a facsimile document, or an electronic
5 form, signed by the telephone subscriber, or other authentication that evidences ~~permission-~~
6 ~~consent~~. A telephone subscriber may subsequently retract ~~express invitation or permission prior~~
7 ~~express written consent~~ by indicating a desire not to receive further telephone solicitations under
8 G.S. 75-102(b).

9 **"§ 75-104. Restrictions on use of ~~automatic dialing and recorded message players.~~robocalls.**

10 (a) Except as provided in this section, no person may ~~use an automatic dialing and~~
11 ~~recorded message player to make an unsolicited telephone call.~~make a robocall to a telephone
12 number.

13 (b) Notwithstanding subsection (a) of this section, a person may ~~use an automatic dialing~~
14 ~~and recorded message player to make an unsolicited telephone call.~~make a robocall only under
15 one or more of the following circumstances:

16 (1) All of the following are satisfied:

17 a. The person making the ~~call~~robocall is any of the following:

- 18 1. A tax-exempt charitable or civic organization.
- 19 2. A political party or political candidate.
- 20 3. A governmental official.
- 21 4. An opinion polling organization, radio station, television
- 22 station, cable television company, or broadcast rating service
- 23 conducting a public opinion poll.

24 b. No part of the ~~call~~robocall is used to make a telephone solicitation.

25 c. The person making the ~~call~~robocall clearly identifies the person's
26 name and contact information and the nature of the ~~unsolicited~~
27 ~~telephone call.~~robocall.

28 (2) Prior to the playing of the ~~recorded message, robocall,~~ a live operator complies
29 with G.S. 75-102(c), states the nature and length in minutes of the recorded
30 message, and asks for and receives prior approval to play the recorded
31 message from the person receiving the call.

32 (3) The ~~unsolicited telephone call~~robocall is in connection with an existing debt
33 or contract for which payment or performance has not been completed at the
34 time of the ~~unsolicited telephone call,~~robocall, and both of the following are
35 satisfied:

36 a. No part of the ~~call~~robocall is used to make a telephone solicitation.

37 b. The person making the ~~call~~robocall clearly identifies the person's
38 name and contact information and the nature of the ~~unsolicited~~
39 ~~telephone call.~~robocall.

40 (4) The ~~unsolicited telephone call~~robocall is placed by a person with whom the
41 telephone subscriber has made an appointment, provided that the ~~call~~robocall
42 is conveying information only about the appointment, or by a utility, telephone
43 company, cable television company, satellite television company, or similar
44 entity for the sole purpose of conveying information or news about network
45 outages, repairs or service interruptions, and confirmation ~~calls~~robocalls
46 related to restoration of service, and both of the following are satisfied:

47 a. No part of the ~~call~~robocall is used to make a telephone solicitation.

48 b. The person making the ~~call~~robocall clearly identifies the person's
49 name and contact information and the nature of the ~~unsolicited~~
50 ~~telephone call.~~robocall.

- 1 (5) The person plays the ~~recorded message robocall~~ in order to comply with
2 section 16 C.F.R. Part 310.4(b)(4) of the Telemarketing Sales Rule.
- 3 (6) The ~~unsolicited telephone call robocall~~ is placed by, or on behalf of, a health
4 insurer as defined in G.S. 58-51-115(a)(2) from whom the telephone
5 subscriber or other covered family member of the health insurer receives
6 health care coverage or the administration of such coverage, provided that the
7 ~~call robocall~~ is conveying information related to the telephone subscriber or
8 family member's health care, preventive services, medication or other covered
9 benefits, and both of the following are satisfied:
- 10 a. No part of the ~~call robocall~~ is used to make a telephone solicitation.
- 11 b. The person making the ~~call robocall~~ clearly identifies the person's
12 name and contact information and the nature of the ~~unsolicited~~
13 ~~telephone call robocall~~.
- 14 (7) No part of the ~~call robocall~~ is used to make a telephone solicitation, the person
15 making the ~~call robocall~~ clearly identifies the person's contact information and
16 the nature of the ~~unsolicited telephone call robocall~~, and the sole purpose of
17 the ~~unsolicited telephone call robocall~~ is to protect the public health, safety,
18 or welfare, by informing the telephone subscriber of any of the following:
- 19 a. That the telephone subscriber has purchased a product that is subject
20 to a recall by the product's manufacturer, distributor or retailer, or by
21 the federal Consumer Product Safety Commission or another
22 government agency or department with legal authority to recall the
23 product which is the subject of the ~~call robocall~~, due to safety or health
24 concerns, provided that (i) there is a reasonable basis to believe that
25 the telephone subscriber has purchased the product, and (ii) the
26 message complies with any requirements imposed by any government
27 agency instituting the recall.
- 28 b. That the telephone subscriber may have received a prescription or
29 over-the-counter medication that is subject to a recall by the product's
30 manufacturer, distributor or retailer, or by the federal Food and Drug
31 Administration or another government agency or department with
32 legal authority to recall the product which is the subject of the ~~call~~,
33 ~~robocall~~, due to safety or health concerns, provided that (i) the ~~call~~
34 ~~robocall~~ and its message comply with the requirements of the Health
35 Insurance Portability and Accountability Act (P.L. 104-191) (HIPAA)
36 and any corresponding regulations pertaining to privacy, (ii) there is a
37 reasonable basis to believe that the telephone subscriber has purchased
38 or received the medication, and (iii) the message complies with any
39 requirements imposed by the government agency or product
40 manufacturer, distributor, or retailer instituting the recall.
- 41 c. That the telephone subscriber has not picked up a filled prescription
42 drug for which a valid prescription is on file with a pharmacy licensed
43 pursuant to G.S. 90-85.21 and the telephone subscriber requested that
44 the prescription be filled, provided that the ~~call robocall~~ 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.
- 48 (8) The ~~call robocall~~ is generated from a court proceeding notification system
49 established by the Administrative Office of the Courts.

50 **§ 75-104A. Restrictions on spoofing and impersonating government officials.**

1 (a) No telephone solicitor or robocaller shall cause misleading information to be
2 transmitted to users of caller identification technologies or otherwise block or misrepresent the
3 origin of a telephone solicitation or robocall with the intent to defraud, confuse, cause harm, or
4 wrongfully obtain anything of value, including, but not limited to, personal information. No
5 provider of telephone caller identification services shall be held liable for violations of this
6 subsection committed by other individuals or entities. It is not a violation of this subsection for a
7 telephone solicitor to utilize the name and number of the entity the solicitation is being made on
8 behalf of rather than the name and number of the telephone solicitor.

9 (b) No telephone solicitor or robocaller shall impersonate any federal, State, or local
10 government official, law enforcement professional, or government agency in order to defraud,
11 confuse, or financially or otherwise injure the telephone subscriber or in order to obtain personal
12 information from the telephone subscriber that may be used in a fraudulent or unlawful manner.

13 **"§ 75-105. Enforcement.**

14 (a) The Attorney General may investigate any complaints received alleging violation of
15 this Article. If the Attorney General finds that there has been a violation of this Article, the
16 Attorney General may bring an action to impose civil penalties and to seek any other appropriate
17 relief pursuant to this Chapter, including equitable relief to restrain the violation. If the Attorney
18 General brings an action on behalf of telephone subscribers pursuant to subsection (b) of this
19 section, the Attorney General may not seek treble damages on behalf of telephone subscribers
20 pursuant to G.S. 75-16. Actions for civil penalties under this section shall be consistent with the
21 provisions of this Chapter except that the penalty imposed for a violation of this Article shall be
22 either of the following:

- 23 (1) Five hundred dollars (\$500.00) for the first violation, one thousand dollars
24 (\$1,000) for the second violation, and five thousand dollars (\$5,000) for the
25 third and any other violation that occurs within two years of the first violation.
26 (2) One hundred dollars (\$100.00) for each violation within two years of the first
27 violation, if the solicitor or robocaller can show that the violations are the
28 result of a mistake and the telephone solicitor or robocaller either made the
29 telephone solicitation or robocall under G.S. 75-103(a)(1), (2), (3), (4), and
30 (5), or can show that the telephone solicitor complied with G.S. 75-102(d).
31 This subsection does not apply if the telephone solicitor or robocaller violated
32 G.S. 75-104A.

33 If a single call violates multiple provisions of this Article, penalties shall be assessed for each
34 violation of the provisions of this Article caused by that call.

35 (a1) There is a rebuttable presumption that a telephone subscriber with a North Carolina
36 area code is a North Carolina resident or in North Carolina at the time a telephone solicitation or
37 robocall is made.

38 (b) A telephone subscriber who has received a robocall or a telephone solicitation from
39 or on behalf of a telephone solicitor or robocaller in violation of this Article may bring any of the
40 following actions in civil court:

- 41 (1) An action to enjoin further violations of this Article by the telephone
42 ~~solicitor~~ solicitor or robocaller.
43 (2) An action to recover five hundred dollars (\$500.00) for the first violation, one
44 thousand dollars (\$1,000) for the second violation, and five thousand dollars
45 (\$5,000) for the third and any other violation that occurs within two years of
46 the first violation.

47 If a single call violates multiple provisions of this Article, penalties shall be assessed for each
48 violation of the provisions of this Article caused by that call.

49 (c) No action may be brought under subsection (b) of this section if the violations are a
50 result of mistake and the telephone solicitor either made the telephone solicitation under
51 G.S. 75-103(a)(1), (2), (3), (4), and (5), or can show that the telephone solicitor complied with

1 G.S. 75-102(d). An action may be brought under subsection (b) of this section if the telephone
2 solicitor or robocaller violated G.S. 75-104A.

3"

4 **SECTION 2.** G.S. 75-115(3) reads as rewritten:

5 "(3) Unsolicited advertisement. – Any material advertising the commercial
6 availability or quality of any property, goods, or services that is transmitted to
7 any person or entity without that person's or entity's ~~prior express invitation~~
8 ~~or permission.~~ prior express written consent. ~~Prior express invitation or~~
9 ~~permission may be obtained for a specific or unlimited number of~~
10 ~~advertisements and may be obtained for a specific or unlimited period of~~
11 ~~time.~~ written consent may be obtained in accordance with G.S. 75-101."

12 **SECTION 3.** This act becomes effective October 1, 2026, and applies, for causes of
13 action, to telephone solicitations in violation of this act occurring on or after that date.