

Oklahoma Statutes Citationized
Title 15. Contracts
Chapter 20
Telemarketer Restriction Act
Section 775B.1 - Creation of Telemarketer Restriction Act

This act shall be known and may be cited as the "Telemarketer Restriction Act".

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Section 775B.2 - Terms Defined

As used in the Telemarketer Restriction Act:

1. "Commercial purposes" means the sale or offer for sale of goods or services. "Commercial purposes" does not mean solicitation of funds or other support for a charitable or religious activity; political candidate, cause, or organization; or any activity of a not-for-profit entity organized pursuant to Section 501(c)(3) of the Internal Revenue Code;
2. "Consumer" means any natural person who is a resident of this state and shall not include any business association, partnership, firm, corporation, and its affiliates or subsidiaries, or other business entity;
3. "Established business relationship" means a prior relationship formed within the preceding twenty-four (24) months or an existing relationship formed by a voluntary two-way communication between a person or entity and a residential subscriber with or without an exchange of consideration, on the basis of an inquiry, application, purchase or transaction by the residential subscriber regarding products or services offered by such person or entity, which relationship has not been previously terminated by either party;
4. "Person" means any natural person, association, partnership, firm, corporation and its affiliates or subsidiaries, or other business entity;
5. "Telemarketer" means any person who, for commercial purposes, initiates a telemarketing sales call to a consumer located in this state or any person who directly controls or supervises the conduct of a telemarketer; and
6. "Telemarketing" means any plan, program, or campaign which is conducted for commercial purposes, by use of one or more telephones and which involves a telephone call initiated by a telemarketer to a consumer located within this state at the time of the call; "telemarketing" may

include use of random dialing or other devices for such purposes and use of recorded or simulated voices. "Telemarketing" does not include a telephone call which is made for the sole purpose of arranging a subsequent face-to-face meeting between a salesperson and the consumer.

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Section 775B.3 - Attorney General Required to Establish Registry of Consumers

Not later than January 1, 2003, the Attorney General shall establish, and thereafter maintain, a statewide registry which shall contain a list of consumers who desire not to receive unsolicited telemarketing sales calls. The Attorney General may, pursuant to the Oklahoma Central Purchasing Act, contract with a private vendor to establish and maintain the registry.

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Section 775B.4 - Notice to Consumers of No-Telemarketing-Sales-Call Registry

The Attorney General shall publicize notice to consumers of the establishment of the no-telemarketing-sales-call registry and may provide, upon request, explanatory information concerning the provisions of the Telemarketer Restriction Act. Any consumer who desires to be included in the listing shall notify the Attorney General by calling a toll-free number provided by the Attorney General, or in any other manner, and at such times, as the Attorney General may prescribe, which may include notification via the Internet. The name and number, or numbers, of a consumer listed in the registry shall be removed from the registry either by the consumer calling a toll-free number provided by the Attorney General or upon written request by the consumer. The Attorney General shall implement a procedure to verify a consumer request to be added or removed from the registry. The Attorney General shall update the registry not less than quarterly and shall make the registry available to telemarketers by such means and for such fees as are determined by the Attorney General pursuant to the Administrative Procedures Act. The Attorney General is authorized to forward all consumer requests to be included in the registry to the Federal Trade Commission, Federal Communications Commission, or any other agency of the federal government charged with the establishment and maintenance of a nationwide registry of consumers who desire not to receive unsolicited telemarketing sales calls. Except as otherwise provided in the Telemarketer Restriction Act, the registry is privileged and confidential and not subject to the Oklahoma Open Records Act.

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Section 775B.5 - Attorney General Authorization

The Attorney General is authorized to adopt and promulgate rules for the implementation, administration, and enforcement of the Telemarketer Restriction Act.

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Section 775B.6 - Restrictions on Telemarketer

A. No telemarketer shall make or cause to be made any unsolicited telemarketing sales call to any consumer more than thirty (30) days after the consumer's name and telephone number or numbers first appear on the registry made available by the Attorney General pursuant to the Telemarketer Restriction Act.

B. Willful violation of subsection A of this section shall be an unlawful telemarketing practice and a violation of the Oklahoma Consumer Protection Act; provided, a call to a consumer with whom the caller has an established business relationship or a call to a consumer whose name and number have been removed from the registry shall not be a violation of the Telemarketer Restriction Act.

C. In lieu of bringing an action under the Oklahoma Consumer Protection Act, the Attorney General may, in cases where the telemarketer is able to demonstrate that the violation occurred notwithstanding policies of the telemarketer that were an integral part of the training of the individual or individuals responsible for the violation, assess an administrative fine. The Attorney General shall, pursuant to the Administrative Procedures Act, adopt and promulgate rules establishing a schedule of increasing fines to be assessed pursuant to this subsection for multiple and repeated violations.

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Section 775B.7 - Establishment of Telemarketer Revolving Fund

There is hereby created in the State Treasury a revolving fund for the Office of the Attorney General, to be designated the "Telemarketer Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received pursuant to the provisions of the Telemarketer Restriction Act. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Attorney General for the purpose of implementing, administering, or enforcing the provisions of the Telemarketer Restriction Act. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.