

HOUSE BILL No. 5387

December 2, 1997, Introduced by Reps. Crissman, DeHart, Goschka, Bodem, Martinez, Dobb, Middleton, Dalman, Anthony, Gire, Bankes, Hammerstrom, Green, McBryde, Birkholz and Voorhees and referred to the Committee on Public Utilities.

A bill to amend 1913 PA 206, entitled

"An act to declare telephone lines and telephone companies within this state to be common carriers; to regulate the telephone business; to confer certain powers, duties, and responsibilities on the public service commission; to provide for the consolidation of telephone lines and telephone companies; to prohibit certain uses of telephone lines and telephone equipment; to regulate persons using telephone lines and telephone equipment; to prescribe a penalty for the violation of this act; and to repeal certain acts and parts of acts on specific dates,"

by amending section 25 (MCL 484.125), as added by 1980 PA 47.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 25. (1) As used in this section:

2 (a) "Caller" means an individual, corporation, firm, part-
3 nership, association, or legal or commercial entity who attempts
4 to contact or who contacts a subscriber in this state via tele-
5 phone or by using a telephone line.

6 (B) "INTRASTATE" MEANS ORIGINATING AND DELIVERING WITHIN
7 THIS STATE.

1 (C) ~~(b)~~ "Subscriber" means an individual who has
2 subscribed to residential telephone service from a telephone com-
3 pany regulated by this state, and all other persons with the same
4 legal residence as the subscribing individual.

5 (2) A caller shall not use a telephone line to contact a
6 subscriber at the subscriber's residence to ~~deliver~~ DO EITHER
7 OF THE FOLLOWING:

8 (A) DELIVER a recorded message for the purpose of
9 ~~delivering~~ PRESENTING commercial advertising to the subscriber,
10 unless either of the following occurs:

11 (i) ~~(a)~~ The subscriber has knowingly and voluntarily
12 requested, consented, permitted, or authorized the contact from
13 the caller.

14 (ii) ~~(b)~~ The subscriber has knowingly and voluntarily pro-
15 vided his or her telephone number to the caller.

16 (B) DELIVER OR ATTEMPT TO DELIVER INTRASTATE COMMERCIAL
17 ADVERTISING BY MEANS THAT PREVENT CALLER IDENTIFICATION TECHNOL-
18 OGY FROM DISCLOSING THE CALLER'S IDENTITY BEFORE THE SUBSCRIBER
19 ANSWERS THE TELEPHONE CALL, UNLESS THE DELIVERY OR ATTEMPTED
20 DELIVERY OCCURS BETWEEN THE HOURS OF 9 A.M. AND 12 NOON, OR A
21 CONDITION DESCRIBED IN SUBDIVISION (A)(i) OR (ii) IS MET.

22 (3) The authorization to contact a subscriber granted under
23 subsection ~~(2)(a)~~ (2)(A)(i) shall not be transferred, assigned,
24 or sold without the written permission of the subscriber.

25 (4) The use of automated dialing, push button, or tone acti-
26 vated devices which operate sequentially or are otherwise unable
27 to avoid contacting subscribers who have not authorized the

1 contact as provided in subsection (2) is prima facie evidence of
2 an intention to violate this act.

3 (5) A subscriber contacted by a caller in violation of this
4 section may bring an action to recover damages of ~~not more than~~
5 ~~\$250.00~~ \$1,000.00, together with reasonable attorneys' fees.

6 (6) An employee or officer of a telephone company shall
7 report a person whom the employee or officer in good faith
8 believes may be violating or has violated this act. Alleged vio-
9 lations of this act shall be reported to the county prosecutor
10 for the county in which the violation occurred.

11 (7) This section ~~shall~~ DOES not prohibit the use of auto-
12 matic dialing equipment for the purpose of advising customers
13 concerning merchandise or goods or services previously ordered.

14 (8) A caller who violated this section is guilty of a misde-
15 meanor, punishable by a fine of \$1,000.00 ~~—~~ or imprisonment for
16 10 days, or both.