SENATE BILL NO. 2157

AN ACT TO CODIFY SECTION 77-3-621, MISSISSIPPI CODE OF 1972, TO REQUIRE TELEMARKETERS TO OBTAIN SUBSCRIPTION LISTINGS OF CONSUMERS IN THE STATE OF MISSISSIPPI WHO HAVE ARRANGED TO BE INCLUDED ON THE NATIONAL DO-NOT-CALL LIST; TO PROVIDE THAT ANY TELEMARKETER WHO CALLS ANY CONSUMER WHOSE NAME AND CURRENT TELEPHONE NUMBER IS ON THE NATIONAL DO-NOT-CALL LIST SHALL BE GUILTY OF A CIVIL OFFENSE AND SUBJECT TO A FINE; TO AUTHORIZE THE PUBLIC SERVICE COMMISSION TO INVESTIGATE AND ENFORCE THE PROVISIONS OF THIS ACT; TO REQUIRE CERTAIN TELECOMMUNICATIONS COMPANIES TO INFORM THEIR CUSTOMERS OF THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. The following provision shall be codified as Section 77-3-621, Mississippi Code of 1972:

77-3-621. (1) As used in this section, the following terms shall have the corresponding meanings:

(a) "Commission" means the Mississippi Public Service Commission.

(b) The "national do-not-call list" means the list maintained by the Telephone Preference Service of the Direct Marketing Association, Inc., or its successor organization, of consumers throughout the nation who have requested that they not receive unsolicited telephone calls from telemarketers or other persons engaging in telemarketing or similar activities.

(c) A "telemarketer" means any person or organization who is a telephone solicitor as defined in Section 77-3-601, or who is a telemarketer as defined in the Federal Trade Commission's Telemarketing Sales Rule, 16 Code of Federal Regulations, Section 310.2, as that section may be in effect at any time on or after January 1, 2003.
(2) All telemarketers shall obtain, no less frequently than on a semiannual basis, subscription listings of consumers in this state who have arranged to be included on the national do-not-call list.

(3) Any telemarketer who calls any consumer in this state whose name and current telephone number is on the national do-not-call list shall be in violation of this section, unless the seller has an established business relationship with the consumer at the time of such call or had an established business relationship, as defined in Section 73-3-601, with the consumer within the six-month period immediately preceding such call.

(4) Any telemarketer who shall violate any provision of the Federal Trade Commission’s Telemarketing Sales Rule, 16 Code of Federal Regulations, Part 310, as that part may be in effect at any time on or after January 1, 2004, with respect to any call made to a consumer in this state is in violation of this section.

(5) All calls made to consumers in this state by telemarketers are subject to the jurisdiction, control and regulation of the commission. The commission may investigate and enforce the provisions of this section and impose fines for all violations of this section.

(6) Any person violating this section is guilty of a civil offense and is subject to a fine not to exceed One Hundred Dollars ($100.00) per violation. All fines levied pursuant to this section shall be deposited into a special fund for use by the commission.

(7) The commission shall by rule ensure that telecommunications companies providing local exchange service inform their customers of the provisions of this section. The notification may be made by information provided annually in the billing statements mailed to customers and conspicuous publication of the notice in the consumer information pages of the local telephone directories.
(8) The provisions of this section shall not apply to nonprofit organizations, political parties and candidates, and other firms that obtain an exemption from the commission. The commission shall establish and publish appropriate criteria by which persons may obtain such exemptions and shall have full authority to approve or deny such exemptions in accordance with those criteria.

(9) The provisions of this section shall apply independently of all other sections contained in this article, and no exemptions enumerated in this article other than those specifically authorized under this section shall have any application for purposes of this section.

SECTION 2. This act shall take effect and be in force from and after its passage.