

By: Senator(s) Hopson, Stone, Dearing,
Butler, Jackson (11th)

To: Energy

SENATE BILL NO. 2366

1 AN ACT TO AMEND SECTIONS 77-3-703 AND 77-3-705, MISSISSIPPI
2 CODE OF 1972, TO EXPAND THE APPLICATION OF THE MISSISSIPPI
3 TELEPHONE SOLICITATION ACT TO INCLUDE CELLULAR TELEPHONES; AND FOR
4 RELATED PURPOSES.

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

6 **SECTION 1.** Section 77-3-703, Mississippi Code of 1972, is
7 amended as follows:

8 77-3-703. (1) The use of the telephone to make all types of
9 solicitations to consumers is pervasive. This article gives
10 consumers a tool by which to object to telemarketing calls and
11 text messages, as these communications can amount to a nuisance,
12 an invasion of privacy, and can create a health and safety risk
13 for certain consumers who maintain their phone service primarily
14 for emergency medical situations.

15 (2) Any calls made for political purposes shall be governed
16 by Section 23-15-875.

17 **SECTION 2.** Section 77-3-705, Mississippi Code of 1972, is
18 amended as follows:



19 77-3-705. For the purposes of this article, the following
20 words and terms shall have the meanings ascribed in this section
21 unless the context clearly indicates otherwise:

22 (a) "Consumer" means * * * an actual or prospective
23 purchaser, lessee or recipient of consumer goods or services.

24 (b) "Caller identification service" means a type of
25 telephone service which permits a telephone subscriber to view the
26 telephone number and name of the person or entity making an
27 incoming telephone call or text message.

28 (c) "Telephone solicitor" means any person, firm,
29 entity, organization, partnership, association, corporation,
30 charitable entity, or a subsidiary or affiliate thereof, who
31 engages in any type of telephone solicitation on his or her own
32 behalf or through representatives, independent contractors,
33 salespersons, agents, automated dialing systems, text messaging
34 systems, or any other machines or other individuals or systems.

35 (d) "Telephone solicitation" means any voice
36 communication over the telephone line of a consumer for the
37 purpose of:

38 (i) Encouraging the purchase or rental of, or
39 investment in, property; or

40 (ii) Soliciting a sale of any consumer goods or
41 services, or an extension of credit for consumer goods or
42 services.



43 (e) "Commission" means the Mississippi Public Service
44 Commission.

45 (f) "Doing business in this state" refers to businesses
46 which conduct telephone solicitations from any location to
47 consumers located in this state.

48 (g) "Consumer goods or services" means any real
49 property or any tangible or intangible personal property which is
50 normally used for personal, family or household purposes,
51 including, without limitation, any property intended to be
52 attached to, or installed in, any real property, and any services
53 related to the property.

54 (h) "Established business relationship" means a prior
55 or existing relationship formed by a voluntary two-way
56 communication between a person or entity and a consumer, with or
57 without an exchange of consideration, on the basis of an inquiry,
58 application, purchase or transaction by the consumer, which
59 relationship is currently existing or was terminated within six
60 (6) months of the telephone solicitation; however, the act of
61 purchasing consumer goods or services under an extension of credit
62 does not create an existing business relationship between the
63 consumer and the entity extending credit to the consumer for such
64 purchase. The term does not include the situation wherein the
65 consumer has merely been subject to a telephone solicitation by or
66 at the behest of the telephone solicitor within the six (6) months
67 immediately preceding the contemplated telephone solicitation.



68 (i) "Charitable organization" means any person or
69 entity holding itself out to be established for any benevolent,
70 educational, philanthropic, humane, scientific, patriotic, social
71 welfare or advocacy, public health, environmental or conservation,
72 civic or other eleemosynary purpose or for the benefit of law
73 enforcement personnel, firefighters, or any other persons who
74 protect the public safety, or for any other purpose where a
75 charitable appeal is the basis of the solicitation.

76 **SECTION 3.** This act shall take effect and be in force from
77 and after July 1, 2016.

