

By: Representative Bennett

To: Public Utilities

HOUSE BILL NO. 197

1 AN ACT TO AMEND SECTION 77-3-703, MISSISSIPPI CODE OF 1972,
 2 TO PROVIDE THAT CALLS MADE FOR CERTAIN POLITICAL PURPOSES SHALL BE
 3 GOVERNED BY THE MISSISSIPPI TELEPHONE SOLICITATION ACT; TO AMEND
 4 SECTION 77-3-705, MISSISSIPPI CODE OF 1972, TO INCLUDE TELEPHONE
 5 CALLS MADE FOR THE POLITICAL SUPPORT OR OPPOSITION TO A POLITICAL
 6 CANDIDATE AS A FORM OF TELEPHONE SOLICITATION THAT IS PROHIBITED
 7 WHEN A CONSUMER NOTIFIES THE PUBLIC SERVICE COMMISSION OF HIS OR
 8 HER OBJECTION TO RECEIVING SUCH CALLS; AND FOR RELATED PURPOSES.

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

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

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

19 (2) Any calls made for political purposes shall be governed
 20 by Section 23-15-875 and the provisions of this article.



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

23 77-3-705. For the purposes of this article, the following
24 words and terms shall have the meanings ascribed in this section
25 unless the context clearly indicates otherwise:

26 (a) "Consumer" means an actual or prospective
27 purchaser, lessee or recipient of consumer goods or services.

28 (b) "Caller identification service" means a type of
29 telephone service which permits a telephone subscriber to view the
30 telephone number and name of the person or entity making an
31 incoming telephone call or text message.

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

39 (d) "Telephone solicitation" means any voice
40 communication over the telephone line of a consumer for the
41 purpose of:

42 (i) Encouraging the purchase or rental of, or
43 investment in, property; * * *



44 (ii) Soliciting a sale of any consumer goods or
45 services, or an extension of credit for consumer goods or
46 services; or

47 (iii) Urging support or opposition in any form for
48 a political candidate who is running for elective office.

49 (e) "Commission" means the Mississippi Public Service
50 Commission.

51 (f) "Doing business in this state" refers to businesses
52 which conduct telephone solicitations from any location to
53 consumers located in this state.

54 (g) "Consumer goods or services" means any real
55 property or any tangible or intangible personal property which is
56 normally used for personal, family or household purposes,
57 including, without limitation, any property intended to be
58 attached to, or installed in, any real property, and any services
59 related to the property.

60 (h) "Established business relationship" means a prior
61 or existing relationship formed by a voluntary two-way
62 communication between a person or entity and a consumer, with or
63 without an exchange of consideration, on the basis of an inquiry,
64 application, purchase or transaction by the consumer, which
65 relationship is currently existing or was terminated within six
66 (6) months of the telephone solicitation; however, the act of
67 purchasing consumer goods or services under an extension of credit
68 does not create an existing business relationship between the



69 consumer and the entity extending credit to the consumer for such
70 purchase. The term does not include the situation wherein the
71 consumer has merely been subject to a telephone solicitation by or
72 at the behest of the telephone solicitor within the six (6) months
73 immediately preceding the contemplated telephone solicitation.

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

82 **SECTION 3.** This act shall take effect and be in force from
83 and after July 1, 2018.

