

By: Senator(s) Bryan

To: Energy; Judiciary,  
Division A

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2923

1 AN ACT TO AMEND SECTIONS 77-3-725 AND 77-3-727, MISSISSIPPI  
2 CODE OF 1972, TO PROVIDE A SEPARATE CAUSE OF ACTION WITH  
3 INJUNCTIVE AND MONETARY RELIEF FOR VIOLATIONS OF THE MISSISSIPPI  
4 TELEPHONE SOLICITATION ACT; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 77-3-725, Mississippi Code of 1972, is  
7 amended as follows:

8 77-3-725. The commission may investigate alleged violations  
9 and initiate proceedings relative to a violation of this article  
10 or any rules and regulations promulgated pursuant to this article.  
11 Such proceedings include, without limitation, proceedings to issue  
12 a cease and desist order, and to issue an order imposing a civil  
13 penalty not to exceed Five Thousand Dollars (\$5,000.00) for each  
14 violation. The commission shall afford an opportunity for a fair  
15 hearing to the alleged violator(s) after giving written notice of  
16 the time and place for said hearing. Failure to appear at any  
17 such hearing may result in the commission finding the alleged  
18 violator(s) liable by default. Any telephone solicitor found to  
19 have violated this article, pursuant to a hearing or by default,



20 may be subject to a civil penalty not to exceed Five Thousand  
21 Dollars (\$5,000.00) for each violation to be assessed and  
22 collected by the commission. Each telephonic communication shall  
23 constitute a separate violation.

24 All penalties collected by the commission shall be deposited  
25 in the special fund created under Section 77-3-721 for the  
26 administration of this article.

27 The commission may issue subpoenas, require the production of  
28 relevant documents, administer oaths, conduct hearings, and do all  
29 things necessary in the course of investigating, determining and  
30 adjudicating an alleged violation.

31 The remedies, duties, prohibitions and penalties set forth  
32 under this article shall not be exclusive and shall be in addition  
33 to all other causes of action, remedies and penalties provided by  
34 law, including, but not limited to, the penalties provided by  
35 Section 77-1-53, and consumer complaints and separate causes of  
36 action pursuant to Section 77-3-727.

37 **SECTION 2.** Section 77-3-727, Mississippi Code of 1972, is  
38 amended as follows:

39 77-3-727. Any person who has received a telephone  
40 solicitation in violation of this article, or any rules and  
41 regulations promulgated pursuant to this article \* \* \*:

42 (a) May file a complaint with the commission. The  
43 complaint will be processed pursuant to complaint procedures  
44 established by the commission; or



45           (b) May bring an action in circuit or county court in  
46 the county of residence of the person receiving the solicitation:

47           (i) To enjoin such violation; and/or

48           (ii) To recover actual monetary loss from such  
49 violation or Five Thousand Dollars (\$5,000.00) in damages for each  
50 violation, whichever is greater.

51           If a plaintiff prevails in an action under paragraph (b) of  
52 this section, the court shall award reasonable attorney fees to  
53 the plaintiff.

54           **SECTION 3.** This act shall take effect and be in force from  
55 and after its passage.

