

By: Representatives Bounds, Stamps

To: Public Utilities

HOUSE BILL NO. 1225  
(As Passed the House)

1       AN ACT TO BRING FORWARD SECTIONS 77-3-601, 77-3-603,  
2 77-3-605, 77-3-607, 77-3-609, 77-3-611, 77-3-613, 77-3-615,  
3 77-3-617 AND 77-3-619, MISSISSIPPI CODE OF 1972, WHICH RELATE TO  
4 UNSOLICITED RESIDENTIAL TELEPHONIC SALES CALLS, FOR PURPOSES OF  
5 POSSIBLE AMENDMENT; TO BRING FORWARD SECTIONS 77-3-701, 77-3-703,  
6 77-3-705, 77-3-707, 77-3-709, 77-3-711, 77-3-713, 77-3-715,  
7 77-3-717, 77-3-719, 77-3-721, 77-3-723, 77-3-725, 77-3-727,  
8 77-3-729, 77-3-731, 77-3-733 AND 77-3-735, MISSISSIPPI CODE OF  
9 1972, WHICH RELATE TO THE MISSISSIPPI TELEPHONE SOLICITATION ACT  
10 AND PENALTIES, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING  
11 FORWARD SECTION 77-3-801, 77-3-803, 77-3-805, 77-3-807 AND  
12 77-3-809, MISSISSIPPI CODE OF 1972, WHICH RELATE TO THE CALLER ID  
13 ANTI-SPOOFING ACT, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING  
14 FORWARD SECTION 23-15-875, MISSISSIPPI CODE OF 1972, WHICH RELATES  
15 TO LANGUAGE UTTERED OR PUBLISHED REGARDING THE INTEGRITY OF A  
16 CANDIDATE FOR OFFICE, FOR PURPOSES OF POSSIBLE AMENDMENT; AND FOR  
17 RELATED PURPOSES.

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

19       SECTION 1. Section 77-3-601, Mississippi Code of 1972, is  
20 brought forward as follows:

21       77-3-601. As used in this article:

22               (a) "Telephonic sales call" means a call made by a  
23 telephone solicitor to a consumer for the purpose of soliciting a  
24 sale of any consumer goods or services, or for the purpose of  
25 soliciting an extension of credit for consumer goods or services,



26 or for the purpose of obtaining information or an extension of  
27 credit for these purposes.

28 (b) "Consumer goods or services" means any real  
29 property or any tangible or intangible personal property which is  
30 normally used for personal, family or household purposes,  
31 including, without limitation, any property intended to be  
32 attached to or installed in any real property regardless of  
33 whether it is attached or installed, as well as cemetery lots and  
34 time-share estates, and any services related to the property.

35 (c) "Unsolicited telephonic sales call" means a  
36 telephonic sales call other than a call made:

37 (i) In response to an express request of the  
38 person called;

39 (ii) In connection with an existing debt or  
40 contract, payment or performance which has not been completed at  
41 the time of the call; or

42 (iii) To any person with whom the telephone  
43 solicitor has an established business relationship.

44 (d) "Consumer" means an actual or prospective  
45 purchaser, lessee or recipient of consumer goods or services.

46 (e) "Merchant" means a person who, directly or  
47 indirectly, offers or makes available to consumers any consumer  
48 goods or services.

49 (f) "Telephone solicitor" means any natural person,  
50 firm, organization, partnership, association, corporation, or a



51 subsidiary or affiliate thereof, doing business in this state, who  
52 makes or causes to be made a telephonic sales call.

53 (g) "Doing business in this state" refers to businesses  
54 who conduct telephonic sales calls from a location in Mississippi  
55 or from other states or nations to consumers located in  
56 Mississippi.

57 (h) "Established business relationship" means a prior  
58 or existing relationship formed by a voluntary two-way  
59 communication between a person or entity and a consumer with or  
60 without an exchange of consideration, on the basis of an inquiry,  
61 application, purchase or transaction by such person or entity,  
62 which relationship has not been previously terminated by either  
63 party.

64 **SECTION 2.** Section 77-3-603, Mississippi Code of 1972, is  
65 brought forward as follows:

66 77-3-603. Any telephone solicitor who makes an unsolicited  
67 telephonic sales call to a residential telephone number shall:

68 (a) Make calls between the hours of 8:00 a.m. and 9:00  
69 p.m., Central Standard Time, Monday through Friday, and between  
70 the hours of 8:00 a.m. and 9:00 p.m. on Saturdays (no calls shall  
71 be made on Sundays);

72 (b) Identify himself or herself by his or her true  
73 first and last names and the business on whose behalf he or she is  
74 soliciting immediately upon making contact by telephone with the  
75 person who is the object of the telephone solicitation; and



76 (c) Discontinue the call immediately if at any time  
77 during the conversation the person being solicited expresses  
78 disinterest in continuing the call or sales presentation.

79 **SECTION 3.** Section 77-3-605, Mississippi Code of 1972, is  
80 brought forward as follows:

81 77-3-605. Any telephone solicitor shall apply for a  
82 certificate of registration from the Office of the Attorney  
83 General as a condition for doing business in this state. The  
84 certificate of registration shall be in a form as prescribed by  
85 the Attorney General.

86 The application for a certificate of registration shall be  
87 accompanied by a surety bond in the penal sum of Seventy-five  
88 Thousand Dollars (\$75,000.00) with conditions and in a form  
89 prescribed by the Attorney General. The bond shall provide for  
90 the indemnification of any person suffering loss as the result of  
91 any fraud, misrepresentation or violation of Sections 77-3-601  
92 through 77-3-619 by the principal. The term of the bond shall be  
93 continuous, but it shall be subject to cancellation by the surety  
94 in the manner described in this section. The surety may terminate  
95 the bond upon giving a sixty-day written notice to the principal  
96 and to the Attorney General, but the liability of the surety for  
97 acts of the principal and its agents shall continue during the  
98 sixty (60) days of cancellation notice. The notice does not  
99 absolve the surety from liability which accrues before the  
100 cancellation becomes final but which is discovered after that date



101 and which may have arisen at any time during the term of the bond.  
102 Unless the bond is replaced by that of another surety before the  
103 expiration of the sixty (60) days' notice of cancellation, the  
104 certificate of registration shall be suspended. Any person  
105 required pursuant to this section to file a bond with an  
106 application for a certificate of registration may file, in lieu  
107 thereof, cash, a certificate of deposit, or government bonds in  
108 the amount of Seventy-five Thousand Dollars (\$75,000.00). Such  
109 deposit is subject to the same terms and conditions as are  
110 provided for in the surety bond required herein. Any interest or  
111 earnings on such deposits are payable to the depositor.

112 **SECTION 4.** Section 77-3-607, Mississippi Code of 1972, is  
113 brought forward as follows:

114 77-3-607. (1) A contract made pursuant to a telephonic  
115 sales call is not valid and enforceable against a consumer unless  
116 made in compliance with this section.

117 (2) A contract made pursuant to a telephonic sales call  
118 shall:

119 (a) Be reduced to writing and signed by the consumer.

120 (b) Comply with all other applicable laws and rules.

121 (c) Match the description of goods or services as  
122 principally used in the telephone solicitations.

123 (d) Contain the name, address, and telephone number of  
124 the seller, the total price of the contract and a detailed  
125 description of the goods or services being sold.



126 (e) Contain, in bold, conspicuous type, immediately  
127 preceding the signature, the following statement:

128 **"YOU ARE NOT OBLIGATED TO PAY ANY MONEY UNLESS YOU SIGN THIS**  
129 **CONTRACT AND RETURN IT TO THE SELLER."**

130 (f) Include in its terms any oral or written  
131 representations made by the telephone solicitor to the consumer in  
132 connection with the transaction.

133 (3) The provisions of this section do not apply to  
134 contractual sales regulated under other sections of the  
135 Mississippi statutes and to contractual sales of companies which  
136 provide telecommunication services and reach binding agreements by  
137 telephone for these services.

138 (4) A merchant who engages a telephone solicitor to make or  
139 cause to be made a telephonic sales call shall not make or submit  
140 any charge to the consumer's credit card account until after the  
141 merchant receives from the consumer a copy of the contract which  
142 complies with this section.

143 (5) The provisions of this section do not apply to a  
144 transaction:

145 (a) Made in accordance with prior negotiations in the  
146 course of a visit by the consumer to a merchant operating a retail  
147 business establishment which has a fixed permanent location and  
148 where consumer goods are displayed or offered for sale on a  
149 continuing basis;



150           (b) In which the consumer may obtain a full refund for  
151 the return of undamaged and unused goods or a cancellation of  
152 services notice to the seller within seven (7) days after receipt  
153 by the consumer, and the seller will process the refund within  
154 thirty (30) days after receipt of the returned merchandise by the  
155 consumer;

156           (c) In which the consumer purchases goods or services  
157 after an examination of a television, radio, or print  
158 advertisement or a sample, brochure, or catalog of the merchant  
159 that contains the name, address and telephone number of the  
160 merchant; a description of the goods or services being sold; and  
161 any limitations or restrictions that apply to the offer; or

162           (d) In which the merchant is a bona fide charitable  
163 organization ruled tax-exempt by the Internal Revenue Service.

164           **SECTION 5.** Section 77-3-609, Mississippi Code of 1972, is  
165 brought forward as follows:

166           77-3-609. The provisions of Sections 77-3-601 through  
167 77-3-619 shall not apply to:

168           (a) A person engaging in commercial telephone  
169 solicitation where the solicitation is an isolated transaction and  
170 not done in the course of a pattern of repeated transactions of  
171 like nature.

172           (b) A person making calls for religious, charitable,  
173 political, education or other noncommercial purposes, or a person  
174 soliciting for a nonprofit corporation if that corporation is



175 properly registered as such with the Secretary of State and is  
176 included within the exemption of Section 501(c)(3) or Section  
177 501(c)(6) of the Internal Revenue Code.

178 (c) A person soliciting:

179 (i) Without the intent to complete or obtain  
180 provisional acceptance of a sale during the telephone  
181 solicitation;

182 (ii) Who does not make the major sales  
183 presentation during the telephone solicitation; or

184 (iii) Without the intent to complete, and who does  
185 not complete, the sales presentation during the telephone  
186 solicitation, but who completes the sales presentation at a later  
187 face-to-face meeting between the seller and the prospective  
188 purchaser. However, if a seller, directly following a telephone  
189 solicitation, causes an individual whose primary purpose it is to  
190 go to the prospective purchaser to collect the payment or deliver  
191 any item purchased, this exemption does not apply.

192 (d) Any licensed securities, commodities, or  
193 investments broker, dealer or investment advisor, when soliciting  
194 within the scope of his license. As used in this section,  
195 "licensed securities, commodities, or investments broker, dealer  
196 or investment advisor" means a person subject to license or  
197 registration as such by the Securities and Exchange Commission, by  
198 the National Association of Securities Dealers or other  
199 self-regulatory organization as defined by the Securities Exchange





200 Act of 1934 (15 USC Section 781), or by an official or agency of  
201 this state or of any state of the United States.

202 (e) Any licensed associated person of a securities,  
203 commodities, or investments broker, dealer or investment advisor,  
204 when soliciting within the scope of his license. As used in this  
205 section, "licensed associated person of a securities, commodities,  
206 or investment broker, dealer or investment advisor" means any  
207 associated person registered or licensed by the National  
208 Association of Securities Dealers or other self-regulatory  
209 organization as defined by the Securities Exchange Act of 1934 (15  
210 USC Section 781) or by an official or agency of this state or of  
211 any state of the United States.

212 (f) A person primarily soliciting the sale of a  
213 newspaper, magazine or periodical of general circulation by its  
214 publisher, or by the publisher's agent through written agreement.

215 (g) A book, video or record club or contractual plan or  
216 arrangement:

217 (i) Under which the seller provides the consumer  
218 with a form which the consumer may use to instruct the seller not  
219 to ship the offered merchandise;

220 (ii) Which is regulated by the Federal Trade  
221 Commission trade regulation concerning "use of negative option  
222 plans by sellers in commerce"; or

223 (iii) Which provides for the sale of books,  
224 records or videos which are not covered under paragraphs (i) or



225 (ii), including continuity plans, subscription arrangements,  
226 standing order arrangements, supplements and series arrangements  
227 under which the seller periodically ships merchandise to a  
228 consumer who has consented in advance to receive such merchandise  
229 on a periodic basis.

230 (h) Any supervised financial institution or parent,  
231 subsidiary or affiliate thereof. As used in this section,  
232 "supervised financial institution" means any commercial bank,  
233 trust company, savings and loan association, mutual savings bank,  
234 credit union, industrial loan company, consumer finance lender,  
235 commercial finance lender or insurer, provided that the  
236 institution is subject to supervision by an official or agency of  
237 this state, of any state or of the United States.

238 (i) Any licensed insurance or real estate broker,  
239 agent, customer representative or solicitor when soliciting within  
240 the scope of his license. As used in this section, "licensed  
241 insurance or real estate broker, agent, customer representative or  
242 solicitor" means any insurance or real estate broker, agent,  
243 customer representative or solicitor licensed by an official or  
244 agency of this state or of any state of the United States.

245 (j) A person soliciting the sale of services provided  
246 by a cable television system operating under authority of a  
247 franchise or permit.



248 (k) A person who solicits sales by periodically  
249 publishing and delivering a catalog of the seller's merchandise to  
250 prospective purchasers, if the catalog:

251 (i) Contains a written description or illustration  
252 of each item offered for sale;

253 (ii) Includes the business address or home office  
254 address of the seller;

255 (iii) Includes at least twenty-four (24) pages of  
256 written material and illustrations and is distributed in more than  
257 one (1) state; or

258 (iv) Has an annual circulation by mailing of not  
259 less than two hundred fifty thousand (250,000).

260 (l) A person who solicits contracts for the maintenance  
261 or repair of goods previously purchased from the person making the  
262 solicitation or on whose behalf the solicitation is made.

263 (m) A telephone company, or its subsidiary or agents,  
264 or a business which is regulated by the Mississippi Public Service  
265 Commission, or a Federal Communications Commission licensed  
266 cellular telephone company or other bona fide radio  
267 telecommunication services provider.

268 (n) Any publicly traded corporation which has  
269 securities registered with the Securities and Exchange Commission  
270 which are a reported security within the meaning of subparagraph  
271 (4) of Regulation Section 240.11a3-1, (a), under the Securities  
272 Exchange Act of 1934, or which is exempt from registration under



273 subparagraph (A), (B), (C), (E), (F), (G) or (H) of paragraph (2)  
274 of subsection (g) of Section 12 of the Securities Exchange Act of  
275 1934 (15 USC Section 781), or any subsidiary of such a  
276 corporation.

277 (o) A business soliciting exclusively the sale of  
278 telephone answering services, provided that the telephone  
279 answering services will be supplied by the solicitor.

280 (p) A person soliciting a transaction regulated by the  
281 Commodity Futures Trading Commission if the person is registered  
282 or temporarily licensed for this activity with the Commodity  
283 Futures Trading Commission under the Commodity Exchange Act (7 USC  
284 Section 1 et seq.) and the registration or license has not expired  
285 or been suspended or revoked.

286 (q) A person soliciting the sale of food or produce if  
287 the solicitation neither intends to result in, or actually results  
288 in, a sale which costs the purchaser in excess of One Hundred  
289 Dollars (\$100.00).

290 (r) A person soliciting business from prospective  
291 consumers who have an established business relationship with, or  
292 who have previously purchased from, the business enterprise for  
293 which the solicitor is calling, if the solicitor is operating  
294 under the same exact business name.

295 (s) A person who has been operating, for at least one  
296 (1) year, a retail business establishment under the same name as



297 that used in connection with telemarketing, and both of the  
298 following occur on a continuing basis:

299 (i) Either products are displayed and offered for  
300 sale, or services are offered for sale and provided at the  
301 business establishment; and

302 (ii) A majority of the seller's business involves  
303 the buyer obtaining such products or services at the seller's  
304 location.

305 (t) Any telephone marketing service company which  
306 provides telemarketing sales services under contract to sellers  
307 and has been operating continuously for at least five (5) years  
308 under the same business name and seventy-five percent (75%) of its  
309 contracts are performed on behalf of persons exempted from  
310 Sections 77-3-601 through 77-3-619.

311 **SECTION 6.** Section 77-3-611, Mississippi Code of 1972, is  
312 brought forward as follows:

313 77-3-611. The Attorney General shall investigate any  
314 complaints received concerning violations of Sections 77-3-601  
315 through 77-3-619. If, after investigating any complaint, the  
316 Attorney General finds that there has been a violation of Sections  
317 77-3-601 through 77-3-619, the Attorney General may bring an  
318 action to impose a civil penalty and to seek other relief,  
319 including injunctive relief, as the court deems appropriate  
320 against the telephone solicitor. The civil penalty shall not  
321 exceed Ten Thousand Dollars (\$10,000.00) per violation and shall



322 be deposited in the State General Fund, unallocated. This civil  
323 penalty may be recovered in any action brought under Sections  
324 77-3-601 through 77-3-619 by the Attorney General. Alternatively,  
325 the Attorney General may terminate any investigation or action  
326 upon agreement by the person to pay a stipulated civil penalty.  
327 The Attorney General or the court may waive any civil penalty if  
328 the person has previously made full restitution or reimbursement  
329 or has paid actual damages to the consumers who have been injured  
330 by the violation.

331 **SECTION 7.** Section 77-3-613, Mississippi Code of 1972, is  
332 brought forward as follows:

333 77-3-613. In any civil proceeding alleging a violation of  
334 Sections 77-3-601 through 77-3-619, the burden of proving an  
335 exemption or an exemption from a definition is upon the person  
336 claiming it.

337 **SECTION 8.** Section 77-3-615, Mississippi Code of 1972, is  
338 brought forward as follows:

339 77-3-615. (1) In any civil litigation resulting from a  
340 transaction involving a violation of Sections 77-3-601 through  
341 77-3-619, the prevailing party, after judgment in the trial court  
342 and exhaustion of all appeals, if any, shall receive his  
343 reasonable attorney's fees and costs from the nonprevailing party.

344 (2) The attorney for the prevailing party shall submit a  
345 sworn affidavit of his time spent on the case and his costs



346 incurred for all the motions, hearings, and appeals to the trial  
347 judge who presided over the civil case.

348 (3) The trial judge shall award the prevailing party the sum  
349 of reasonable costs incurred in the action plus a reasonable legal  
350 fee for the hours actually spent on the case as sworn to in an  
351 affidavit.

352 (4) Any award of attorney's fees or costs shall become a  
353 part of the judgment and subject to execution as the law allows.

354 (5) In any civil litigation initiated by the Attorney  
355 General, the court may award to the prevailing party reasonable  
356 attorney's fees and costs if the court finds that there was a  
357 complete absence of a justiciable issue of either law or fact  
358 raised by the losing party, or if the court finds bad faith on the  
359 part of the losing party.

360 **SECTION 9.** Section 77-3-617, Mississippi Code of 1972, is  
361 brought forward as follows:

362 77-3-617. The Attorney General shall by rule ensure that  
363 telecommunications companies inform their customers of the  
364 provisions of Sections 77-3-601 through 77-3-619. The  
365 notification may be made by:

366 (a) Annual inserts in the billing statements mailed to  
367 customers; and

368 (b) Conspicuous publication of the notice in the  
369 consumer information pages of the local telephone directories.



370           **SECTION 10.** Section 77-3-619, Mississippi Code of 1972, is  
371 brought forward as follows:

372           77-3-619. The Attorney General is authorized to issue any  
373 necessary rules and regulations in order to carry out the  
374 provisions of Sections 77-3-601 through 77-3-619.

375           **SECTION 11.** Section 77-3-701, Mississippi Code of 1972, is  
376 brought forward as follows:

377           77-3-701. This article shall be known and may be cited as  
378 the "Mississippi Telephone Solicitation Act."

379           **SECTION 12.** Section 77-3-703, Mississippi Code of 1972, is  
380 brought forward as follows:

381           77-3-703. (1) The use of the telephone to make all types of  
382 solicitations to consumers is pervasive. This article gives  
383 consumers a tool by which to object to telemarketing calls and  
384 text messages, as these communications can amount to a nuisance,  
385 an invasion of privacy, and can create a health and safety risk  
386 for certain consumers who maintain their phone service primarily  
387 for emergency medical situations.

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

390           **SECTION 13.** Section 77-3-705, Mississippi Code of 1972, is  
391 brought forward as follows:

392           77-3-705. For the purposes of this article, the following  
393 words and terms shall have the meanings ascribed in this section  
394 unless the context clearly indicates otherwise:





395 (a) "Consumer" means a person or business that receives  
396 a telephone call or text message from a telephone solicitor.

397 (b) "Caller identification service" means a type of  
398 telephone service which permits a telephone subscriber to view the  
399 telephone number and name of the person or entity making an  
400 incoming telephone call or text message.

401 (c) "Telephone solicitor" means any person, firm,  
402 entity, organization, partnership, association, corporation,  
403 charitable entity, or a subsidiary or affiliate thereof, who  
404 engages in any type of telephone solicitation on his or her own  
405 behalf or through representatives, independent contractors,  
406 salespersons, agents, automated dialing systems, text messaging  
407 systems, or any other machines or other individuals or systems.

408 (d) "Telephone solicitation" means any voice or text  
409 message communication over the telephone line or cellular network  
410 of a consumer for the purpose of:

411 (i) Encouraging the purchase or rental of, or  
412 investment in, property;

413 (ii) Soliciting a sale of any consumer goods or  
414 services, or an extension of credit for consumer goods or  
415 services;

416 (iii) Soliciting any other item of value,  
417 pecuniary or otherwise, regardless of whether a sales presentation  
418 is made; or



419 (iv) Soliciting a charitable contribution of money  
420 or property.

421 (e) "Commission" means the Mississippi Public Service  
422 Commission.

423 (f) "Doing business in this state" refers to businesses  
424 which conduct telephone solicitations from any location to  
425 consumers located in this state.

426 (g) "Consumer goods or services" means any real  
427 property or any tangible or intangible personal property which is  
428 normally used for personal, family or household purposes,  
429 including, without limitation, any property intended to be  
430 attached to, or installed in, any real property, and any services  
431 related to the property.

432 (h) "Established business relationship" means a prior  
433 or existing relationship formed by a voluntary two-way  
434 communication between a person or entity and a consumer, with or  
435 without an exchange of consideration, on the basis of an inquiry,  
436 application, purchase or transaction by the consumer, which  
437 relationship is currently existing or was terminated within six  
438 (6) months of the telephone solicitation; however, the act of  
439 purchasing consumer goods or services under an extension of credit  
440 does not create an existing business relationship between the  
441 consumer and the entity extending credit to the consumer for such  
442 purchase. The term does not include the situation wherein the  
443 consumer has merely been subject to a telephone solicitation by or



444 at the behest of the telephone solicitor within the six (6) months  
445 immediately preceding the contemplated telephone solicitation.

446 (i) "Charitable organization" means any person or  
447 entity holding itself out to be established for any benevolent,  
448 educational, philanthropic, humane, scientific, patriotic, social  
449 welfare or advocacy, public health, environmental or conservation,  
450 civic or other eleemosynary purpose or for the benefit of law  
451 enforcement personnel, firefighters, or any other persons who  
452 protect the public safety, or for any other purpose where a  
453 charitable appeal is the basis of the solicitation.

454 (j) "Sales presentation" means attempting to obtain  
455 something of value, pecuniary or otherwise, regardless of whether  
456 consideration is or is expected to be exchanged.

457 **SECTION 14.** Section 77-3-707, Mississippi Code of 1972, is  
458 brought forward as follows:

459 77-3-707. (1) Except as otherwise provided pursuant to  
460 Section 77-3-709 or 77-3-711, a telephone solicitor may not make  
461 or cause to be made any telephone solicitation to any consumer in  
462 this state unless the telephone solicitor has purchased the  
463 "no-calls" database from the commission or the entity under  
464 contract with the commission.

465 (2) Except as otherwise provided pursuant to Section  
466 77-3-709 or 77-3-711, a telephone solicitor may not make or cause  
467 to be made any telephone solicitation to any consumer in this  
468 state who has given notice to the commission, or the entity under



469 contract with the commission, of his or her objection to receiving  
470 telephone solicitations.

471 (3) The commission, or an entity under contract with the  
472 commission, shall establish and operate a "no-calls" database  
473 composed of a list of telephone numbers of consumers who have  
474 given notice of their objection to receiving telephone  
475 solicitations. The "no-calls" database may be operated by the  
476 commission or by another entity under contract with the  
477 commission.

478 (4) Each local exchange company and each competing local  
479 exchange carrier shall provide written notification on a  
480 semiannual basis to each of its consumers of the opportunity to  
481 provide notification to the commission, or the entity under  
482 contract with the commission, that the consumer objects to  
483 receiving telephone solicitations. The notification must be  
484 disseminated at the option of the carrier, by television, radio or  
485 newspaper advertisements, written correspondence, bill inserts or  
486 messages, a publication in the consumer information pages of the  
487 local telephone directory, or any other method not expressly  
488 prohibited by the commission.

489 (5) A telephone solicitor may not violate the Caller ID  
490 Anti-Spoofing Act in Section 77-3-801 et seq., and if in violation  
491 of such act, he shall also be in violation of this article. In  
492 addition to any remedies or penalties otherwise provided by law,



493 such telephone solicitor shall be subject to any remedies or  
494 penalties available for a violation of this article.

495 **SECTION 15.** Section 77-3-709, Mississippi Code of 1972, is  
496 brought forward as follows:

497 77-3-709. The commission, in its discretion, may allow  
498 telephone solicitors to make telephone solicitations without  
499 requiring them to purchase the "no-calls" database, and regardless  
500 of whether a telephone solicitation may be made to a consumer who  
501 has given notice of his objection to receiving such solicitations,  
502 provided that it adopts a written policy incorporating the  
503 following criteria:

504 (a) The telephone solicitor must demonstrate to the  
505 commission that its proposed telephone solicitation is reasonably  
506 related to an established business relationship as defined in  
507 Section 77-3-705(h), or is being made in response to an invitation  
508 or notice from a consumer which clearly signifies that he is open  
509 to a contact being initiated;

510 (b) The telephone solicitation is to be made by a  
511 person or entity for the purpose of soliciting a contribution or  
512 donation to a bona fide nonprofit corporation, regardless of  
513 whether consumer goods or services will be provided to the  
514 consumer in return for the contribution or donation; or

515 (c) The consumer will not be telephoned for a telephone  
516 solicitation as defined in Section 77-3-705(d), but he will be  
517 telephoned for a bona fide religious or charitable purpose,



518 including an invitation to attend an event or a request for a  
519 contribution or donation.

520 In all cases, the telephone solicitor must demonstrate that  
521 it will not use an automated dialing system or a method that will  
522 block or otherwise circumvent the consumer's use of a caller  
523 identification service.

524 In making its determination of whether to allow a telephone  
525 solicitation to be made under the policy which will include the  
526 limitations set forth in this section, the commission shall  
527 exercise due care in investigating previous conduct of the  
528 telephone solicitor seeking such authority. The commission may  
529 deny any telephone solicitor the privilege of making telephone  
530 solicitations under this section, notwithstanding that any of the  
531 criteria set forth in this section have been met.

532 **SECTION 16.** Section 77-3-711, Mississippi Code of 1972, is  
533 brought forward as follows:

534 77-3-711. The provisions of this article shall not apply to:

535 (a) A person soliciting:

536 (i) Who does not make the major sales presentation  
537 during the telephone solicitation;

538 (ii) Without the intent to complete or obtain  
539 provisional acceptance of a sale, a charitable contribution, or  
540 the payment of some other item of value, pecuniary or otherwise,  
541 during the telephone solicitation; or



542 (iii) Without the intent to complete, and who does  
543 not complete, the sales presentation during the telephone  
544 solicitation, but who completes the sales presentation at a later  
545 face-to-face meeting between the person soliciting and the  
546 prospective purchaser or consumer.

547 (b) A person who is a licensee under Chapter 35, Title  
548 73, Mississippi Code of 1972, who is a resident of the State of  
549 Mississippi, and whose telephone solicitation is for the sole  
550 purpose of selling, exchanging, purchasing, renting, listing for  
551 sale or rent or leasing real estate in connection with his real  
552 estate license and not in conjunction with any other offer.

553 (c) A motor vehicle dealer as that term is defined in  
554 Section 63-17-55, who is a resident of the State of Mississippi  
555 and who maintains a current motor vehicle dealer's license issued  
556 by the Mississippi Motor Vehicle Commission, whose telephone  
557 solicitation is for the sole purpose of selling, offering to sell,  
558 soliciting or advertising the sale of motor vehicles in connection  
559 with his motor vehicle dealer's license and not in conjunction  
560 with any other offer.

561 (d) An agent as that term is defined in Section 83-17-1  
562 whose telephone solicitation is for the sole purpose of  
563 soliciting, consulting, advising, or adjusting in the business of  
564 insurance.

565 (e) A broker-dealer, agent, or investment advisor  
566 registered under Chapter 71, Title 75, Mississippi Code of 1972,



567 whose telephone solicitation is for the sole purpose of effecting  
568 or attempting to effect the purchase or sale of securities or has  
569 the purpose of providing or seeking to provide investment or  
570 financial advice.

571 (f) A person calling on behalf of a charitable  
572 organization which is registered under Chapter 11, Title 79,  
573 Mississippi Code of 1972, whose telephone solicitation is for the  
574 sole purpose of soliciting for the charitable organization and who  
575 receives no compensation for his activities on behalf of the  
576 organization.

577 (g) A person calling on behalf of a newspaper of  
578 general circulation, whose telephone solicitation is for the sole  
579 purpose of soliciting a subscription to the newspaper from, or  
580 soliciting the purchase of advertising by, the consumer.

581 (h) A person calling on behalf of any supervised  
582 financial institution or parent, subsidiary or affiliate thereof.  
583 As used in this section, "supervised financial institution" means  
584 any commercial bank, trust company, savings and loan association,  
585 mutual savings bank, credit union, industrial loan company, small  
586 loan company, consumer finance lender, commercial finance lender  
587 or insurer, provided that the institution has a physical office  
588 located in the State of Mississippi and is subject to supervision  
589 by an official or agency of the State of Mississippi or of the  
590 United States.





591 (i) A person calling on behalf of a funeral  
592 establishment licensed under Section 73-11-41, cemetery or  
593 monument dealer, if the sole purpose of the telephone solicitation  
594 relates to services provided by the funeral or death related  
595 establishments in the course of its ordinary business.

596 (j) Any telephone solicitor who solicits a consumer  
597 with whom he has an established business relationship.

598 **SECTION 17.** Section 77-3-713, Mississippi Code of 1972, is  
599 brought forward as follows:

600 77-3-713. All telephone solicitors must register with the  
601 commission before conducting any telephone solicitations in the  
602 State of Mississippi.

603 **SECTION 18.** Section 77-3-715, Mississippi Code of 1972, is  
604 brought forward as follows:

605 77-3-715. The commission may promulgate rules and  
606 regulations necessary to effectuate this article, including, but  
607 not limited to, the following:

608 (a) The methods by which consumers may give notice to  
609 the commission or its contractor of their objection to receive  
610 solicitations or revocation of the notice;

611 (b) The methods by which a notice of objection becomes  
612 effective and the effect of a change of telephone number on the  
613 notice;

614 (c) The methods by which objections and revocations are  
615 collected and added to the database;



616 (d) The methods by which a person or entity desiring to  
617 make telephone solicitations may obtain access to the database as  
618 required to avoid calling the telephone number of consumers  
619 included in the database;

620 (e) The process by which the database is updated, and  
621 the frequency of updates;

622 (f) The process by which telephone solicitors must  
623 register with the commission for the purpose of conducting  
624 telephonic solicitations in the state;

625 (g) The establishment of fees to be charged by the  
626 commission or its contractor to telephone solicitors for access to  
627 or for paper or electronic copies of the database on an annual  
628 basis;

629 (h) The establishment of a written policy which clearly  
630 articulates the circumstances under which the commission, in its  
631 discretion, may allow exceptions to the provisions of this article  
632 pursuant to Section 77-3-703; and

633 (i) All other matters relating to the database that the  
634 commission deems necessary.

635 **SECTION 19.** Section 77-3-717, Mississippi Code of 1972, is  
636 brought forward as follows:

637 77-3-717. If the Federal Trade Commission establishes a  
638 single national database of telephone numbers of consumers who  
639 object to receiving telephone solicitations, the commission must  
640 include the portion of the single national database that relates



641 to the State of Mississippi in the database established under this  
642 article. Likewise, the commission shall make available the  
643 state's database to the Federal Trade Commission for inclusion in  
644 the national database.

645 **SECTION 20.** Section 77-3-719, Mississippi Code of 1972, is  
646 brought forward as follows:

647 77-3-719. Information contained in the database established  
648 under this article may be used and accessed only for the purpose  
649 of compliance with this article and shall not be otherwise subject  
650 to public inspection or disclosure.

651 **SECTION 21.** Section 77-3-721, Mississippi Code of 1972, is  
652 brought forward as follows:

653 77-3-721. All fees collected under the provisions of this  
654 article shall be deposited into a special fund which is created in  
655 the State Treasury to be expended by the commission for the  
656 implementation and administration of this article. From and after  
657 July 1, 2016, the expenses of this agency shall be defrayed by  
658 appropriation from the State General Fund, and all user charges  
659 and fees authorized under this article shall be deposited into the  
660 State General Fund as authorized by law and as determined by the  
661 State Fiscal Officer.

662 This section shall stand repealed on July 1, 2024.

663 **SECTION 22.** Section 77-3-723, Mississippi Code of 1972, is  
664 brought forward as follows:



665           77-3-723. (1) Any person or entity who makes an authorized  
666 telephone solicitation to a consumer in this state shall announce  
667 clearly, at the beginning of each call, his or her name, the  
668 company he or she represents and the purpose of the call. Such  
669 calls may only be made between the hours of 8:00 a.m. and 8:00  
670 p.m. Central Standard Time. No telephone solicitations may be  
671 made on a Sunday. For purposes of this provision, an "authorized  
672 telephone solicitation" means a solicitation that is made: (a) to  
673 a consumer who is not listed on the most current "no-calls"  
674 database; (b) by a telephone solicitor who has been authorized to  
675 make such solicitations under the provisions of Section 77-3-709;  
676 or (c) by a telephone solicitor who is exempt from this article  
677 under the provisions of Section 77-3-711.

678           (2) A person or entity who makes a telephone solicitation to  
679 a consumer in this state may not utilize knowingly any method that  
680 blocks or otherwise circumvents the consumer's use of a caller  
681 identification service, nor may the person or entity use an  
682 automated dialing system or any like system that uses a recorded  
683 voice message to communicate with the consumer unless the person  
684 or entity has an established business relationship with the  
685 consumer and uses the recorded voice message to inform the  
686 consumer about a new product or service.

687           **SECTION 23.** Section 77-3-725, Mississippi Code of 1972, is  
688 brought forward as follows:



689           77-3-725. The commission may investigate alleged violations  
690 and initiate proceedings relative to a violation of this article  
691 or any rules and regulations promulgated pursuant to this article.  
692 Such proceedings include, without limitation, proceedings to issue  
693 a cease and desist order, and to issue an order imposing a civil  
694 penalty not to exceed Ten Thousand Dollars (\$10,000.00) for each  
695 violation. The commission shall afford an opportunity for a fair  
696 hearing to the alleged violator(s) after giving written notice of  
697 the time and place for said hearing. Failure to appear at any  
698 such hearing may result in the commission finding the alleged  
699 violator(s) liable by default. Any telephone solicitor found to  
700 have violated this article, pursuant to a hearing or by default,  
701 may be subject to a civil penalty not to exceed Ten Thousand  
702 Dollars (\$10,000.00) for each violation to be assessed and  
703 collected by the commission. Each telephonic communication shall  
704 constitute a separate violation.

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

708           The commission may issue subpoenas, require the production of  
709 relevant documents, administer oaths, conduct hearings, and do all  
710 things necessary in the course of investigating, determining and  
711 adjudicating an alleged violation.

712           The remedies, duties, prohibitions and penalties set forth  
713 under this article shall not be exclusive and shall be in addition



714 to all other causes of action, remedies and penalties provided by  
715 law, including, but not limited to, the penalties provided by  
716 Section 77-1-53.

717 **SECTION 24.** Section 77-3-727, Mississippi Code of 1972, is  
718 brought forward as follows:

719 77-3-727. Any person who has received a telephone  
720 solicitation in violation of this article, or any rules and  
721 regulations promulgated pursuant to this article, may file a  
722 complaint with the commission. The complaint will be processed  
723 pursuant to complaint procedures established by the commission.

724 **SECTION 25.** Section 77-3-729, Mississippi Code of 1972, is  
725 brought forward as follows:

726 77-3-729. It shall be a defense in any action or proceeding  
727 brought under Section 77-3-725 or 77-3-727 that the defendant has  
728 established and implemented, with due care, reasonable practices  
729 and procedures to effectively prevent telephone solicitations in  
730 violation of this article.

731 **SECTION 26.** Section 77-3-731, Mississippi Code of 1972, is  
732 brought forward as follows:

733 77-3-731. The commission is granted personal jurisdiction  
734 over any telephone solicitor, whether a resident or a nonresident,  
735 notwithstanding that telephone solicitors are not deemed to be a  
736 public utility, for the purpose of administering this article.  
737 The commission is granted personal jurisdiction over any  
738 nonresident telephone solicitor, its executor, administrator,



739 receiver, trustee or any other appointed representative of such  
740 nonresident as to an action or proceeding authorized by this  
741 article or any rules and regulations promulgated pursuant to this  
742 article as authorized by Section 13-3-57, and also upon any  
743 nonresident, his or her executor, administrator, receiver, trustee  
744 or any other appointed representative of such nonresident who has  
745 qualified under the laws of this state to do business herein.  
746 Service of summons and process upon the alleged violator of this  
747 article shall be had or made as is provided by the Mississippi  
748 Rules of Civil Procedure.

749 **SECTION 27.** Section 77-3-733, Mississippi Code of 1972, is  
750 brought forward as follows:

751 77-3-733. Any party aggrieved by any final order of the  
752 commission pursuant to this article, or any rules and regulations  
753 promulgated pursuant to this article, shall have the right of  
754 appeal to the Chancery Court of Hinds County, Mississippi, First  
755 Judicial District.

756 **SECTION 28.** Section 77-3-735, Mississippi Code of 1972, is  
757 brought forward as follows:

758 77-3-735. No provider of telephonic caller identification  
759 service, local exchange telephone company or long distance company  
760 certificated by the commission may be held liable for violations  
761 of this article committed by other persons or entities.

762 **SECTION 29.** Section 77-3-801, Mississippi Code of 1972, is  
763 brought forward as follows:



764 77-3-801. This article may be cited as the "Caller ID  
765 Anti-Spoofing Act."

766 **SECTION 30.** Section 77-3-803, Mississippi Code of 1972, is  
767 brought forward as follows:

768 77-3-803. As used in this article:

769 (a) "Automatic number identification" means a system  
770 that identifies the billing account for a call and includes an  
771 enhanced 911 service capability that enables the automatic display  
772 of the ten-digit number used to place a 911 call from a wire line,  
773 wireless, interconnected VoIP or nontraditional telephone service.

774 (b) "Caller identification information" means  
775 information provided by a caller identification service regarding  
776 the telephone number, or other origination information, of a call  
777 or facsimile transmission made using a telecommunications service  
778 or an interconnected VoIP service, or of a text message sent using  
779 a text-messaging service.

780 (c) "Caller identification service" means any service  
781 or device designed to provide the user of the service or device  
782 with the telephone number of, or other information regarding the  
783 origination of, a call made using a telecommunications service or  
784 interconnected VoIP service. The term includes automatic number  
785 identification services.

786 (d) "Interconnected VoIP service" means an  
787 interconnected Voice over Internet Protocol service that:





788 (i) Enables real-time, two-way voice  
789 communications;

790 (ii) Requires a broadband internet connection from  
791 the user's location;

792 (iii) Requires internet protocol-compatible  
793 customer premises equipment; and

794 (iv) Permits users generally to receive calls that  
795 originate on the public switched telephone network and to  
796 terminate calls to the public switched telephone network.

797 (e) "Place of primary use" means the street address  
798 where a subscriber's use of a telecommunications service or  
799 interconnected VoIP service primarily occurs, which shall be:

800 (i) The residential street address or the primary  
801 business street address of the subscriber or, in the case of a  
802 subscriber of interconnected VoIP service, the subscriber's  
803 registered location; and

804 (ii) Within the licensed service area of the  
805 provider.

806 (f) "Provider" means a person or entity that offers  
807 telecommunications service or interconnected VoIP service.

808 (g) "Registered location" means the most recent  
809 information obtained by an interconnected VoIP service provider  
810 that identifies the physical location of an end user.

811 (h) "Subscriber" means a person:



812 (i) Who subscribes to a caller identification  
813 service in connection with a telecommunications service or an  
814 interconnected VoIP service; and

815 (ii) Whose place of primary use for the service  
816 described in paragraph (h)(i) is located in Mississippi.

817 (i) "Telecommunications service" means the offering of  
818 telecommunications for a fee directly to the public, or to classes  
819 of users so as to be effectively available directly to the public,  
820 regardless of the facilities used.

821 **SECTION 31.** Section 77-3-805, Mississippi Code of 1972, is  
822 brought forward as follows:

823 77-3-805. Except as provided in Section 77-3-807, a person  
824 shall not, in connection with any telecommunications service or  
825 interconnected VOIP service, knowingly and with the intent to  
826 defraud or cause harm to another person or to wrongfully obtain  
827 anything of value, cause any caller identification service to  
828 transmit misleading or inaccurate caller identification  
829 information to a subscriber.

830 **SECTION 32.** Section 77-3-807, Mississippi Code of 1972, is  
831 brought forward as follows:

832 77-3-807. This article does not apply to:

833 (a) The blocking of caller identification information.

834 (b) Any law enforcement agency of the federal, state,  
835 county or municipal government.



836 (c) Any intelligence or security agency of the federal  
837 government.

838 (d) A telecommunications, broadband or  
839 voice-over-Internet service provider that is acting solely as an  
840 intermediary for the transmission of telephone service between the  
841 caller and the recipient.

842 **SECTION 33.** Section 77-3-809, Mississippi Code of 1972, is  
843 brought forward as follows:

844 77-3-809. (1) Any person who violates this article shall be  
845 guilty of a misdemeanor and, upon conviction thereof, shall be  
846 subject to a fine of not more than One Thousand Dollars  
847 (\$1,000.00) or shall be imprisoned in the county jail not  
848 exceeding one (1) year, or both.

849 (2) Any violation of this article constitutes an unlawful  
850 trade practice under Section 75-24-5 and, in addition to any  
851 remedies or penalties set forth in this article, shall be subject  
852 to any remedies or penalties available for a violation of that  
853 statute.

854 (3) Any violation of this article constitutes a violation of  
855 the Mississippi Telephone Solicitation Act, Section 77-3-701 et  
856 seq., and in addition to any remedies or penalties provided in  
857 this article, shall be subject to any remedies or penalties  
858 available for a violation of that act.

859 **SECTION 34.** Section 23-15-875, Mississippi Code of 1972, is  
860 brought forward as follows:



861           23-15-875. No person, including a candidate, shall publicly  
862 or privately make, in a campaign then in progress, any charge or  
863 charges reflecting upon the honesty, integrity or moral character  
864 of any candidate, so far as his or her private life is concerned,  
865 unless the charge be in fact true and actually capable of proof;  
866 and any person who makes any such charge shall have the burden of  
867 proof to show the truth thereof when called to account therefor  
868 under any affidavit or indictment against him or her for a  
869 violation of this section. Any language deliberately uttered or  
870 published which, when fairly and reasonably construed and as  
871 commonly understood, would clearly and unmistakably imply any such  
872 charge, shall be deemed and held to be the equivalent of a direct  
873 charge.

874           **SECTION 35.** This act shall take effect and be in force from  
875 and after July 1, 2023.

