

By: Representatives McGee, Lancaster, Foster To: Public Utilities

## HOUSE BILL NO. 1350

1 AN ACT TO AMEND SECTION 77-3-707, MISSISSIPPI CODE OF 1972,  
2 TO PROHIBIT TELEPHONE SOLICITORS FROM MAKING ANY TELEPHONE  
3 SOLICITATION TO ANY PERSON IN THE STATE OF MISSISSIPPI REGARDING  
4 ANY MEDICARE ADVANTAGE PLAN; TO PROVIDE THAT IF A PERSON HAS FIRST  
5 INITIATED A CALL WITH AN ENTITY REGARDING A MEDICARE ADVANTAGE  
6 PLAN, A TELEPHONE SOLICITOR IS NOT PROHIBITED FROM THEN MAKING A  
7 TELEPHONE SOLICITATION REGARDING A MEDICARE ADVANTAGE PLAN; TO  
8 AMEND SECTIONS 77-3-709, 77-3-711 AND 77-3-723, MISSISSIPPI CODE  
9 OF 1972, WHICH RELATE TO THE MISSISSIPPI TELEPHONE SOLICITATION  
10 ACT, TO CONFORM TO THE PRECEDING PROVISIONS; TO BRING FORWARD  
11 SECTIONS 77-3-603 AND 79-11-524, MISSISSIPPI CODE OF 1972, WHICH  
12 RELATE TO UNSOLICITED RESIDENTIAL TELEPHONIC SALES CALLS AND  
13 REGULATION OF CHARITABLE SOLICITATIONS, FOR PURPOSES OF POSSIBLE  
14 AMENDMENT; AND FOR RELATED PURPOSES.

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

16 **SECTION 1.** Section 77-3-707, Mississippi Code of 1972, is  
17 amended as follows:

18 77-3-707. (1) Except as otherwise provided \* \* \* under  
19 Sections 77-3-709 \* \* \*, 77-3-711, or subsection (4) of this  
20 section, a telephone solicitor may not make or cause to be made  
21 any telephone solicitation to any consumer in this state unless  
22 the telephone solicitor has obtained the "no-calls" database  
23 directly from the Federal Trade Commission or other federal  
24 agency.



25           (2) Except as otherwise provided pursuant to Section  
26 77-3-709 or 77-3-711, a telephone solicitor may not make or cause  
27 to be made any telephone solicitation to any consumer in this  
28 state who has given notice to the federal government, or given  
29 notice to the Public Service Commission prior to July 1, 2023, of  
30 his or her objection to receiving telephone solicitations.

31           (3) Each local exchange company and each competing local  
32 exchange carrier shall provide written notification on a  
33 semiannual basis to each of its consumers of the opportunity to  
34 provide notification to the Federal Trade Commission, or other  
35 entity as designed by federal law, that the consumer objects to  
36 receiving telephone solicitations. The notification must be  
37 disseminated at the option of the carrier, by television, radio or  
38 newspaper advertisements, written correspondence, bill inserts or  
39 messages, a publication in the consumer information pages of the  
40 local telephone directory, or any other method not expressly  
41 prohibited by the Attorney General.

42           (4) A telephone solicitor shall not make, or cause to be  
43 made, any telephone solicitation to any person in this state  
44 regarding any Medicare Advantage Plan. However, if a person has  
45 first initiated a call with a company or an entity regarding a  
46 Medicare Advantage Plan, a telephone solicitor is not prohibited  
47 from then making, or causing to be made, a telephone solicitation  
48 regarding a Medicare Advantage Plan.



49           **SECTION 2.** Section 77-3-709, Mississippi Code of 1972, is  
50 amended as follows:

51           77-3-709. Except as otherwise provided in Section 77-3-707  
52 (4), the Attorney General, in his or her discretion, may allow  
53 telephone solicitors to make telephone solicitations without  
54 requiring them to purchase the "no-calls" database, and regardless  
55 of whether a telephone solicitation may be made to a consumer who  
56 has given notice of his objection to receiving such solicitations,  
57 provided that it adopts a written policy incorporating the  
58 following criteria:

59           (a) The telephone solicitor must demonstrate to the  
60 Attorney General that its proposed telephone solicitation is  
61 reasonably related to an established business relationship as  
62 defined in Section 77-3-705(h), or is being made in response to an  
63 invitation or notice from a consumer which clearly signifies that  
64 he is open to a contact being initiated;

65           (b) The telephone solicitation is to be made by a  
66 person or entity for the purpose of soliciting a contribution or  
67 donation to a bona fide nonprofit corporation, regardless of  
68 whether consumer goods or services will be provided to the  
69 consumer in return for the contribution or donation; or

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



73 including an invitation to attend an event or a request for a  
74 contribution or donation.

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

79 In making its determination of whether to allow a telephone  
80 solicitation to be made under the policy which will include the  
81 limitations set forth in this section, the Attorney General shall  
82 exercise due care in investigating previous conduct of the  
83 telephone solicitor seeking such authority. The Attorney General  
84 may deny any telephone solicitor the privilege of making telephone  
85 solicitations under this section, notwithstanding that any of the  
86 criteria set forth in this section have been met.

87 **SECTION 3.** Section 77-3-711, Mississippi Code of 1972, is  
88 amended as follows:

89 77-3-711. Except as otherwise provided in Section 77-3-707  
90 (4), the provisions of this article shall not apply to:

91 (a) A person soliciting:

92 (i) Who does not make the major sales presentation  
93 during the telephone solicitation;

94 (ii) Without the intent to complete or obtain  
95 provisional acceptance of a sale, a charitable contribution, or  
96 the payment of some other item of value, pecuniary or otherwise,  
97 during the telephone solicitation; or



98                   (iii) Without the intent to complete, and who does  
99 not complete, the sales presentation during the telephone  
100 solicitation, but who completes the sales presentation at a later  
101 face-to-face meeting between the person soliciting and the  
102 prospective purchaser or consumer.

103                   (b) A person who is a licensee under Chapter 35, Title  
104 73, Mississippi Code of 1972, who is a resident of the State of  
105 Mississippi, and whose telephone solicitation is for the sole  
106 purpose of selling, exchanging, purchasing, renting, listing for  
107 sale or rent or leasing real estate in connection with his real  
108 estate license and not in conjunction with any other offer.

109                   (c) A motor vehicle dealer as that term is defined in  
110 Section 63-17-55, who is a resident of the State of Mississippi  
111 and who maintains a current motor vehicle dealer's license issued  
112 by the Mississippi Motor Vehicle Commission, whose telephone  
113 solicitation is for the sole purpose of selling, offering to sell,  
114 soliciting or advertising the sale of motor vehicles in connection  
115 with his motor vehicle dealer's license and not in conjunction  
116 with any other offer.

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

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



123 whose telephone solicitation is for the sole purpose of effecting  
124 or attempting to effect the purchase or sale of securities or has  
125 the purpose of providing or seeking to provide investment or  
126 financial advice.

127 (f) A person calling on behalf of a charitable  
128 organization which is registered under Chapter 11, Title 79,  
129 Mississippi Code of 1972, whose telephone solicitation is for the  
130 sole purpose of soliciting for the charitable organization and who  
131 receives no compensation for his activities on behalf of the  
132 organization.

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

137 (h) A person calling on behalf of any supervised  
138 financial institution or parent, subsidiary or affiliate thereof.  
139 As used in this section, "supervised financial institution" means  
140 any commercial bank, trust company, savings and loan association,  
141 mutual savings bank, credit union, industrial loan company, small  
142 loan company, consumer finance lender, commercial finance lender  
143 or insurer, provided that the institution has a physical office  
144 located in the State of Mississippi and is subject to supervision  
145 by an official or agency of the State of Mississippi or of the  
146 United States.



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

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

154 **SECTION 4.** Section 77-3-723, Mississippi Code of 1972, is  
155 amended as follows:

156 77-3-723. (1) Any person or entity who makes an authorized  
157 telephone solicitation to a consumer in this state shall announce  
158 clearly, at the beginning of each call, his or her name, the  
159 company he or she represents and the purpose of the call. Such  
160 calls may only be made between the hours of 8:00 a.m. and 8:00  
161 p.m. Central Standard Time. No telephone solicitations may be  
162 made on a Sunday. For purposes of this provision, an "authorized  
163 telephone solicitation" means a solicitation that is made: (a) to  
164 a consumer who is not listed on the most current "no-calls"  
165 database; (b) by a telephone solicitor who has been authorized to  
166 make such solicitations under the provisions of Section 77-3-709;  
167 (c) by a telephone solicitor that is not prohibited from making,  
168 or causing to be made, such solicitations under Section 77-3-707  
169 (4); or ( \* \* \*d) by a telephone solicitor who is exempt from this  
170 article under the provisions of Section 77-3-711.



171           (2) A person or entity who makes a telephone solicitation to  
172 a consumer in this state may not utilize knowingly any method that  
173 blocks or otherwise circumvents the consumer's use of a caller  
174 identification service, nor may the person or entity use an  
175 automated dialing system or any like system that uses a recorded  
176 voice message to communicate with the consumer unless the person  
177 or entity has an established business relationship with the  
178 consumer and uses the recorded voice message to inform the  
179 consumer about a new product or service.

180           **SECTION 5.** Section 77-3-603, Mississippi Code of 1972, is  
181 brought forward as follows:

182           77-3-603. Any telephone solicitor who makes an unsolicited  
183 telephonic sales call to a residential telephone number shall:

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

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

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





195           **SECTION 6.** Section 79-11-524, Mississippi Code of 1972, is  
196 brought forward as follows:

197           79-11-524. Any fund-raising counsel, professional  
198 fund-raiser, professional solicitor or employee of any of these  
199 who makes a telephone solicitation subject to the provisions of  
200 this chapter to a residential telephone number shall make calls  
201 only between the hours of 9:00 a.m. and 9:00 p.m., Monday through  
202 Saturday. No calls shall be made on Sundays.

203           **SECTION 7.** This act shall take effect and be in force from  
204 and after July 1, 2024.

